

Mater Foundation (Mater Hospitals Appeal Limited)

Response to the Productivity Commission 'Contribution of the Not for Profit Sector'

The following information was originally sent as a response to the Treasury Discussion Paper 'Improving the Integrity of Prescribed Private Funds.'

Summary

This paper seeks to address an anomaly and inequity around the relationship between Private Ancillary Funds (PAFs), formerly Private Prescribed Funds, and fundraising foundations in relation to Deductible Gift Recipient (DGR) status, Australian Taxation Office (ATO) classifications and the differences in treatment and fairness in dealing with organisations with a similar purpose and function under the current legislation.

The inconsistency of classifications for not for profit fundraising organisations by the Australian Tax Office (ATO) limits the ability of some, but not all, to receive funding from Private Ancillary Funds (PAFs). This creates an inherent inequity in the solicitation and receipt of philanthropic gifts through PAFs.

In considering the role of fundraising foundations and the increasing role of PAFs as vehicles for philanthropic giving, there is an increasing anomaly where fundraising foundations that are public ancillary funds are unable to receive gifts from PAFs and accordingly fulfil the function which, in practical terms, they have been established to fulfil.

It is proposed that consideration be given to creating a mechanism to allow exemption from the current limitation of PAFs distributing to public ancillary funds where it can be clearly demonstrated that the public ancillary fund acts as a charitable entity on behalf of a beneficiary organisation.

Background

Private Ancillary Funds (PAFs) have provided an effective vehicle for the fulfilment of philanthropic objectives on the part of individuals, families and corporations and have served as a valuable tool in the promotion of philanthropy. It is clear from research conducted by The Australian Centre for Philanthropy and Nonprofit Studies at the Queensland University of Technology (in partnership with the Australian Taxation Office) that there has been significant growth in the number of PAFs approved since inception in 2001 to 2008 as well as commensurate growth in the number of donations received by PAFs.

While the distributions made by PAFs have not grown significantly in the same period it may be reasonable to expect that this will increase more significantly in the medium to long term as PAFs become more established and a greater number of PAFs are created to provide a more structured approach to philanthropy on the part of individuals, families and corporations.

A fundamental concept of PAFs is that a PAF is a trust to which businesses, families and individuals can make tax deductible donations for the purpose of disbursing funds to a range of deductible gift recipients. A PAF cannot distribute to another PAF or to a public ancillary fund.

While the intent of this concept is clear in that it provides a basis to maintain the integrity of the PAF as a vehicle for philanthropic action in support of appropriate entities there are anomalies, which if unaddressed, will continue to create inequity and disparity in the solicitation and receipt of philanthropic gifts through PAFs.

The Role of Fundraising Foundations

Public ancillary funds are identified as a common structure for community and fundraising foundations and fundamentally do act as intermediaries between donors and organisations that can receive tax deductible donations.

In many cases, the role of community and fundraising foundations is much more than 'passing through' donations. It is common for a fundraising foundation to be structured to act as the charitable arm of an organisation which provides services as a non profit or public entity. This enables the commitment of dedicated focus on fundraising and philanthropy which is rarely the case within an organisation that is committed to complex service provision.

In this role, fundraising foundations would manage a comprehensive fundraising program, manage relationships with donors, distribute funds in an accountable and transparent manner, and promote a philanthropic culture. This role may also include community relations and cause promotion activities.

Fundraising foundations will commonly pursue a transformational rather than transactional approach to donor relationships that acknowledge the longitudinal nature of donor involvement and the changes that may occur over time in the scope and commitment of the relationship. Such an approach will require a longer term investment in program and human resources and is commonly measured against longer term fundraising results.

In practical terms, fundraising foundations that operate in this manner serve as the charitable entity of the ultimate beneficiary organisation and provide an infrastructure that in turn frees the beneficiary organisation from the commitment of resources to this necessary function.

Addressing an Existing Anomaly

In considering the role of fundraising foundations and the increasing role of PAFs as vehicles for philanthropic giving, there is an increasing anomaly where fundraising foundations that are public ancillary funds are unable to receive gifts from PAFs and accordingly fulfil the function which, in practical terms, they have been established to fulfil.

This anomaly is exacerbated by an apparent inconsistency in the classification of fundraising foundations according to the Australian Taxation Office (ATO) which creates a clear and inexplicable market inequity for organisations which demonstrably perform the same function.

It is most common for fundraising foundations to be established to serve health care and medical research entities, although educational, cultural and community organisations also create fundraising foundations. For the purposes of this submission we have identified a number of fundraising foundations that serve health care and medical research organisations and identify that organisations that are clearly structured and function in the same way are classified in at least four (4) different ways by the ATO (*refer Appendix 1*) which has the result that some fundraising foundations are able to receive donations from PAFs while others are not.

To further compound the apparent inequity around these classifications, at least one other fundraising foundation, currently listed as a Charitable Fund, has provided anecdotal evidence to the Mater Foundation in January 2009 that they are currently receiving gifts from PAFs.

We recognise that this is an issue for the ATO and that the determination of tax concession status is based on the objects and purposes of each organisation and accordingly recognise that this issue is beyond the brief of this consultation process. However, given that this clear and inequitable anomaly does exist and has significant impact on the ability of some fundraising foundations to fully and

effectively perform the role for which they have been established we submit the following proposal for consideration in relation to distributions from PAFs.

Proposal

It is proposed that consideration be given to creating a mechanism to allow exemption from the current limitation of PAFs distributing to public ancillary funds where it can be clearly demonstrated that the public ancillary fund acts as a charitable entity on behalf of a beneficiary organisation.

It is suggested that the case for such an application could be clearly demonstrated by the fundraising foundation through evidence of its fundraising and funds distribution processes which would show both the nature and function of donor relationships as well as the disbursement of funds to one or more beneficiaries.

While we are aware that PAFs are able to make donations to beneficiary organisations where they are non-ancillary DGRs, the practical implications of this structure, where a fundraising foundation (as a public ancillary fund) also exists, has the potential to create multiple fundraising support structures and to reduce efficacy in the management of donor relations and fundraising activities. At best, it creates an increasing potential for the double handling of donor information and transactions as gifts from PAFs increase and the burden of the associated administrative costs. At worst, there is a cost in lost opportunity through donor engagement and the potential loss of donor income.

The current arrangement suggests that the donor relationship with a beneficiary organisation is only transactional with the key elements being the gift reaching the beneficiary and the donor receiving some acknowledgement of the gift, primarily an official receipt. While both of these steps are vital, they do not represent the total fundraising function and the nature of the relationship an organisation would seek to create with a donor. Fundraising practice is by nature transformational with a key objective being the development, over time, of a relationship between a donor and the organisation and cause they choose to support.

Therefore, relationship management activities and the supporting record keeping and reporting systems for optimal financial and non financial donor support are critical to effective fundraising. Where the fundraising function is managed by a separate fundraising foundation, the receipt of gifts by the beneficiary organisation will create an additional administrative burden around record keeping and reporting. It will also reduce the efficiency and effectiveness of donor management activities with the real potential of a resultant loss in donation income.

In putting forward this proposal, we are aware of the current concern in relation to distributions from PAFs and the intention to increase the size of compulsory distributions from PAFs in order to improve the integrity of PAFs. We also note the concern that allowing PAFs to distribute to public ancillary funds could result in delays in those funds reaching a beneficiary organisation and, thereby, reduce the effectiveness of the proposed integrity measures. However, it is possible through existing record keeping and reporting capabilities of the Mater Foundation (and, highly likely, of other similar public ancillary funds) to separately report on amounts received from PAFs to enable appropriate reporting through the annual report to the ATO (if that continues or whatever replaces it) and to achieve the necessary public accountability.

The suggested approach will bring no additional cost imposition in relation to processing, record keeping and reporting as these are fundamental functions of fundraising foundations that operate in this manner. In fact, this would allow a more efficient and effective management and reporting process around the receipt and disbursement of donor funds received through PAFs, as it removes the double handling that the current structure creates. It also enables a more effective approach to donor management activities and the optimisation of donation income.

We respectfully seek consideration of this proposal as a move toward a more streamlined and equitable approach in managing the flow of philanthropic funds from PAFs. We would be happy to discuss this proposal with you, including in relation to any reporting and/or distribution requirements for amounts received from PAFs you may consider desirable to address any integrity concerns.

Mater Foundation
19 August 2009

Appendix 1

Mater Foundation (Mater Hospitals Appeal Limited)

Response to the Productivity Commission 'Contribution of the Not for Profit Sector'

Organisation	Status
Toowoomba Hospital Foundation	Public Benevolent Institution (DGR 1 – can receive gifts from PAFs)
Royal Children's Hospital Foundation	Public Benevolent Institution (DGR 1)
Royal Brisbane & Women's Hospital Foundation	Health Promotion Charity (DGR 1)
The Prince Charles Hospital Foundation	Health Promotion Charity (DGR 1)
The Trustee for Trustees of St Vincent's Hospital Sydney	Charitable Institution (DGR 2 – cannot receive gifts from PAFs)
Sydney Children's Hospital Foundation Limited	Charitable Institution (DGR 2)
The Trustee for John P Kelly Mater Research Foundation	Charitable Institution (DGR 2)
The Trustee for Mater Hospitals Trust (Mater Foundation)	Charitable Institution (now Charitable Fund) (DGR 2)
The Trustee for The Queensland Institute of Medical Research Trust	Charitable Fund (DGR 2)
Gold Coast Hospital Foundation	Charitable Fund (DGR 2)
The Royal Hospital for Women Foundation Limited	Charitable Fund (DGR 2)
The Prince of Wales Hospital Foundation Limited	Charitable Fund (DGR 2)
The Trustee for Sydney Children's Hospital Foundation	Charitable Fund (DGR 2)
The Trustee for St Vincents & Mater Health Foundation	Charitable Fund (DGR 2)
The Trustee for Friends of the Mater Foundation	Charitable Fund (DGR 2)