COMMUNITY COUNCIL FOR AUSTRALIA

BUILDING FLOURISHING COMMUNITIES BY ENHANCING THE EXTRAORDINARY WORK OF AUSTRALIA'S NOT-FOR-PROFIT SECTOR.

17 September 2026

Submission to:

Assistant Secretary
Individuals and Indirect Tax and Superannuation Division
The Treasury
Langton Crescent, PARKES ACT 2600
mintaxtrusts@treasury.gov.au

Minimum Tax on Discretionary Trusts – Exposure Draft Legislation

While we support the fact that distributions made by discretionary trusts to deductible gift recipient's (DGR) and charities will be exempt from the proposed the 30% Trust Tax, the Community Council for Australia (CCA) continues to call on government to take more action needed to prevent the reduction in philanthropic giving and inequities created by the Trust Tax. The government must commit to further steps by the end of 2026 that provides a pathway to fit for purpose DGR reform.

The Trust Tax reforms enable giving through trusts to continue without penalty, but it also creates an unfair two-tiered system for individual taxpayers who want to support Australia's charities compared to those who benefit from a discretionary trust. Just as importantly, the current proposal will lock-in the existing inequities and disincentivise giving to most of Australia's 300,000 community organisations and not-for-profits (NFPs).

The government should ensure the Trust Tax proposal does not add to the growing red tape, compliance and administrative burdens facing our sector. Charities and NFPs are at the heart of our communities, our productivity, our health and wellbeing, our disaster preparedness, response and recovery. Our sector enables the generous and flourishing communities that Australia relies on.

The government can do significantly more to genuinely support charities and NFPs by acting on the key recommendations of five major government endorsed reports undertaken over the last three decades. This includes the government's own commissioned Productivity Commission's Foundations for Giving Report (2024)[1], calling on reform of a broken DGR system that this Trust Tax reform proposal will further entrench.

The policy choices of governments reflect their values and priorities. By not acting on DGR reform, the government will be indicating that it is comfortable with leaving a diverse group of charities and change making community organisations locked out from accessing more philanthropic support, whether from individuals, Giving Funds or discretionary trusts.

[1] https://www.pc.gov.au/inquiries-and-research/philanthropy/report/

Summary of recommendations

Our recommendations: CCA appreciate the proposed changes will enable tax-free giving through discretionary trusts to continue, and we support that change, but we also make the following additional recommendations:

1. To ensure equal and fair tax treatment regardless of whether an individual or discretionary trust donates to a charity, the government must commit to taking further steps by the end of 2026 towards implementing deductible gift recipient (DGR) reform, including by publicly:
    - Recognising that the DGR system is not fit for purpose and accepts in-principle that reform is needed; and
    - Committing to working with stakeholders to develop a pathway for implementation of DGR reform.

2. To prevent the widening tax inequity and the loss of funding and philanthropic giving facing the majority of Australia's 300,000 not-for-profits as a result of the proposed 30% Trust Tax, the government must not impose a cap on tax-free discretionary trust giving to the majority of income-tax exempt not-for-profits (NFPs), until deductible gift recipient (DGR) reform is enacted.

3. The government must make clear and enact further legislative amendments to ensure the arrangements under the proposed 30% Trust Tax do not impose any extra compliance obligations, administrative burdens and delays that would disincentivise giving by discretionary trusts to deductible gift recipient (DGR) entities, charities or income-tax exempt not-for-profits. This includes clarifying and ensuring that such discretionary trust distributions will be tax deductible upfront and in full, without the need for a rebate or refund process, and that the existing flexibilities towards charitable giving by discretionary trusts will be retained and not be limited in anyway by the proposed legislative provisions.

The proposed 30% Trust Tax will entrench an inequitable two-tiered system that does not support individual taxpayers who want to give to charities – Concrete steps towards DGR reform are needed

While introducing a number of positive provisions to help address the reduction in philanthropic giving that will still occur due to the proposed 30% Trust Tax, the exposure draft creates a new inequity that discriminates against individual Australians who will continue to pay tax on giving to the majority of registered charities, while those who operate a discretionary trust will not.

The exposure draft effectively sets up and entrenches a two-tiered system that simply isn't fair and not good for giving in Australia. For example, a teacher who decides to donate some of their wages to their local neighbourhood house charity without DGR status will not get a tax deduction, while the person living a few doors down who owns a business through a discretionary trust donating to the very same charity will get a tax deduction.

Research undertaken in 2025 across Australia found that 92% of representative voters in marginal electorates wanted the government to make it easier for people to give to charities and allow all donations to registered charities to be tax deductible[2].

If the government remains committed to doubling charitable giving by 2030, it must do more to support and encourage the generosity of Australians who want to give back, so more charities can receive tax deductible donations, whether from an individual, Giving Fund or discretionary trust.

This will require the government to commit to taking concrete steps by the end of 2026 to support a clear pathway to enacting fit for purpose DGR reform.

Recommendation

To ensure equal and fair tax treatment regardless of whether an individual or discretionary trust donates to a charity, the government must commit to taking further steps by the end of 2026 towards implementing deductible gift recipient (DGR) reform, including by publicly:

- ***Recognising that the DGR system is not fit for purpose and accepts in-principle that reform is needed; and***
- ***Committing to working with stakeholders to develop a pathway for implementation of DGR reform.***

[2] https://communitycouncil.com.au/wp-content/uploads/2025/04/CCA-Survey-Report-31032025_Clean-_final_7042025.pdf

The proposed 30% Trust Tax will lock-out and reduce giving to the majority of Australia's 300,000 community organisations and not-for-profits

As highlighted in CCA's July 2026 submission to the Treasury consultation on the Minimum Tax on Discretionary Trusts[3], the significant inequities that have been artificially created by a broken DGR system risk being made permanent by the proposed Trust Tax.

The provisions of the exposure draft do nothing to address this concern and will only serve to cement the unhelpful silos and divisions that most charities, NFPs and other 'for purpose' organisations operate under. Under the proposed legislative regime and the current DGR status quo, they will continue to be forced to unproductivity compete with one another for limited funding based on arbitrary entity classifications, with only the most well-resourced organisations being able to jump through multiple narrow hoops to obtain DGR status to access vital philanthropic support.

The proposed Trust Tax will also enshrine the dominance of the largest charities who obtain 97.2 of sector funding[4], but will do little to support the many more isolated, rural and reginal communities who rely on smaller organisations and NFPs that are deeply embedded and intimately understand the needs of their communities best.

These smaller grassroots based and volunteer run organisations include NFPs such as neighbourhood and community resource centres, and many of the approx. 50 amazing organisations who recently attended CCA's inaugural community leaders forum in Castlemaine, Victoria.[5] The event bought together young writers groups, Landcare groups, spinners and weavers, sporting groups, people who run libraries full of books and libraries full of seeds, festival groups, historical societies and history preservation groups, musical groups, art groups, Rotary, the CFA, church groups, local councils, Indigenous groups, environment protection groups, op shops, carers, community houses, and so many more, with only a handful officially registered as charities.

Many of the groups that attended the Castlemaine event were surprised to find out for the first time that many of the others even existed. Each quietly serving the needs and fortifying the resilience of the same local community as neighbours for years.

In different but essential ways, these groups help strengthen and develop a community's cohesive fabric, facilitating connection and inclusion, providing artistic, cultural and educational opportunities for self-expression, while fostering the purpose, self-worth and the sense of belonging that our society desperately needs in the face of increasing levels of human disconnection, polarisation and isolation.

When fires or floods overtake a community, it is the social infrastructure created by such local groups that enables people to respond, to share safety information and evacuation plans, to find and support those in need, to help shelter and care for those affected, and to bring people together with

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[3] https://communitycouncil.com.au/2026/07/31/minimum-tax-on-discretionary-trusts-submission-to-treasury/

[4] https://www.communitydirectors.com.au/articles/the-other-inequality-the-haves-and-have-nots-of-australian-charities

[5] https://www.communitydirectors.com.au/articles/community-groups-have-the-power-to-get-a-better-deal-from-government-and-all-australians-will-benefit; https://www.communitydirectors.com.au/articles/from-spinners-to-musicians-the-tiny-victorian-goldfields-groups-taking-on-the-world

purpose during recovery. Every analysis of disasters across Australia, from the worst bushfires to the most destructive floods, has highlighted the critical role that volunteers, charities and NFPs play.

Until DGR reform can be enacted, the government must implement interim measures to ensure more of these vital community organisations can thrive rather than being further impacted by the reduced giving that is forecasted because of the proposed Trust Tax.

This could help be achieved by the government committing to an uncapped tax-free limit for discretionary trust giving to the majority income-tax exempt NFPs (for the purpose of proposed section 101AE(3)(b)) who operate to serve the advancement of social welfare or an equity benefit. This uncapped arrangement could also be limited by being applied to income-tax exempt NFPs receiving a gross annual revenue less than an appropriate threshold to be determined.

Recommendation

To prevent the widening tax inequity and the loss of funding and philanthropic giving facing the majority of Australia's 300,000 not-for-profits as a result of the proposed 30% Trust Tax, the government must not impose a cap on tax-free discretionary trust giving to the majority of income-tax exempt not-for-profits (NFPs), until deductible gift recipient (DGR) reform is enacted.

<u>The Trust Tax proposal must avoid imposing any extra compliance obligations, administrative burdens and delays that would adversely affect our sector</u>

Although section 101AE of the exposure draft states that certain distributions made to DGR entities, charities and tax-exempt entities by discretionary trusts will be excluded from the minimum 30% Trust Tax, more is needed ensure that it is the government's legislative intent is to avoid creating extra administrative hurdles and delays that would disincentivise giving to our sector by discretionary trusts.

Neither the exposure draft or explanatory memorandum makes it clear whether the legislative proposal will avoid discretionary trust trustees being forced to pay tax on income before it can be distributed to DGR entities and charities, or whether all DGR entities, charities, and tax-exempt NFPs will avoid being burdened by extra administrative obligations or delays if a tax rebate or refund system is ultimately enacted by government for the purpose of the Trust Tax.

While most of the organisations who attended the CCA community leader's forum in Castlemaine came together to discuss how they could work better to serve their communities and amplify their collective impact, they also told us of their struggles of being squeezed by increasing levels of burdensome paperwork and red tape that is taking more and more of their time. Leaders from all corners of the charity sector also continue to report on the growing administrative requirements and compliance costs being imposed on their organisations, while receiving no corresponding increases in core funding to enable much of this reporting to be done[6].

The wide discretion provided by proposed exposure draft sections 101AE(2) and (3) further risks the imposition of more red tape and regulatory uncertainty by leaving the door open for the Minister to

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[6] https://www.communitydirectors.com.au/articles/the-elephant-in-the-funding-room

determine conditions that must be met to satisfy the requirements for excluded income from the Trust Tax.

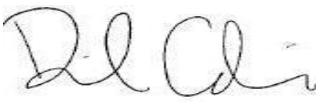
Furthermore, there remains concerns that the current legislative proposal does not provide any certainty that the flexibility currently afforded to discretionary trusts to better support philanthropic causes will be retained. This includes the current ability for discretionary trusts to quicky redirect and adjust levels of giving to charities and NPFs of their choice to better assist in times of natural disasters, without the need to restructure or incur significant extra costs.

Recommendation

The government must make clear and enact further legislative amendments to ensure the arrangements under the proposed 30% Trust Tax do not impose any extra compliance obligations, administrative burdens and delays that would disincentivise giving by discretionary trusts to deductible gift recipient (DGR) entities, charities or income-tax exempt not-for-profits. This includes clarifying and ensuring that such discretionary trust distributions will be tax deductible upfront and in full, without the need for a rebate or refund process, and that the existing flexibilities towards charitable giving by discretionary trusts will be retained and not be limited in anyway by the proposed legislative provisions.

Please contact Director of Policy, **David Hofierka** at davidh@communitycouncil.com.au or Research Manager, **Stuart Barrow** at stuartb@communitycouncil.com.au at Community Council for Australia or on 02 6198 3435 if you have any questions about this submission.

Yours sincerely



David Crosbie

CEO, Community Council for Australia

About Community Council for Australia (CCA)

The Community Council for Australia (CCA) is an independent non-political member-based organisation dedicated to building flourishing communities by enhancing the extraordinary work undertaken by the charities and not-for-profit sector in Australia. CCA seeks to change the way governments, communities and not-for-profits relate to one another by providing a national voice and facilitation for sector leaders to act on common and shared issues affecting the contribution, performance, and viability of NFPs in Australia. This includes:

- promoting the values of the sector and the need for reform
- influencing and shaping relevant policy agendas
- improving the way people invest in the sector
- measuring and reporting success in a way that clearly articulates value
- building collaboration and sector efficiency
- informing, educating, and assisting organisations to build sustainable futures

Our success will drive a more sustainable and effective charities and not-for-profit sector in Australia making an increased contribution to the well-being and resilience of all our communities.

Community Council for Australia

Current Membership:

Adult Learning Australia

Alannah and Madeline Foundation

Alliance for Gambling Reform

AMP Foundation

Arab Council Australia

Australian Communications Consumer Action Network

Australian Conservation Foundation

Australian Council for International Development

Australian Environmental Grantmakers Network

Australians Investing in Women

Australian Red Cross

Barnardos Australia

Benefolk Foundation

Camp Quality

Carers Australia

Centre for Social Impact

Chain Reaction Foundation

Churches of Christ Community Care Vic/Tas

Community Broadcasting Association of Australia

Community Education Australia

Connecting Up

Drug Arm Australia

Ethical Jobs

Everyman

Fitted for Work

For Purpose Alliance

Fragile X Association of Australia

Good Samaritan Foundation

Hope Economy

InfoXchange

Justice Connect

Kilfinan Australia

Life Without Barriers

McGrath Foundation

Menslink

Missions Interlink

Our Community

OzHarvest

Philanthropy Australia

Physical Disability Australia

Queensland Water & Land Carers

Regional Arts Australia

RSPCA Australia

Saba Rose Button Foundation

Safe Places Australia

Save the Children Australia

Settlement Services International

Smith Family

Social Ventures Australia

St John Ambulance Australia

Social Leadership Foundation

Starlight Foundation

Tanarra Social Purpose

The Centre for Volunteering

Variety – the Children's Charity of Victoria

Volunteering Australia

Wesley Mission

WWF Australia