



# Review of Philanthropy

## Call for submissions

The Commission has released this paper to assist individuals and organisations to prepare submissions. It contains and outlines:

- the scope of the inquiry
- the Commission's procedures
- matters about which the Commission is seeking comment and information
- how to make a submission.

**The Productivity Commission acknowledges the Traditional Owners of Country throughout Australia and their continuing connection to land, waters and community. We pay our respects to their Cultures, Country and Elders past and present.**

---

### **The Productivity Commission**

The Productivity Commission is the Australian Government's independent research and advisory body on a range of economic, social and environmental issues affecting the welfare of Australians. Its role, expressed most simply, is to help governments make better policies, in the long term interest of the Australian community.

The Commission's independence is underpinned by an Act of Parliament. Its processes and outputs are open to public scrutiny and are driven by concern for the wellbeing of the community as a whole.

Further information on the Productivity Commission can be obtained from the Commission's website ([www.pc.gov.au](http://www.pc.gov.au)).

---

### **Call for submissions**

The Commission has released this paper to assist individuals and organisations to prepare submissions to the inquiry. It contains and outlines:

- the scope of the inquiry
- the Commission's procedures
- matters about which the Commission is seeking comment and information
- how to make a submission (attachment B).

Participants are not restricted to comment only on matters raised in this paper. The Commission wishes to receive information and comment on issues which participants consider relevant to the inquiry's terms of reference.

---

### **Key inquiry dates**

Receipt of terms of reference	11 February 2023
Due date for submissions	5 May 2023
Release of draft report	Late November 2023
Final report to Government	May 2024

### **Contact details**

Phone	02 6240 3277
Freecall	1800 020 083
Email	<a href="mailto:philanthropy@pc.gov.au">philanthropy@pc.gov.au</a>
Website	<a href="http://www.pc.gov.au/inquiries/current/philanthropy">www.pc.gov.au/inquiries/current/philanthropy</a>

# Contents

<b>1.</b>	<b>About this inquiry</b>	<b>1</b>
	What has the Commission been asked to do?	1
	Our approach	1
	How you can contribute	2
<b>2.</b>	<b>Philanthropy in Australia</b>	<b>2</b>
	Defining philanthropy and the scope of the inquiry	3
	Trends in philanthropic giving	4
	Motivations for philanthropy	8
	The role of government in supporting philanthropy	10
<b>3.</b>	<b>Encouraging philanthropy through the tax system</b>	<b>14</b>
	The deductible gift recipient framework	16
	Other forms of government tax support for Not-For-Profits	19
<b>4.</b>	<b>Removing unnecessary regulatory barriers to giving</b>	<b>20</b>
	Identifying potential barriers	20
<b>5.</b>	<b>Other opportunities to increase giving</b>	<b>21</b>
	Information about the effectiveness of charities	21
	Other measures to support potential donors	23
	Enhancing the cost-effectiveness of public data sources	23
	Public strategies to enhance the status of giving	24
	Other matters	25
	<b>References</b>	<b>26</b>
<b>A.</b>	<b>Terms of reference</b>	<b>28</b>
<b>B.</b>	<b>How to make a submission</b>	<b>30</b>
	How to prepare a submission	30
	How to lodge a submission	31



# 1. About this inquiry

The Australian Government has committed to working with the philanthropic, not-for-profit (NFP) and business sectors to double philanthropic giving by 2030. It has asked the Productivity Commission to undertake an inquiry to analyse motivations for philanthropic giving in Australia and identify opportunities to grow it further.

The inquiry coincides with other government policy development processes related to the NFP sector and philanthropy.

- The Australian Government Department of Social Services is leading the development of the *Not-for-profit Sector Development Blueprint*.
- The Australian Government Treasury is in the process of finalising draft legislation to reform administration of four Deductible Gift Recipient (DGR) categories (Treasury 2023a).
- State and territory governments are developing implementation plans for reforms to streamline and harmonise fundraising rules across jurisdictions (Leigh and Pearson 2023).
- The Department of Social Services has established a working group to develop nationally consistent requirements for working with children checks (DSS 2022).
- The Department of Social Services is providing funds to Volunteering Australia to coordinate implementation of the sector-led *National Volunteering Strategy 2023–2033* (Rishworth 2023).

## What has the Commission been asked to do?

The terms of reference assign the Commission three broad tasks:

- analyse trends in philanthropic giving in Australia and the drivers of these trends
- identify opportunities for, and obstacles to, increasing philanthropic giving in Australia
- recommend ways to respond to these opportunities and obstacles.

The terms of reference also ask the Commission to examine the effectiveness and fairness of the DGR framework and the ability of donors to assess and compare charities. The Commission will have regard to the findings of other reviews (including the Commission's 2010 *Contribution of the Not-for-Profit Sector* inquiry) and current policy processes (including the *Not-for-profit Sector Development Blueprint*).

## Our approach

Australia's NFP sector is comprised of organisations that vary considerably in size, in their funding sources, and in their purpose. NFP organisations provide services to the community for the purposes of health, education, scientific research, religion, overseas aid, participation in sport, protection of human rights and environmental protection, to name a few. Reforms over recent decades including, for example, a shift toward consumer directed care, and changing social and economic circumstances, have changed how many NFPs operate, as well as the demand for their services.

The nature of philanthropic giving in Australia has also been changing. It has been over 20 years since the introduction of private ancillary funds (PAFs), which are used by people to donate money, property and other benefits to eligible NFPs. Technological change has facilitated new ways of engaging in giving, including

through online platforms. Companies with a focus on corporate social responsibility have used philanthropy and related community investment activities as part of their strategic approach to creating value, including for their shareholders and the public.

In the context of these developments, the Commission will examine opportunities to increase philanthropy from a community-wide perspective, considering the costs, benefits, and distributional effects (the extent to which certain individuals or groups are better or worse off) of reform options. It will examine these effects from the perspective of donors (of all types), NFPs, beneficiaries of NFPs, intermediaries operating within the NFP sector and the public, including in their capacity as taxpayers.

In doing so, the Commission will engage widely, including with: the Australian, state and territory governments; the philanthropic, NFP and business sectors; people who have technical and subject matter expertise; and the community more broadly. It will seek to understand and reflect diverse perspectives on philanthropy, including among Aboriginal and Torres Strait Islander people, religious groups, and culturally and linguistically diverse communities across Australia.

Various reviews have been undertaken that are relevant to the inquiry. These reviews have involved extensive consultation and analysis, with findings and recommendations across a range of areas, but with some consistent themes. The Commission will draw on these past efforts in this inquiry, and will examine issues, challenges and opportunities in light of updated analysis based on current evidence and perspectives.

The Commission will release a draft report in late November 2023 setting out its interim analysis and findings for public comment and feedback and hold public hearings in February 2024. By registering your interest on the project webpage, you will receive updates. Details of the Commission's consultation process can be found on our website ([pc.gov.au](http://pc.gov.au)).

The Commission will provide a final report to Government by 11 May 2024.

## **How you can contribute**

This call for submissions sets out some issues and information requests relevant to the terms of reference (attachment A). The Commission welcomes comments and evidence on these and any other issues related to this inquiry. Attachment B explains how to make a submission or brief comment. Participants are asked to make submissions by 5 May 2023. Your contribution does not need to be a formal document and we welcome views through the comments section on our website. We also welcome submissions relevant to this inquiry that were developed for other review processes.

## **2. Philanthropy in Australia**

Each year many Australians volunteer or make financial donations to NFPs, including through giving platforms. They also give food or other goods to NFPs for distribution in the community. Some people give through local community or religious organisations, and some give directly to those in need. Many workplaces participate in giving programs and businesses of all sizes and types contribute financially and in-kind to causes. Who gives, who does not give, the capacity to give and reasons and the vehicles for giving and not giving evolve over time, meaning trends in giving and not giving also change. The Commission has been asked to consider these trends and motivations for philanthropic giving.

## Defining philanthropy and the scope of the inquiry

There is no single definition of philanthropy, and participants will have views about what is and is not covered by the term, but it commonly refers to charitable acts motivated by the desire to improve the welfare of others (Australian Institute of Health and Welfare 2021, pp. 1–2; McCully 2008; OECD 2020). For example, Philanthropy Australia (2022, p. 1) define philanthropy to include ‘the giving of money, time, information, goods and services, influence and voice to improve the wellbeing of humanity and the community’. Salamon (1992, p. 130) defines philanthropy as ‘the private giving of time and values (money, security, property) for public purpose’.

Given the range of activities that potentially fall within the definition of philanthropy, the Commission is seeking to identify the most important activities (and policy levers) to focus on. In doing so, it will be guided by the terms of reference, and participant input and feedback.

Reflecting its emphasis in the terms of reference, the Commission expects that giving in the form of donations of money and assets (including property), and associated policies, will be a major focus of the inquiry. Although the term philanthropy can have connotations of larger scale giving by people with high levels of wealth, it involves giving of all sizes. Of those people who had taxable income between \$100 000 and \$150 000 in 2019-20, 45 per cent claimed a tax-deduction for giving, with an average donation of \$588 (Commission estimates using ATO 2022d).

Where activities lie at the boundaries of conventional definitions of philanthropy, the Commission will need to determine how much focus to place on them in the inquiry (if any). Two such activities are social impact investing and political donations.

The Commission’s view is that social impact investing and political donations, and policy settings specific to these activities, will not be a primary focus of this inquiry.

- Social impact investing is an investing strategy that aims to generate social or environmental outcomes in addition to a financial return (Treasury 2017a). The Commission’s working definition of philanthropy focuses on activities by donors who do not expect a direct financial return to their giving. The Commission will consider social impact investing to the extent it can be regarded as a complement to, or substitute for, philanthropic giving.
- Political actors are not required to be endorsed by the Australian Taxation Office (ATO) as having DGR status, nor are they required to be registered as charities, both of which are the focus of this inquiry.

The Commission is seeking to engage with participants to understand how it can incorporate different cultural perspectives and attitudes toward giving, many of which have evolved over several millennia. For example, there are strong cultural norms relating to reciprocity, helping and supporting communities, and informal volunteering in Aboriginal and Torres Strait Islander communities. Many faith-based communities also have key objectives in relation to giving. In some cultures, financial and other types of giving may not be easily observed because donors choose to remain anonymous; in others, conspicuous giving is more widespread.



### Information request 1

#### Defining philanthropy and the inquiry's scope

The Commission is seeking views and information on the following.

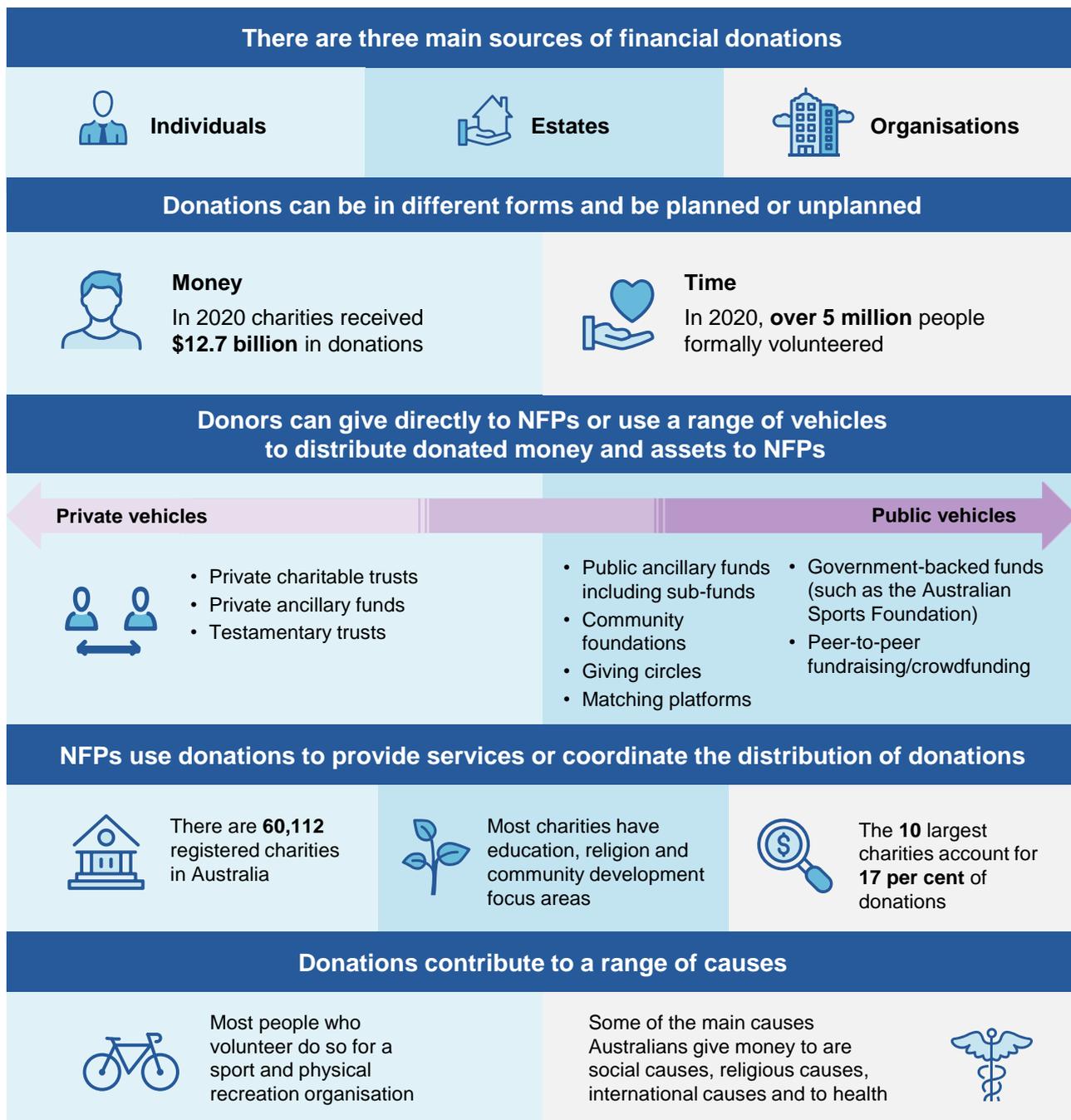
- Philanthropic activities that should fall within the scope of this inquiry.
- Ways of recognising different definitions, perspectives and norms relating to philanthropy among different cultures and communities, including but not limited to:
  - Aboriginal and Torres Strait Islander people
  - culturally and linguistically diverse communities
  - faith-based groups
  - younger and older Australians.

## Trends in philanthropic giving

Support for the NFP sector can be in the form of money, goods and services, and time (volunteers) (figure 1). There are three main sources of donations in Australia: living individuals, estates and organisations. Some NFPs use mass market fundraising, although this is becoming increasingly difficult and competitive, or more targeted campaigns in response to an event, such as a natural disaster, or a combination of several different mechanisms (McLeod 2018, p. 9). Online platforms that match donors with their preferred causes can facilitate volunteering and in-kind donations of goods and services.

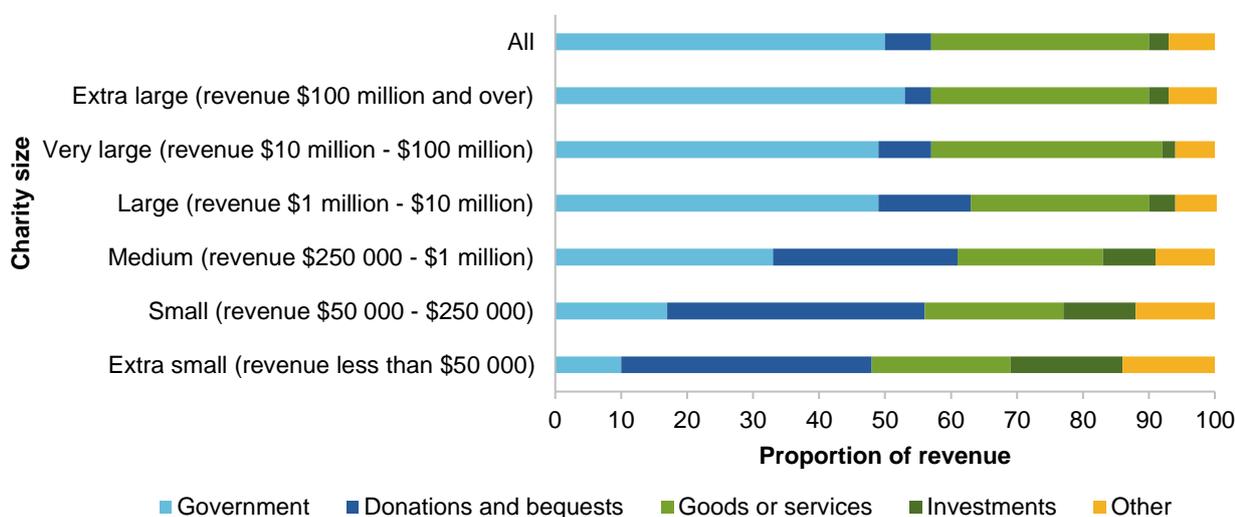
Donations and bequests account for a substantial proportion of revenue for many NFPs, particularly smaller organisations (figure 2). In some cases, donors use intermediaries, such as trustee companies, philanthropic service providers and advisors to facilitate, manage or distribute money and assets to NFPs. These intermediaries use financial vehicles, such as PAFs and public ancillary funds (PuAFs), which enable donors to distribute funds to eligible organisations over time, while potentially receiving an upfront tax deduction.

**Figure 1 – The system of giving**



Sources: ACNC (2020, pp. 5, 9, 2023); AIHW (2021); McGregor-Lowndes et al. (2017, p. xxii); Volunteering Australia (2022, pp. 6–7).

**Figure 2 – Source of revenue breakdown, by charity size, 2020**



Source: ACNC (2020, p. 20).

## How much is donated and who gives?

Data gaps mean it is difficult to accurately measure the value of total financial giving in Australia. There are several data sources, but none cover all types of giving. Bequests, for example, can be a major source of revenue for some NFPs but there is little data on which to base an estimate of giving. A lack of data also makes it difficult to identify who is not giving. While data is available on the proportion of people who do not claim tax deductions for donations each year, this may not represent the proportion of people who do not give because some people give but do not claim.

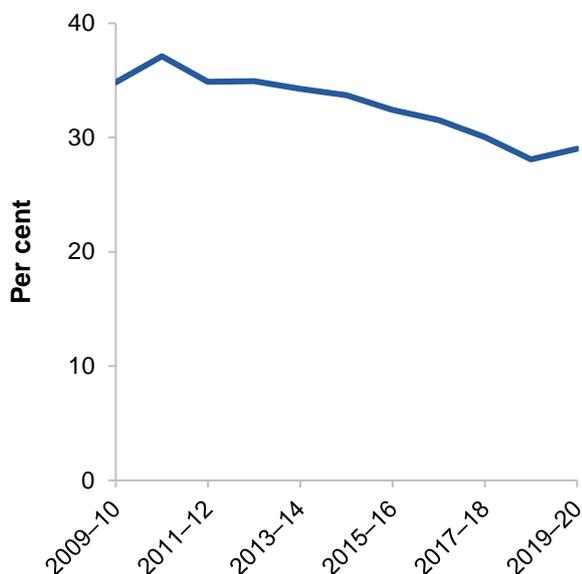
There is, however, data on some aspects of giving. Data collated by the Australian Charities and Not-for-profits Commission (ACNC), for example, shows Australians gave \$12.7 billion to charities in 2020 (ACNC 2020, p. 5). The ATO reported that in 2019-20, taxpayers claimed a total of \$3.8 billion in tax-deductible donations (ATO 2022a).

The value of tax-deductible donations increased over the past decade, but the proportion of Australian taxpayers claiming tax-deductible donations has fallen — from 35 per cent in 2009-10 to 29 per cent in 2019-20 (ATO 2022a) (figure 3a). Despite the decreasing proportion of Australians donating, the total value of donations has almost doubled over the same period — from \$2 billion to \$3.8 billion. As a proportion of the economy, this is an increase in deductible gifts and donations from 0.16 per cent to 0.19 per cent over the 10 years to 2019-20 (ABS 2022; ATO 2022a) (figure 3b). In simple terms, fewer people are giving, but those who are giving are giving more.

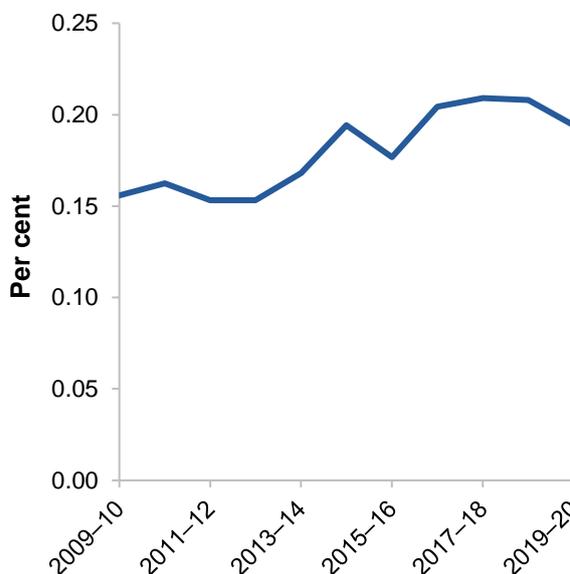
It is also challenging to estimate the time given to volunteering (and its economic value) due, in part, to the wide and varying spread of activities that could be included.

**Figure 3 – Australian trends in giving**

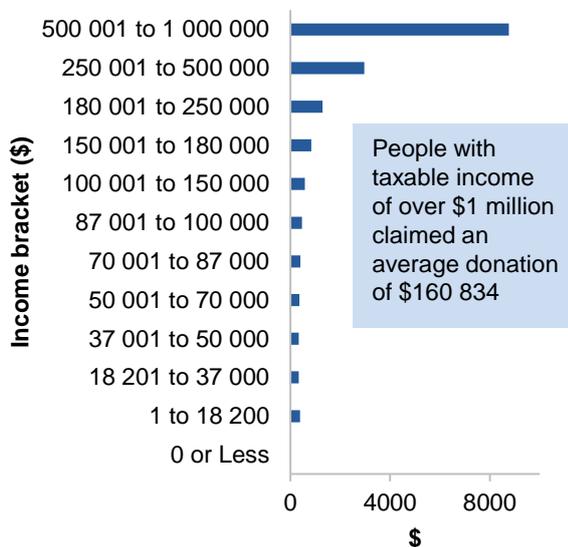
**a. Proportion of individual taxpayers claiming a deduction**



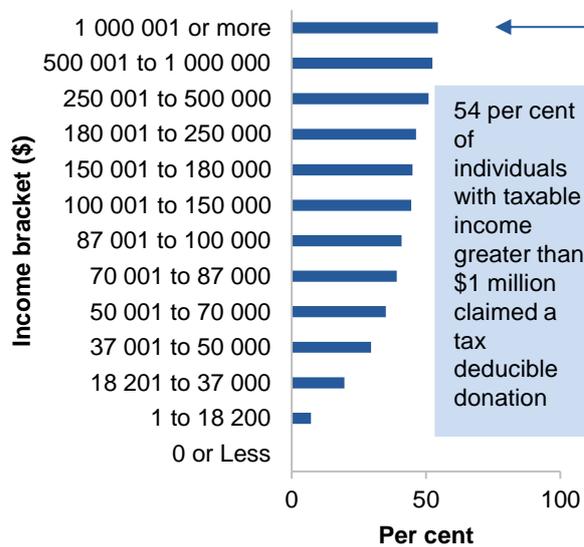
**b. Gifts and donations as a proportion of nominal GDP**



**c. Average claimed donation by those who gave, by income, 2019-20**



**d. Proportion of taxpayers who claimed, by income, 2019-20**



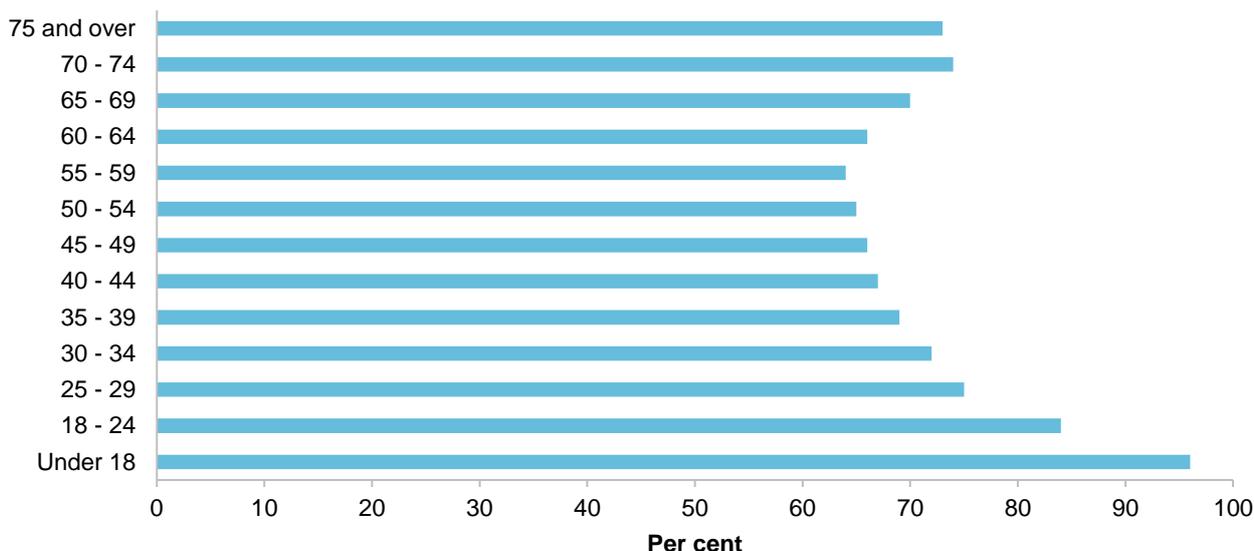
Source: Commission estimates based on ATO (2022d, 2022c, 2022a) and ABS (2022).

A person’s characteristics, including their income, age and gender, are associated with the likelihood they will give or not give, and the amount they will give.

It is generally the case that those on higher incomes make larger tax-deductible donations. In 2019-20, the average donation claimed by those who gave increased with taxable income, with those with a taxable income of over \$1 million claiming the most (an average of \$160 800) (figure 3c). Just over half of taxpayers in this income range made tax-deductible donations and gifts (figure 3d).

Out of the 15 million taxpayers who lodged an individual tax return in 2019-20, 10.6 million people (about 70 per cent of taxpayers) did not claim a tax deduction for gifts or donations (they may have given to a cause, but they did not claim a deduction). Of those, almost 9.2 million people had a taxable income of less than \$100 000. Younger people are less likely to claim a tax deduction (figure 4).

**Figure 4 – Younger people are less likely to make tax-deductible donations**  
**ATO data on the proportion of taxpayers who did not claim a gift or donation deduction in 2019-20 by age**



Source: ATO (2022d).

## Motivations for philanthropy

Developing a comprehensive understanding of different motivations for giving will be key to understanding whether and how individuals and businesses respond to government policy interventions or other initiatives that aim to change giving behaviours.

### Why do people give?

Donors can have multiple and mixed motivations for giving and these can vary over time (Becker and Murphy 2000).

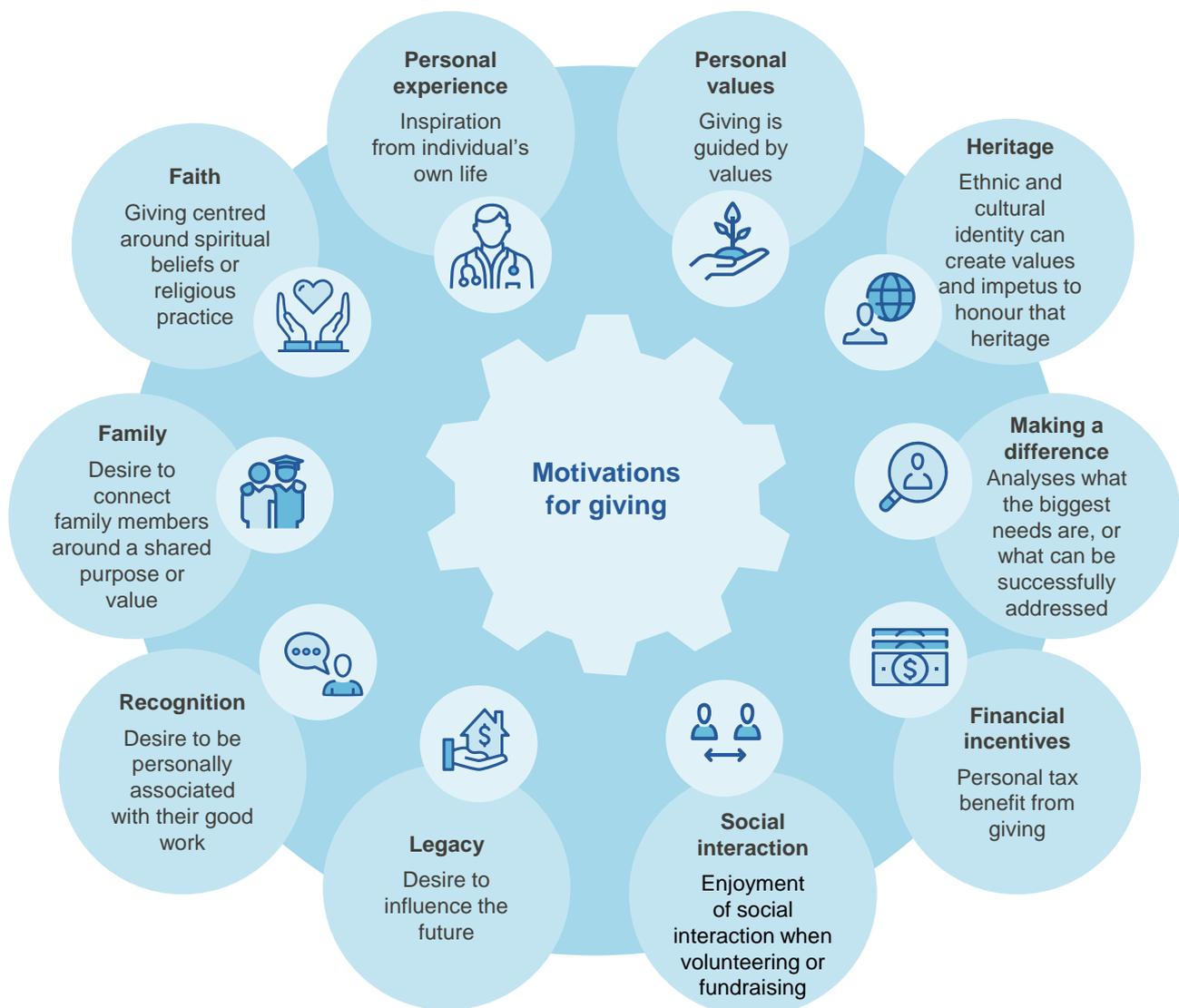
A person’s motivations may be highly individual, such as personal values and life experiences, or relate to connections to family, culture or faith (figure 5). People may be purely altruistic or have some degree of self-interest, in that the donor expects to derive a personal benefit or satisfaction from the act of giving itself, such as recognition or prestige, or even just their own happiness. Drawing on insights from a survey, focus groups and interviews, an Australian study found that the most common motivation for giving to an organisation was because ‘it’s a good cause/charity’ (39 per cent), followed by ‘I respect the work it does’ (21 per cent) and ‘sympathy for those it helps’ (14 per cent) (McGregor-Lowndes et al. 2017, p. 19).

To the extent the government can identify a person’s motivations for giving, it can use this information when designing policy interventions or other initiatives designed to change giving behaviours. For example, research has shown that, in some circumstances, public campaigns that aim to increase giving to causes

with broader social benefits may be more effective if they appeal to the donor's self-interest and good feelings triggered by giving, rather than specific outcomes (List et al. 2021). If faith is a major driver of a person's giving, then changes in giving associated with socio-demographic changes in Australia might not be something that easily lends itself to policy intervention.

The amount people give can also reflect financial incentives embedded in policies and regulations, such as personal income tax rates, which vary based on individual circumstances. Sections 3, 4 and 5 examine these policy and regulatory issues in more detail.

**Figure 5 – Categories of motivation for giving**



Sources: Adapted from Rockefeller Philanthropy Advisors (2023); Michigan State University (2014).



## Information request 2

### Vehicles, trends and motivations for giving

The Commission would welcome the following.

- Any data, in addition to what is publicly available, on giving by donors who have different characteristics, such as age, gender or income.
- Australian-specific data, case studies or other insights regarding motivations of donors who have different characteristics, including elasticities of giving if available.
- Data on the costs to not-for-profit (NFPs) organisations of sourcing revenue through different approaches, including:
  - data on the rate of return of these different methods
  - data comparing fundraising costs with costs of other funding sources, such as securing grants from governments or corporate partnerships
  - how these costs are changing over time.
- Information on the advantages and disadvantages of philanthropy as a source of revenue for NFPs compared with other funding streams, such as government grants, and whether these advantages and disadvantages differ:
  - between different types of organisations, such as Aboriginal Community Controlled Organisations
  - according to deductible gift recipient status or the organisational structure of charities
  - according to size or whether they are newly-formed.
- Giving vehicles that are not currently available in Australia and their purpose, suitability in an Australian context, benefits, costs and implementation risks.

## The role of government in supporting philanthropy

The terms of reference ask the Commission to identify opportunities for, and obstacles to, increasing philanthropic giving in Australia and to recommend ways to address these opportunities and obstacles. The Commission will examine the efficiency and effectiveness of existing policy settings affecting philanthropic giving to determine whether they could be improved, as well as the potential to use different policy levers if they would be more beneficial to the community. In doing so, the Commission will have regard to the principles of good policy design (discussed below) and policy objectives, such as consumer protection (where donors can be thought of as acting as consumers) and maintaining the integrity of the taxation system, fiscal and economic implications, and other trade-offs that may exist.

The policy settings that affect the level of philanthropic giving broadly include:

- policies that aim to **directly** increase levels of giving. For example, tax concessions for donors
- policies that may **indirectly** affect levels of giving, either positively or negatively, because they affect NFPs' incentives or ability to obtain private donations. For example, regulations that seek to protect donors by restricting how charities raise funds could reduce how much money they are able raise.

## Policies designed to directly increase giving

Tax concessions lower the costs of giving to NFPs and other eligible organisations that provide services that help achieve societal objectives, such as a more equitable distribution of human services or other outcomes that benefit the community. In this respect they are a form of government subsidy for causes that promote social, environmental and economic objectives.

Tax concessions can also be a way for governments to achieve such objectives without relying on direct government provision or grants (Treasury 2013, p. 2). From a public policy perspective, the aim of using tax concessions to change giving behaviour is not necessarily to maximise the level of philanthropy *per se*. Rather it is to identify the mix of philanthropy, grants and direct public provision that achieves these objectives at least cost.

Tax concessions also facilitate choice — a person (or organisation), rather than the government, can direct their donation to the cause of their choice (Martin 2018; Treasury 2013). The corollary of this is that the government relinquishes some control over where public funds are directed when it provides tax support for philanthropic giving.

As an important source of revenue, philanthropic giving enables NFPs to be an alternate service provider to government or to provide services that governments do not. In some cases, NFPs will be better placed than governments to provide certain services, for example, some specialised or place-based services, or where there are gaps in government provision. This may be particularly important for Aboriginal and Torres Strait Islander people, where some government-provided services may not be preferred, well targeted or best suited to them or their communities. Philanthropic giving can also be used for trialling and evaluating different approaches for delivering services. Other providers (including governments) can then use any lessons from these trials to inform how they deliver government funded services.

Increased giving, including volunteering, is also associated with broader benefits to the community. For example, a person may volunteer to coach a football team at their child's school, but their actions can also create indirect benefits by building relationships between people and fostering social capital that benefits society more broadly. These indirect benefits may also motivate others to give their time or money. Drawing on the example above, another parent could choose to support the school football club by donating funds for new sporting equipment.

Tax concessions also have a cost. A tax concession that benefits some parts of the community may mean there is a greater tax burden on others. The OECD (2020) observed that some people oppose tax concessions for philanthropy on distributional grounds, arguing that they may appear to be regressive if high income taxpayers benefit from concessions more than lower income taxpayers. Some people may also oppose tax concessions on the basis that they could give donors a disproportionate influence over which organisations and causes receive indirect government support, and set agendas in the absence of other forms of policy formation and public deliberation (Horvath and Powell 2016). Governments can limit the availability of concessions through, for example, eligibility rules or caps to contain their costs and address distributional and other considerations.

Reviews and other policy processes have outlined principles that identify the trade-offs involved in designing tax policy (box 1). The Commission will draw on these tax principles, and general principles of good policy design, in assessing the costs and benefits of using tax policy to increase giving.

## **Box 1 – Principles for good policy design including tax**

### **Design principles for the tax and transfer system**

In assessing detailed tax design options, the Commission has drawn on a well-established literature on good-practice tax design. For example, there are three key design principles for the tax and transfer system, as outlined in Australia's Future Tax System Review (the Henry Review) (2010, p. 17) and the Australia Taxation Review Committee Report (Asprey and Parsons 1975, p. 47).

- **Efficiency:** the tax and transfer system should raise and redistribute revenue at the least cost to economic efficiency and with minimal administration and compliance costs.
  - Taxes and transfers affect the choices individuals and businesses make by altering their incentives. The tax and transfer system should not unduly get in the way of individuals and businesses acting in their own interests.
- **Equity:** the tax and transfer system should treat individuals with similar economic capacity in the same way, while those with greater capacity should bear a greater burden.
  - A tax concession intended to compensate for a particular economic disadvantage should also be designed so that only people affected by the disadvantage can benefit from it.
- **Simplicity:** the tax and transfer system should be simple to understand and to comply with.
  - If individuals and businesses understand the system, they are more likely to act in their best interests and respond to intended policy signals. A simpler system will generally also involve lower administrative and compliance costs.

The Not-for-profit Sector Tax Concession Working Group, established in 2012, considered ways to improve the tax concessions that support philanthropic giving. The Working Group considered whether there are fairer, simpler and more effective ways of delivering support to the NFP sector and built on the principles developed by the Henry Review to identify a set that are specific to the NFP sector.

### **Good policy design**

The Commission will draw on broader principles of good policy design to assess the reform options to increase philanthropic giving (Banks 2009, pp. 1–27; OECD 2012, pp. 8–33; PM&C 2020, pp. 1–64). Policy interventions should:

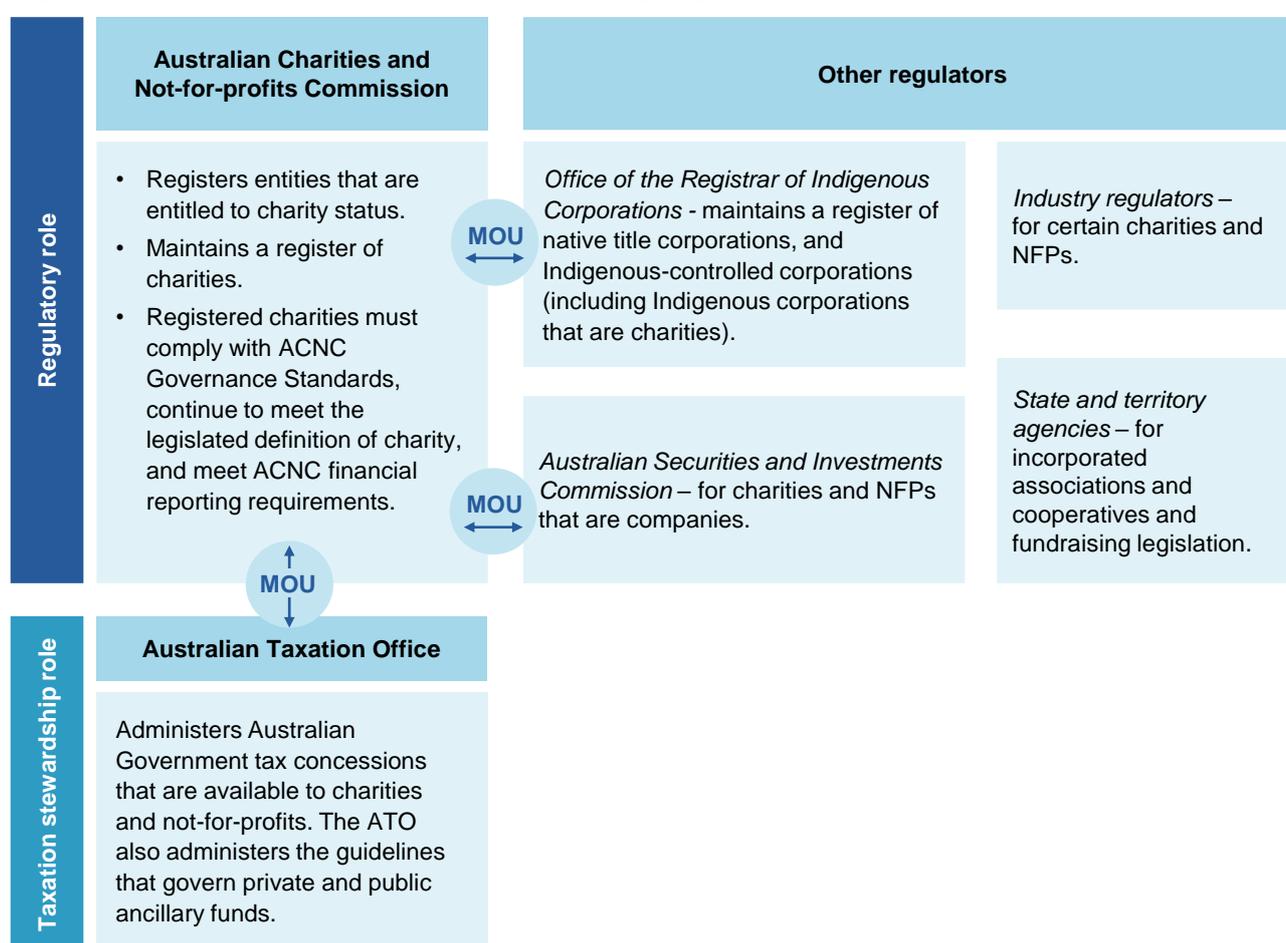
- have a sound rationale
- bring a net benefit to society
- be better than any alternative, including the status quo
- be proportional to the objective that they are seeking to achieve
- be evaluated over time to ensure that they remain relevant and cost-effective
- be transparent, clear and concise
- be consistent with other laws, agreements and international obligations.

## Policy settings that indirectly affect giving

### The regulatory framework for giving

A range of laws and regulations govern philanthropic giving. These include regulations that relate specifically to charities, such as those under the ACNC Legislation, as well as regulations under Commonwealth, state and territory laws with broader application. These include misleading conduct provisions under Australian Consumer Law and state and territory laws relating to fundraising and safety issues. Australian government agencies (the ACNC, ATO, Australian Competition and Consumer Commission, Australian Securities and Investments Commission, Office of the Registrar of Indigenous Corporations) and state and territory regulators are responsible for administering these regulations (figure 6).

**Figure 6 – Responsibilities for administering regulations that affect giving**



Note: MOU stands for memorandum of understanding.

These laws and regulations impose obligations on donors, recipients or intermediaries, including:

- public reporting and disclosure requirements for charities, incorporated associations and other NFPs, and requirements as to how PAFs and PuAFs distribute funds
- registration processes, for example, requirements to ensure volunteers are vetted or meet minimum standards of competency or hold current working with children checks
- ensuring volunteers have safe working conditions, for example, occupational health and safety requirements

- compliance with consumer protection law, for example, misleading and deceptive conduct provisions applying to fundraising
- license requirements and compliance with technical rules and, in some jurisdictions, codes of practice when conducting fundraising.

These regulations often aim to create an environment that is conducive to philanthropic giving, by ensuring that donors and the broader community have the necessary information to make giving decisions and confidence that donated funds will be used for purposes they are donated for. Nonetheless, such policies can also impose unnecessary compliance costs, such as overly burdensome reporting requirements, and stifle competition and innovation if not well targeted to their objective. Principles of good policy design (box 1) are equally applicable when analysing these policy settings to ensure the regulatory framework does not inadvertently reduce incentives for giving.



### Information request 3 Role of government in philanthropy

The Commission is seeking views and information on the following matters.

- The role of philanthropy, including where it can be a substitute for, or complement to, government funding or provision of services.
- The reasons why government should (or should not) support philanthropy and whether or how this may vary between causes and various types of philanthropic giving.
- The extent to which government policies can increase, impede or distort philanthropic giving, including data to support those views where possible.
- The extent that existing government support for philanthropy aligns with good policy design and community priorities, and examples where it may no longer align with community expectations.

## 3. Encouraging philanthropy through the tax system

The terms of reference ask the Commission to examine the entire tax expenditure framework that applies to charities, including assessing the effectiveness and fairness of the DGR framework.

Tax concessions are provided both to encourage donations and towards NFPs themselves (table 1).

- Donors can claim an income tax deduction for donations of \$2 or more, or gifts of property valued at over \$5000 (or purchased and donated within 12 months), to an organisation with DGR status. Other gifts including trading stock and shares may also be eligible for income tax deductions.
- Charities and some other NFPs can access other tax concessions related to their operations (including an income tax exemption, goods and services tax exemption, refunds on franking credits, and land tax or motor vehicle duty exemptions) or for their workforce (fringe benefits or payroll tax exemptions). These tax concessions are provided by a combination of the Australian, state and territory governments.

**Table 1 – Tax concessions for charities**

	Benefit	Eligibility	Tax expenditure estimate (\$m), 2021-22 <sup>a</sup>
<b>Revenue</b>			
<b>Donations</b>	Donors can make tax-deductible donations	DGR endorsed charities and other endorsed entities, including private and public ancillary funds	2035
<b>Income tax exemptions</b>	Organisation not required to pay income tax or lodge income tax returns	All ACNC registered charities and certain other NFPs that meet eligibility criteria	>1000 <sup>b</sup>
<b>Refunds on franking credits</b>	Refund where entities have no income tax liability	Income tax exempt charities and other DGRs, as well as some qualifying entities	>1000 <sup>c</sup>
<b>Inputs</b>			
<b>Fringe benefits tax concessions</b>	Exemptions or partial rebates (up to certain caps) for fringe benefits provided to employees	Exemptions are available to certain charities (such as public benevolent institutions and health promotion charities), public or NFPs hospitals and public ambulance services. Other charities and certain classes of NFPs are entitled to a 47 per cent rebate on fringe benefits tax payable	>4700 <sup>d</sup>
<b>Goods and services tax thresholds</b>	Higher turnover threshold for registration for goods and services tax and the ability to choose input taxation for certain activities	Some concessions, including the higher turnover threshold, available to all NFPs. Other concessions limited to a smaller subset, but typically including registered charities and other DGRs	10--100 <sup>e</sup>

**a.** Tax expenditures provide an estimate of the revenue forgone, compared with an alternative tax treatment used as a benchmark. **b.** Value of tax expenditure not quantifiable but expected to exceed \$1000 million. **c.** Value of tax expenditure not quantifiable but expected to exceed \$1000 million (previous year estimates have ranged between \$1040 million and \$2095 million). **d.** Summation of estimated tax expenditures for various fringe benefits tax concessions available to eligible charities. **e.** Value of tax expenditure not quantifiable but expected to be in this range.

Sources: ATO (2017); Treasury (2023b).

The ATO administers both these components of the Australian Government tax system as it applies to charities and other NFPs, although state and territory revenue offices may administer specific tax concessions that apply in their jurisdiction. Eligibility requirements vary between concessions. Organisations must be registered as a charity with the ACNC (except for some government NFPs) to be eligible for DGR status and some tax concessions. The ATO maintains stewardship of the taxation system, including endorsing entities as DGRs, and having oversight of access to tax concessions. In some limited cases, certain entities can obtain access to tax concessions in other ways, such as through a 'specific listing' as a DGR, which requires amending taxation legislation.

The value of these tax concessions is estimated as tax expenditures, defined as variations in revenue compared with a 'benchmark' tax treatment (for example, a situation with no tax concessions) (Krever 1991, pp. 2–8). Estimates of tax concessions do not necessarily account for the behavioural changes that would typically occur in response to a change in the system. The existence of tax expenditures also does not necessarily mean that 'concessional' tax treatment is inappropriate, inefficient or inequitable.

## **The deductible gift recipient framework**

DGR status allows an entity to receive tax-deductible gifts and contributions from the public. It is the main financial mechanism through which the Australian Government provides taxpayers with an incentive to give to charities and other eligible entities. Broadly speaking, this mechanism is designed to encourage philanthropy and provides support to the NFP sector by signalling to donors where they can direct their giving and receive a personal tax benefit. DGR status also has implications for philanthropic giving vehicles — private and public ancillary funds, and community foundations can only direct their funds to organisations with 'Item 1' DGR status. Getting DGR status therefore becomes critically important to organisations seeking to attract philanthropic funding, particularly those for which private donations are a major source of revenue. About half of charities have DGR status.

It is the responsibility of organisations with DGR status to maintain alignment with the DGR requirements. While the ATO has the power to revoke such status, there is generally no systematic and broad-based review mechanism for continued access to DGR status. The number of NFPs with DGR status has increased from 28 000 in 2012 to 32 100 in 2020 (ATO 2014, 2022b).

Changes in the number organisations with DGR status, combined with changes in donor behaviour, flow through to the value of otherwise taxable income that is directed from government revenue toward the NFP sector. In 2019-20, total donations by individuals to DGR registered charities was \$3.8 billion, resulting in an estimated tax expenditure of \$1.9 billion (ATO 2022a).

In its early consultations, the Commission has heard that obtaining DGR status can be challenging for some organisations and may impose additional barriers for certain types of organisations. For example, the purpose of Aboriginal and Torres Strait Islander organisations may fall across multiple DGR categories, such as cultural, social and environmental, yet endorsement and retention of DGR status is generally based around having one main purpose or activity (Marrie and Marrie 2013, p. 5; Treasury 2013, p. 23).

Tax deductibility for charitable donations in Australia has been evolving for over 100 years, shaping the design of today's DGR framework. The number of categories has grown over time with the intention that they reflect community expectations of organisations that deliver public benefit (Treasury 2017b, p. 3). While there are many categories of DGR, the definitions used for these categories mean that many organisations remain ineligible for DGR status.

The geographic limitations of the DGR framework have also changed, with various judicial and government decisions in recent years broadening the ability of DGRs to use donated funds to undertake activities overseas (Silver 2021, pp. 452–453).

This ongoing evolution of the DGR framework has prompted a series of reviews and reform processes to ensure its design and administration remains relevant, transparent and fit-for-purpose (box 2).

## Box 2 – Reviews into the deductible gift recipient framework

Reviews and consultation processes have identified issues with, and reform opportunities for, the DGR framework. The issues identified in these reviews predominantly relate to its complexity, integrity and governance, and administration. Some, but not all, of the issues discussed in these reports are outlined below.



### Eligibility and scope of DGR

Whether the scope of DGR status should be extended to all charities, but restricted to activities that are not for the advancement of religion, or charitable childcare and primary and secondary education (Productivity Commission 2010, NFP Sector Tax Concession Working Group 2013).



### Governance and transparency

The Tax DGR Reform Opportunities (2017) made recommendations regarding reviewing DGR status, sunset periods for specific listings and requiring non-government DGRs to register as a charity which comes into effect on 1 July 2023.



### Administration

Legislation is being developed to transfer administration of four registers from portfolio agencies to the ATO. This was explored in the Tax DGR Reform Opportunities (2017) and Parliamentary Inquiry into the Register of Environmental Organisations (2016).



### Minimum contribution

Another feature of the DGR subject to debate is the \$2 minimum contribution, and whether this should be increased (Henry Review) or abolished (Industry Commission 1995; Not-for-profit Sector Tax Concession Working Group 2013).

Sources: Henry Tax Review (2010); House of Representatives Standing Committee on Environment (2016); Industry Commission (1995); NFP Sector Tax Concession Working Group (2013); Productivity Commission (2010); Tax DGR Reform Opportunities (Treasury 2017b).

The Commission will consider the revenue implications, and the benefits to the community, of changes to the DGR framework. Further, it is necessary to understand how changes to government policies, including the DGR framework might affect giving behaviour for donors who have different characteristics. Drawing on the experience of other countries that have policies designed to increase giving may provide useful insights (box 3).

### **Box 3 – Models for encouraging donations adopted overseas**

Elsewhere, governments have adopted alternative methods to encourage philanthropic giving.

Tax rebate schemes are used to encourage giving in New Zealand and Canada. Such schemes provide rebates that reduce the tax payable by a donor, through either a single rebate or a tiered set of rates that increase as the value of donations increases.

Contributions schemes, like the ‘cinque per mille’ (or ‘five per thousand’) mechanism in Italy, allow taxpayers to reserve 0.5 per cent of their income tax to support the non-for profit sector (Agenzia Delle Entrate 2022). Similar contribution schemes that allow individuals to allocate some of their income tax to eligible entities are used in Portugal, Slovenia, Hungary, Lithuania and the Slovak Republic (OECD 2020, p. 89).

An alternative model involves matching contributions, where the government contributes to the recipient organisation to a value equivalent to individuals receiving an income tax deduction. The Gift Aid scheme in the United Kingdom is based on such an approach (OECD 2020, p. 88).

Equity, efficiency and administrative cost implications should be at the forefront of discussions regarding the most appropriate model to incentivise giving.



#### **Information request 4 The Deductible Gift Recipient (DGR) framework**

The Commission is seeking views and information on the following.

- The costs and benefits of the DGR framework as a way to incentivise donors to give to particular organisations or whether other policy levers would be more efficient, effective, or equitable.
- The policy rationale and objectives of the DGR framework, including whether it is:
  - sufficiently clear
  - consistent with promoting the welfare and priorities of the Australian community.
- The efficiency, effectiveness, and equity of the DGR framework, including whether its design and administration:
  - is clear, transparent and fit-for-purpose for its intended objectives, and result in any unnecessary costs (including forgone tax revenue) or risks to the Australian community
  - results in any inequities, inefficiencies, or perverse outcomes.
- The extent to which the DGR framework encourages giving to charities and other eligible entities, and the donors or causes for whom it is particularly effective (or not effective).
- Alternative models to the DGR framework that could be adapted to the Australian context. The Commission would also welcome information on whether models used elsewhere, such as tax rebate or contribution schemes, may or may not be suited to the Australian context.

## Other forms of government tax support for Not-For-Profits

The tax concessions that support the operation of charities and other types of NFPs are set out in table 1 above. In contrast to the DGR framework, these forms of tax support to charities do not aim to increase philanthropic giving *per se*. However, they may indirectly affect giving by influencing whether NFPs seek private donations (section 2).

Tax settings can change the relative attractiveness of different revenue sources. For example, access to income tax exemptions but not DGR status for some NFPs may incentivise the operation of commercial activities rather than fundraising through philanthropy.

Other concessions reduce operating costs for NFPs, which may encourage expansion of their activities, with an attendant increase in demand for philanthropic giving. For example, Fringe Benefits Tax concessions subsidise the cost of hiring staff. Similarly, there is a range of state and territory government concessions that charities and other NFPs may be able to access to reduce their operating costs, such as exemptions or concessions on payroll tax, land tax, rates, stamp duty and motor vehicle registration. The availability and design of these concessions vary between jurisdictions. These types of concessions can increase the ability of charities to compete with other organisations and businesses that are unable to access them and can raise competitive neutrality concerns.

The design of these other forms of tax concessions to support charities and other NFPs has evolved over time. While these concessions have been examined before — for example, by the Henry Tax Review (2010) and Not-For-Profit Sector Tax Concession Working Group — the Commission is seeking views and information on these concessions, particularly in the context of their impact on philanthropic giving.



### Information request 5

#### Other tax concessions for not-for-profit organisations

The Commission is seeking views and information on the following.

- The role and effectiveness of tax concessions (other than those available under the DGR framework — see above) in supporting the operation of not-for-profit organisations and philanthropy.
- Anomalies and inequities in the operation and application of particular concessions.
- Unintended and adverse consequences arising from compliance with concession eligibility criteria, including those applicable in Australian States and Territories.
- The efficiency, effectiveness and equity of tax concessions in supporting not-for-profit organisations, and how they compare with alternative approaches to providing government support for not-for-profit organisations.

## 4. Removing unnecessary regulatory barriers to giving

The terms of reference ask the Commission to consider the burden imposed on donors, volunteers and NFPs by the current regulatory framework for giving and how this affects their activities.

### Identifying potential barriers

Regulations, such as those relating to consumer protection and the integrity of the tax system, are vital for supporting philanthropic giving because they promote public trust and underpin donor confidence to give. However, where regulations are poorly targeted or disproportionate to their policy objective, they may not only fail to achieve their primary purpose, but also discourage giving. Conversely, reform options that involve removing unnecessary regulatory burdens and restrictions have the potential to contribute to increasing the amount and effectiveness of philanthropic giving.

Over the past 10 years governments have implemented regulatory reforms focused on charities and other NFPs. For example, the ACNC was created in part to help promote the reduction of unnecessary regulatory obligations on the sector (ACNC 2023; ANAO 2020, p. 9). Regulatory frameworks for public and private ancillary funds were introduced in 2009 and 2011, with modifications made in subsequent years (ATO 2019). There have also been reviews that have made findings or recommendations of relevance to this inquiry, including the former Corporation and Markets Advisory Committee's 'Administration of Charitable Trusts' report (2013) and the Review of the Australian Charities and Not-for-profits Commission Legislation, 'Strengthening for Purpose' (Treasury 2018).

The Commission welcomes views on regulatory barriers to giving and reforms that would address these barriers.



#### Information request 6 Unnecessary regulatory barriers to philanthropic giving

The Commission is seeking views and information on the following.

- The costs and benefits of options for reducing any unnecessary regulatory restrictions and burdens, their effect on philanthropic giving and on policy objectives, such as consumer protection, but would not detract from the policy objective the regulation is meant to serve, such as, consumer protection or public safety.
- The effectiveness of existing regulations, including those that apply to public and private ancillary funds and other types of foundations and philanthropic entities, including any issues that may arise under state or territory laws.
- Unnecessary or inconsistent restrictions or regulations relating to requirements like police or working with children checks when volunteering or engaging volunteers.
- Emerging risks or regulatory gaps, including in areas such as cybersecurity, privacy and donor protection associated with certain of modes giving, such as peer-to-peer donations or crowdfunding, fundraising or marketing.
- Regulatory barriers that may limit donor choice and flexibility, such as rules and taxation arrangements for bequests and the distribution of superannuation death benefits to charities.

## 5. Other opportunities to increase giving

### Information about the effectiveness of charities

The terms of reference require the Commission to consider the:

- ability of donors to assess and compare charities based on evidence of effectiveness, including through impact evaluations and making comparisons across charities
- work of overseas impact evaluation comparison sites
- potential to increase philanthropy by enhancing the effectiveness and efficiency of the use of donations.

For a conventional market to work effectively, consumers need adequate information about the price, quality and characteristics of goods and services on offer, and confidence that they will get what they paid for. In the case of philanthropy, donors may similarly need adequate information to be confident that the money, assets or time they donate is used for its intended purpose. Donors may be discouraged from giving if they cannot identify causes that align with their preferences or organisations that share their values, are well-managed and effective at delivering outcomes.

There are several information sources on charity activities and operations. However, their relevance as tools for assessing 'effectiveness' varies (box 4).

#### Box 4 – Information sources on the effectiveness of charities

The ACNC maintains a searchable public database with financial data, such as revenue from donations and other sources for all ACNC registered charities, with some exceptions, such as for 'Basic Religious Charities'. Although this information may not specifically relate to effectiveness or impact, it does provide a range of information that can assist donors to make decisions.

ACNC and other public data can also be used by other organisations that aim to inform donor decision making. Australian websites, such as ChangePath, enable donors to compare financial indicators, such as liabilities and assets, across charities.

Some organisations collect and publish performance data for specific organisations or causes, such as organisations involved in foreign aid and global poverty mitigation. Other organisations, including Charity Navigator, as well as those affiliated with the 'Effective Altruism' movement, such as US-based GiveWell and A Life You Can Save (which has an Australian branch), provide recommendations of charities that they consider most effective based on their methodology, research, and judgment.

Several private firms offer bespoke services like tailored evaluations and donor matching.

Some organisations that operate comparison websites also act as intermediaries between donors and charities by accepting donations and directing them to the donor's charity of choice. Some of these sites, evaluate impact in specific areas, such as environmental or poverty alleviation causes. Some of them provide indices with multiple evaluated charities pooled together if donors wish to target a specific cause with their donation.

Designing and implementing policies to collect and present more information involves costs to government and NFPs. There can be challenges with measuring and reporting on outcomes and effectiveness in a consistent, comparable and cost-effective manner. Some donors may place reliance on certain types of information, such as administration costs, but such information can be hard to measure properly, and can also be a poor indicator of how well a charity is performing against its purpose.

Limited public information on NFPs may not necessarily be a problem if it simply reflects lack of demand. Hence, the Commission is seeking to better understand the types of information donors value when making decisions but cannot access from existing sources. In doing so, the Commission will draw on the following principles, adapted from a consumer decision making context, to assess reform options aimed at enhancing information provided to donors.

- **Reliability** — the information is factual, unbiased, accurate and up-to-date.
- **Usefulness and relevance** — the information enables donors to understand how their donation will generate outcomes and is tailored to context (for example, data that is useful to compare NFPs that undertake medical research may not be relevant to those that provide services to Aboriginal and Torres Strait Islander people or support people who are rebuilding after a natural disaster).
- **Accessibility** — the information is in one place and in one format, making it easy to compare organisations.
- **Proportionality** — the cost of collecting and providing the information is commensurate with the benefits, noting that small and newly-formed NFPs may have less resources available to meet information requirements, and aligned with what donors want.



### Information request 7

#### Consumer information on the effectiveness of not-for-profit organisations

The Commission is seeking views and information on the following.

- The role of government and the non-government sector in providing additional information to donors.
- The policy rationale, costs and benefits of government provision of specific data sources to inform donors' choices about where to give.
- Information donors would value on the effectiveness of not-for-profit (NFP) organisations, but cannot access and why.
- Data sources that are most beneficial to donors and examples of data that is provided by government to donors (directly or indirectly) overseas that could have net benefits to the community if applied in Australia.

The Commission would particularly welcome views on measures used by NFPs to assess and communicate how they perform against their objectives, including views on the following.

- Weakness or gaps in existing data sources relating to the effectiveness of NFPs that limit their reliability and usefulness or create perverse incentives by focusing on metrics that may be easier to collate but do not provide an accurate measure of effectiveness.
- The extent to which providing information on the effectiveness of NFPs influences decisions made by donors, including decisions not to give.
- Any overseas policy responses to measuring effectiveness which may be relevant, including the use of accounting standards and other reporting tools.

## Other measures to support potential donors

Aside from the opportunities mentioned so far, there are other measures that governments could take that may support potential donors to make better informed decisions about where, when and how to give.

Professional advisers, including financial advisers, accountants and lawyers, are a source of information for donors about philanthropic opportunities (Philanthropy Australia 2021, p. 20). However, a survey of 269 professional advisers found that more than one in three felt unsure about how best to advise on philanthropy (Crittall, Scaife and Bolderman 2016, p. 32). Moreover, more than one in four advisers felt that advising on philanthropy was outside their professional role. In the same survey, 50 per cent of professional advisers identified formal training and development sessions as a useful resource, while more than 70 per cent suggested information packs and guides were useful (Crittall, Scaife and Bolderman 2016, p. 38).

The Commission welcomes views on options to assist donors to make decisions, including those relating to training of professional advisers.



### Information request 8 Other measures to support potential donors

The Commission is seeking views and information on the following.

- Steps governments can take do to better equip professional advisers to advise their clients on philanthropic giving.
- Aside from those mentioned so far, any other opportunities for government to improve philanthropic giving in Australia.

## Enhancing the cost-effectiveness of public data sources

Government agencies, such as the ABS, ACNC and ATO, collect data and other information on aspects of philanthropic giving. Government agencies collect data to fulfil regulatory or administrative requirements to ensure the integrity of the system, to inform policy evaluation and design, and aid to decision makers (government, NFPs and donors) in the allocation of resources.

The collection and publication of data is not costless. In addition to the cost of collecting and publishing datasets, there can be substantial costs on entities providing data, including administrative costs (which may be particularly onerous in the case of NFPs with limited resources), commercial or operational sensitivities, and privacy considerations.

In practice this means that information should only be required by government where it is necessary for compliance activity, including to protect donors and the public, or it is of high analytical value. It also means that governments should periodically examine opportunities to streamline data collection, such as through improved data sharing to reduce duplication in data requests, subject to appropriate safeguards.



### Information request 9 Cost-effectiveness of public data sources

The Commission is seeking views and information on the following.

- Critical data and information gaps about philanthropic giving and how these impede policy development and decision making.
- Effective ways to collect information that balance the costs and benefits, including where:
  - current information collection is unnecessary or unduly onerous
  - there is duplication of data provision to different government bodies, or it is in different formats for different purposes
  - more streamlined collection would make the data more useful, and if relevant, more comparable with other data, such as international sources.
- Risks and other factors to consider in expanding or changing information reporting requirements and processes.
- Who should pay for any new information collection and be the stewards of current and any new information.
- Any additional data-related considerations for:
  - organisations run by Aboriginal and Torres Strait Islander people or that provide services to Aboriginal and Torres Strait Islander people
  - small or newly-formed not-for-profit organisations
  - organisations that operate across States and Territories, and internationally.

## Public strategies to enhance the status of giving

The terms of reference ask the Commission to consider other opportunities to increase philanthropic giving and the extent of their potential, including successful public strategies in other jurisdictions — across business, NFPs and philanthropic sectors — that have enhanced the status of giving or the level of philanthropic activity.

Different strategies to increase the status of giving and philanthropy, by drawing attention to specific causes and encouraging people to give, are used in different contexts. Some campaigns employ techniques ranging from direct advertising through, for example, social media, to fundraising or volunteering events, including in the workplace. Some strategies also include ‘nudges’ to consumers or staff to provide donations to worthy causes, such as the donation prompts used by some retailers at the point of sale (either online, or at a physical payment point).

There may be an in-principle case for public (government sponsored) campaigns to enhance the status of philanthropy in some circumstances. This will arise where these public campaigns are likely to:

- result in significant broader public benefits, such as contributing to social cohesion or avoided government expenditure
- align with other policy objectives
- be more effective than alternatives options, such as providing more targeted forms of support to specific causes through grant funding (section 2).

There are overseas examples of public campaigns that aim to increase philanthropic activity. In Canada, ‘the giving moment’ campaign operates a platform that enables donors and volunteers to share their stories and to provide information and inspiration for others (Governor-General of Canada 2013). In Alaska, the government website on which residents claim their dividends from the Alaska Permanent Fund prompts them to donate part of their dividend (in \$25 increments) (List et al. 2021).

The Commission will examine these and other public campaigns to better understand their potential to increase philanthropic giving. To inform this analysis, the Commission is seeking further information on public strategies in Australia and overseas to increase giving, including evidence on their effectiveness in increasing philanthropy and the associated public benefits and costs.



### Information request 10

#### Public strategies to increase the status of giving

The Commission is seeking views and information on the following.

- Public strategies or initiatives that have proven cost-effective in increasing philanthropy in other countries and evaluations conducted on those initiatives.
- Developments in behavioural economics and other social experiments in ‘nudging’ and engaging new donors and volunteers.
- Other approaches that could be used to attract new donors and different demographics into philanthropy.

## Other matters

The terms of reference ask the Commission to identify reforms to address barriers or harness opportunities to increase philanthropy, and assess benefits, costs, risks, practicalities and implementation issues and advise on priority areas for reform. The Commission welcomes information and participant perspectives that might be relevant to undertaking this task (particularly on matters not covered in information requests 1 to 10).



### Information request 11

#### Identifying and assessing reform options

The Commission is seeking views and information on the following.

- The costs and benefits of reforms most likely to increase giving in Australia, including:
  - empirical evidence from other countries that have adopted similar reforms
  - previous research modelling the effects of the proposed (or similar) reforms.
- Evidence on the costs and benefits associated with reform options to increase levels of giving, including:
  - impacts on government expenditure
  - impacts on the quality of service delivery
  - other benefits, including intangible benefits such as enhancing social capital.

## References

- ABS (Australian Bureau of Statistics) 2022, *Table 1. Key National Accounts Aggregates*.
- ACNC (Australian Charities and Not-for-profits Commission) 2020, *Australian Charities Report - 8th edition* | ACNC, Australian Charities and Not-for-profits Commission, <https://www.acnc.gov.au/tools/reports/australian-charities-report-8th-edition> (accessed 31 January 2023).
- Agenzia Delle Entrate 2022, *Archivio - Contributo del 5 per mille 2022 - Che cos'è - Agenzia delle Entrate*, <https://www.agenziaentrate.gov.it/portale/it/web/guest/contributo-del-5-per-mille-2022/infogen-contributo-del-5-per-mille-2022> (accessed 9 March 2023).
- ANAO (Australian National Audit Office) 2020, *Regulation of charities by the Australian Charities and Not-for-profits Commission: Australian Charities and Not-for-profits Commission; Australian Taxation Office*, Australian National Audit Office, Canberra ACT.
- Asprey and Parsons, R. 1975, *Taxation Review Committee - Full Report*, p. 47.
- ATO (Australian Taxation Office) 2014, *Taxation Statistics 2011-12, Charities, Table 3*, Australian Government, Canberra.
- 2017, *Tax concessions for not-for-profits*, <https://www.ato.gov.au/Non-profit/Getting-started/Tax-concessions-for-not-for-profits/> (accessed 17 March 2023).
- 2022a, *Individuals - Table 1*.
- 2022b, *Taxation Statistics 2019-20, Charities, Table 3*, Australian Government, Canberra.
- 2022c, *Taxation statistics 2019–20 Individuals: Selected items, by sex, taxable status, age range and taxable income range, 2019–20 income year, Table 13*, [https://data.gov.au/data/dataset/taxation-statistics-2019-20/resource/f4ff1a8b-44ca-4918-a1a5-3405e4e6f81f?inner\\_span=True](https://data.gov.au/data/dataset/taxation-statistics-2019-20/resource/f4ff1a8b-44ca-4918-a1a5-3405e4e6f81f?inner_span=True) (accessed 21 March 2023).
- 2022d, *Taxation statistics 2019–20 Individuals: Selected items, by taxable income range and total income or loss range, 2019–20 income year, Table 10A*, [https://data.gov.au/data/dataset/taxation-statistics-2019-20/resource/48282266-e80a-419f-9e81-121ba737de9f?inner\\_span=True](https://data.gov.au/data/dataset/taxation-statistics-2019-20/resource/48282266-e80a-419f-9e81-121ba737de9f?inner_span=True) (accessed 21 March 2023).
- 2019, *Ancillary fund return instructions 2017*, Australian Taxation Office, <https://www.ato.gov.au/forms/ancillary-fund-return-instructions-2017/?page=2> (accessed 16 March 2023).
- Australian Institute of Health and Welfare 2021, *Philanthropic and charitable donations*, Canberra.
- Banks, G. 2009, *Evidence-based policy making: What is it? How do we get it?*
- Becker, G.S. and Murphy, K.M. 2000, *Social Economics: Market Behavior in a Social Environment*, Harvard University Press.
- CAMAC (Corporations and Markets Advisory Committee) 2013, *Administration of charitable trusts*.
- Crittall, M., Scaife, W. and Bolderman, S. 2016, *A Study of Professional Advisers in Australia*, The Australian Center for Philanthropy and Nonprofit Studies, Brisbane.
- DSS (Department of Social Services) 2022, *Working with children checks*, <https://www.dss.gov.au/our-responsibilities/families-and-children/programs-services/protecting-australias-children/working-with-children-checks> (accessed 16 March 2023).
- Governor-General of Canada 2013, *My Giving Moment Campaign, Media release*, Media Release, 4 November, Canadian Government, Ottawa.
- Henry, K., Harmer, J., Piggott, J., Ridout, H. and Smith, G. 2010, *Australia's Future Tax System Review, Final Report*, Canberra.
- Horvath, A. and Powell, W. 2016, 'Contributory or Disruptive: Do new forms of philanthropy erode democracy?', *Philanthropy in Democratic Societies*, The University of Chicago Press, Chicago.
- House of Representatives Standing Committee on the Environment 2016, *Inquiry into the register of environmental organisations*, Parliament of Australia, Canberra.
- IC (Industry Commission) 1995, *Charitable Organisations in Australia*, Report no. 45, Canberra.
- Krever, R. 1991, 'Tax Deductions for Charitable Donations: A Tax Expenditure Analysis', *Charities and Philanthropic Institutions: Reforming the Tax Subsidy and Regulatory Regimes*, Australian Tax Research Foundation, Sydney, pp. 1–28.
- Leigh, A. (Assistant M. for C., Charities and Treasury) and Pearson, D. (Victorian M. for C.A. 2023, *Agreement reached on reform of charitable fundraising laws*, Media Release, <https://ministers.treasury.gov.au/ministers/andrew-leigh-2022/media-releases/agreement-reached-reform-charitable-fundraising-laws> (accessed 8 March 2023).
- List, J.A., Murphy, J.J., Price, M.K. and James, A.G. 2021, 'An experimental test of fundraising appeals targeting donor and recipient benefits', *Nature Human Behaviour*, vol. 5, no. 10, pp. 1339–1348.
- Marrie, H. and Marrie, A. 2013, *Identifying and Removing Structural Flaws in the Current Framework Governing Deductible Gift Recipient (DGR) Endorsement to enable Indigenous Organisations to Better Access Philanthropic Support*, DGR Reform Background Briefing Paper, 25 June, Bukal Consultancy Services.
- Martin, F. 2018, 'The major tax concessions granted to charities in Australia, New Zealand, England, the United States of America and Hong Kong: what lessons can we learn?', *Research Handbook on Not-For-Profit Law*, Edward Elgar Publishing, Cheltenham, pp. 463–483.
- McCully, G. 2008, *Philanthropy Reconsidered*, AuthorHouse, Bloomington.
- McGregor-Lowndes, M., Crittall, M., Conroy, D., Keast, R., Baker, C., Barraket, J. and Scaife, W. 2017, *Giving Australia 2016: Individual giving and volunteering*, Background Paper, September, Australian Centre for Philanthropy and Non-Profit Studies, Queensland University of Technology, Brisbane.
- McLeod, J. 2018, *The support report: The changing shape of giving and the significant implications for recipients*, JBWere.

Michigan State University 2014, *Seven motivations for giving*, [https://www.canr.msu.edu/news/seven\\_motivations\\_for\\_giving](https://www.canr.msu.edu/news/seven_motivations_for_giving) (accessed 9 March 2023).

OECD 2012, *Recommendation of the Council on Regulatory Policy and Governance*.

— 2020, *Taxation and Philanthropy*, 27, OECD, Paris, <https://www.oecd.org/ctp/taxation-and-philanthropy-df434a77-en.htm> (accessed 13 January 2023).

PC (Productivity Commission) 2010, *Contribution of the Not for Profit Sector*, Research Report, Canberra.

Philanthropy Australia 2021, *A Blueprint to Grow Structured Giving*, Philanthropy Australia.

— 2022, *Structured giving in Australia*, Philanthropy Australia, <https://www.philanthropy.org.au/learn-about-philanthropy/structured-giving-in-australia/> (accessed 31 January 2023).

PM&C (Department of the Prime Minister and Cabinet) 2020, *Australian Government Guide to Regulatory Impact Analysis*.

Rishworth, A. (Minister for S.S. 2023, *Boosting support for volunteers through a National Strategy for Volunteering*, Media Release, <https://ministers.dss.gov.au/media-releases/10246> (accessed 21 March 2023).

Rockefeller Philanthropy Advisors 2023, *The Giving Commitment: Knowing Your Motivation*, Rockefeller Philanthropy Advisors, <https://www.rockpa.org/guide/the-giving-commitment/> (accessed 9 March 2023).

Salamon, L.M. and Anheier, H.K. 1992, 'In search of the non-profit sector: The question of definitions', *Voluntas: International Journal of Voluntary and Nonprofit Organizations*, vol. 3, no. 2, pp. 125–151.

Silver, N. 2021, 'Removing tax barriers to cross-border philanthropy: Lessons from Australia', *The Routledge Handbook of Taxation and Philanthropy*, Routledge, Oxon, pp. 449–462.

Treasury 2013, *Not-for-profit sector Tax Concession Working Group final report*, Commonwealth of Australia, Canberra.

— 2017a, *Social impact investing*, <https://treasury.gov.au/consultation/social-impact-investing> (accessed 16 March 2023).

— 2017b, *Tax Deductible Gift Recipient Reform Opportunities*, Discussion paper, 15 June, Treasury, Canberra.

— 2018, *Strengthening for Purpose: Australian Charities and Not-for-profits Commission Legislation Review 2018*, Canberra.

— 2023a, *Deductible Gift Recipient (DGR) Registers Reform*, <https://treasury.gov.au/consultation/c2023-354087> (accessed 16 March 2023).

— 2023b, *Tax Expenditures and Insights Statement February 2023*, February, Canberra.

Volunteering Australia 2022, *Key Volunteering Statistics*, February, Volunteering Australia.

## A. Terms of reference

### Review of Philanthropy

I, Jim Chalmers, pursuant to Parts 2 and 3 of the *Productivity Commission Act 1998*, hereby request that the Productivity Commission undertake an inquiry into philanthropy.

### Background

Philanthropic giving underpins the crucial efforts of charities, not-for-profit organisations and community groups to support vulnerable Australians and build social capital and connectedness in Australian communities.

This has been highlighted by the challenges of recent years, with not-for-profits mobilising monetary donations, supplies, and volunteers to support those affected by the COVID-19 pandemic, natural disasters, and the rising cost of living. As we confront these and other challenges, not-for-profits will continue to play a vital role in strengthening and reconnecting our communities.

The Government is committed to taking this opportunity and will collaborate with the philanthropic, not-for-profit and business sectors to double philanthropic giving by 2030. Identifying and assessing opportunities and obstacles to increasing philanthropic giving will provide a roadmap to achieving this objective.

### Scope of the inquiry/ research study

The purpose of the inquiry is to understand trends in philanthropic giving in Australia, the underlying drivers of these trends, and to identify opportunities and obstacles to increasing such giving. The inquiry should make recommendations to Government to address barriers to giving and harness opportunities to grow it further.

In undertaking the inquiry/study, the Commission should:

1. Consider the tendencies and motivations for Australians' charitable giving, including through different donation channels such as workplace giving, bequests, private foundations, in-kind donations, and volunteering.
2. Identify opportunities to increase philanthropic giving and the extent of their potential impact, including:
  - i. The role of, and effectiveness of, foundations in encouraging philanthropic giving and supporting the charitable sector.
  - ii. Successful public strategies in other jurisdictions – across business, not-for-profits and philanthropic sectors – that have enhanced the status of giving or the level of philanthropic activity.
  - iii. The potential to increase philanthropy by enhancing the effectiveness and efficiency of the use of donations.
3. Examine current barriers to philanthropic giving, including:
  - i. The burden imposed on donors, volunteers and not-for-profits by the current regulatory framework for giving and how this affects their philanthropic decisions.
  - ii. The ability of donors to assess and compare charities based on evidence of effectiveness, including through impact evaluations and making comparisons across charities. In doing so, the Commission should consider the work of overseas impact evaluation comparison sites.

- 
4. Consider the appropriateness of current sources of data related to philanthropic giving, and how databases could be enhanced in a cost-effective manner.
  5. Examine the tax expenditure framework that applies to charities. In particular, assess the effectiveness and fairness of the deductible gift recipient framework and how it aligns with public policy objectives and the priorities of the broader community.
  6. Identify reforms to address barriers or harness opportunities to increase philanthropy, and assess benefits, costs, risks, practicalities and implementation considerations. In doing so, the Commission should advise on priority areas for reform, having regard to:
    - i. The integrity of the taxation system and the current fiscal environment.
    - ii. The benefits that flow to not-for-profits from existing programs.
    - iii. The benefits that would flow from increased philanthropic giving.

## Process

The Commission is to undertake an appropriate public consultation process including holding public hearings, inviting public submissions and releasing a draft report to the public.

The Commission should consult broadly, including with Commonwealth, state and territory governments, and the philanthropic, not-for-profit and business sectors.

In undertaking the inquiry, the Commission should have regard to previous inquiries where relevant, including the *Contribution of the Not-for-Profit Sector* inquiry concluded in 2010, and other reviews in train, including the Not-for-profit Sector Development Blueprint being delivered by the Community Services Advisory Group.

The final report should be provided within 15 months of the receipt of these terms of reference.

**Dr Jim Chalmers**

Treasurer

[Received 11 February 2023]

## B. How to make a submission

### How to prepare a submission

You can make a written submission or use a separate form to provide a video submission. Alternatively, if you would like to make an oral submission, please contact Karen Godfrey on 02 6240 3277.

Written submissions may range from a short comment outlining your views on a particular topic to a much more substantial document covering a range of issues. Where possible, you should provide evidence, such as relevant data and documentation, to support your views.

### Publishing submissions

- Each submission, except for any attachment supplied in confidence, will be published on the Commission's website shortly after receipt, and will remain there indefinitely as a public document.
- The Commission reserves the right to not publish material on its website that is offensive, potentially defamatory, or clearly out of scope for the inquiry or study in question.

### Copyright

- Copyright in submissions sent to the Commission resides with the author(s), not with the Commission.
- Do not send us material for which you are not the copyright owner – such as pictures, photos and newspaper articles – you should just reference or link to this material in your submission.

### In confidence material

- This is a public review and all submissions should be provided as public documents that can be placed on the Commission's website for others to read and comment on. However, information which is of a confidential nature or which is submitted in confidence can be treated as such by the Commission, provided the cause for such treatment is shown.
- The Commission may also request a nonconfidential summary of the confidential material it is given, or the reasons why a summary cannot be provided.
- Material supplied in confidence should be clearly marked 'IN CONFIDENCE' and be in a separate attachment to nonconfidential material.
- You are encouraged to contact the Commission for further information and advice before submitting such material.

### Privacy

- For privacy reasons, all **personal** details (e.g. home and email address, signatures and phone numbers) will be removed before they are published on the website.
- You may wish to remain anonymous or use a pseudonym. Please note that, if you choose to remain anonymous or use a pseudonym, the Commission may place less weight on your submission.

---

## Technical tips

- The Commission prefers to receive submissions as a Microsoft Word (.docx) files. PDF files are acceptable if produced from a Word document or similar text based software. You may wish to search the Internet on how to make your documents more accessible or for the more technical, follow advice from Web Content Accessibility Guidelines (WCAG) 2.0: <https://www.w3.org/TR/WCAG20/>
- Do not send password protected files.
- Track changes, editing marks, hidden text and internal links should be removed from submissions.
- To minimise linking problems, type the full web address (for example, <http://www.referredwebsite.com/folder/filename.html>).

## How to lodge a submission

Submissions should be lodged using the online form on the Commission's website. Submissions lodged by post should be accompanied by a submission cover sheet, available from the Commission's website.

Online\*            [www.pc.gov.au/inquiries/current/philanthropy](http://www.pc.gov.au/inquiries/current/philanthropy)

Post\*             Philanthropy inquiry  
Productivity Commission  
GPO Box 1428  
Canberra City ACT 2601, Australia

Phone             Please contact the Administrative Officer Karen Godfrey on 02 6240 3277

\* If you do not receive notification of receipt of your submission to the Commission, please contact the Administrative Officer.

## Due date for submissions

Please send submissions to the Commission by **05 May 2023**.