

## The Contribution of the Not for Profit Sector - Final Report Released by the Productivity Commission

### *Right Time. Right Climate.*

The Productivity Commission Report on the NFP sector released on 11 February 2010 will be a valuable resource and set the compass for the NFP sector in the next decade.

The Report focuses on:

- improving the measurement of the sector's contributions, and
- removing obstacles to maximising its contributions to society.

The Rudd government commissioned the review as an expression of commitment to an active policy of social inclusion and the important role of NFPs in enhancing the economic, social, cultural and environmental wellbeing of society. The government wants NFP, private and government sectors to work together and to optimise their relationships for the wellbeing of our community.

### *Will it gather dust?*

The Report comes at a time of wide recognition of the contribution of the not for profit sector. Past reviews such as the **Industry Commission Inquiry 1995 Charitable Organisations in Australia** and the **Charities Definition Inquiry 2001** were valuable resources but there was little government action on the recommendations. Moores Legal believes the climate has changed and these new recommendations will be subject to serious consideration and action.

### *Read it all*

Leaders in the NFP sector should be aware of the direction of the winds of change and be ready to set their sails accordingly. We encourage you to read the whole report which is available at <http://www.pc.gov.au/projects/study/not-for-profit/report> or hardcopy at government bookshops. It contains a wealth of knowledge about the scope and role of the sector and the players who make it up.

### *What Next? These are simply recommendations: not Government Policy.*

The government will consider the Productivity Commission report along with the government's taxation review headed by Dr Ken Henry and continue the journey of translating directions into actions.

Moores Legal's *NFP Briefing* will keep you informed of progress on that journey.

## THE RECOMMENDATIONS - HIGHLIGHTS

- **Charities Registrar** - a new agency, the "**Registrar for Community and Charitable Purpose Organisations**", is proposed to provide a 'one stop shop' for NFPs seeking endorsement for Commonwealth tax concessions (e.g. income tax exemption, DGR status, state taxes etc.), lodgement of financial information, governance education, compliance investigations and complaints handling. Entities endorsed for Commonwealth tax concessions by the Registrar would also be eligible for State tax concessions.
- **Financial reporting** - to streamline the capture and reporting of financial information on a more consistent basis, and to reduce the sector's reporting compliance burden, the Commission endorses the adoption of a Standard Chart of Accounts and Standard Business Reporting Initiative, which will allow common reporting language to be used when reporting to government agencies.

- **Statutory definition of charity** - the current definition of "charity" is based on a legal concept that dates from 1601. The Commission has re-iterated previous recommendations that a statutory definition of "charity" be developed, to streamline the classification of not-for-profit entities, for example, for eligibility for tax concessions.
- **Tax deductibility for all charities** – for simplicity and greater equity between different types of charities, it is proposed that all charities be eligible to receive tax deductible donations. This is subject to affordability and the Henry Review. In particular, if the Henry review proposes abolition of personal tax returns, a new system of tax credits will be required in place of deductible contributions.
- **Companies limited by guarantee** – reporting, fees and charges should be proportional to the size of the company. Provisions of the Corporations Act which are inappropriate or unduly restrictive for NFPs should be reviewed.
- **Sector development** – development of the sector requires improved access to capital, improved training and skill development for NFP employees and management, and addressing pay shortfalls for NFPs.
- **Better government funding arrangements** – governments are urged to ensure funding agreements with not for profit service providers are clear and fair. Governments should move away from the current “tendering and contracting” model and explore other types of relationships such as collaborative arrangements.
- **Fringe Benefits Tax and Payroll Tax** – the report argues that tax concessions such as FBT and payroll tax have a distortionary effect particularly for hospitals and clubs. The Henry Review is expected to address this issue.
- **Better information about the sector** – the Australian Bureau of Statistics should develop a national plan for gathering information about the sector; state and federal governments should develop a national framework for measuring and evaluating the contribution of the sector; and reporting requirements should be designed to fit into the national framework so that data gathered is meaningful.
- **Evaluation of the information gathered** – a government funded “**Centre for Community Service Effectiveness**” is proposed, to assist NFPs in conducting evaluations and to ensure that information gathered is analysed and flows back to the sector.
- **Office for NFP Sector Engagement** – a new Office is proposed to drive the reforms.

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### The Moores Legal Not for Profit Team

We have a range of practitioners who are able to assist with any minor queries or major issues you may have. If you require further information, please contact a member of our Team

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