

23 May 2023

National Automotive Leasing and Salary Packaging Association Submission to the 2023 Productivity Commission Review of Philanthropy

About NALSPA:

The National Automotive Leasing and Salary Packaging Association (NALSPA) is Australia's leading membership body representing automotive leasing and salary packaging providers.

Our members manage or facilitate salary packaging arrangements for over 800,000 employees with approximately 70% of these being employed in the charitable, not-for-profit or helping professions (health, emergency services, policing, defence). Our members therefore manage and represent the interests of a significant proportion of salary packaging arrangements in Australia.

NALSPA recognises the significant role salary packaging plays in the financial wellbeing of many Australians – particularly those employed in the not-for-profit sector – and the critical support that salary packaging provides to the ongoing sustainability of this sector.

Introduction:

NALSPA welcomes the opportunity to make this submission and is supportive of the Government's intention to increase philanthropy in Australia. The not-for-profit sector is a major contributor to the economy, employing more than 1 million employees, supporting in the order of 5 million volunteers and with a client base that is typically more at the economically and socially vulnerable end of the community. The not-for-profit sector deserves our attention and support.

Our submission focuses on the tax concessions, namely Fringe Benefits Tax (FBT) concessions, that are fundamental to the remuneration systems, resourcing and in-direct fundraising costs of the not-for-profit sector, and in particular, the questions posed under **Information Request 5** of the Productivity Commission's paper calling for submissions.

In simple terms, the current FBT concessions work very efficiently and effectively in supporting the operation of not-for-profit organisations and philanthropy in Australia, which currently have limited resources at their disposal. Existing FBT concessions are deeply embedded into award and employment arrangements and are well integrated into payroll and accounting systems.

NALSPA's view is that the current FBT concessions are critical to the not-for-profit sector's ability to fundraise and to achieve their mission. As outlined further below, the concessions are crucial in attracting and retaining employees, and assist organisations greatly in keeping their operating costs lower than they otherwise would be.

Any substantive change to these arrangements is likely to result in significant dislocation and cost increase for the sector, most likely decreasing philanthropic activities and the level of service and support able to be provided to communities across Australia.

We are well aware that the sector strongly supports the current arrangements and is not calling for any meaningful structural change other than to restore the real value of the concessions.

The Productivity Commission makes the assertion that such concessions may have the ability to raise issues of competitive neutrality. Our firm view however is that rather than this potentially raising competitive neutrality concerns, we suggest that the concessions actually help to level the playing field. For instance, the commercial sector is free to spend money on 'fundraising' (i.e., advertising) and shareholders would typically be accepting of this, with the return on investment being generally well understood.

However, the return on investment from fundraising by not-for-profit organisations is not as well understood, and such organisations are under immense pressure to keep these costs, and other administrative and staffing costs as low as possible.

The additional pressure on not-for-profits, from their donors and other stakeholders, to keep costs down, (often regardless of the potential return some additional investments may achieve) means these organisations are not starting from a position of equity with the commercial sector. Thus, the use of FBT concessions to keep staffing costs as low as possible, and to attract and retain employees in the sector, is an appropriate form of assistance that actually enhances competitive fairness.

Further discussion as to the matters pertinent to the importance, use and value of FBT concessions is outlined below. We have also attached a previous submission of the McMillan Shakespeare Group (a NALSPA member) in December 2012 to the Not-for-profit Sector Tax Concession Working Group, which contains detailed analysis of FBT concessions applying to the not-for-profit sector (refer Appendix: 1).

Whilst various aspects of the McMillan Shakespeare submission may not be directly relevant to the current review of the Productivity Commission nor is NALSPA seeking endorsement of that submission, it does provide further detailed analysis, and in particular, references to data that support a number of the issues and related aspects raised below. We also note that whilst the bulk of the data in the McMillan Shakespeare submission was collected in 2012, we are of the view that the conclusions and assertions which can be drawn from it remain current.

The Role & Effectiveness of FBT Concessions:

- Most typically, the not-for-profit sector is unable to pay remuneration at levels commensurate with the commercial or public sectors, leading to challenges with attraction and retention of staff.

This was noted by the Productivity Commission in research reported in 2009, and we suggest little has changed in this regard since then, and may in fact have deteriorated with a widening of the gap for the sector given the rise in the cost of living and wage pressures more generally in recent times. Inflation has been running at its fastest pace in more than 30 years, reaching 7.8% in the year to the December quarter 2022 and as noted recently by the Australian Government, the Wage Price Index (**WPI**) increased by 0.8% in the December quarter 2022, to be 3.3% higher through the year – the fastest through-the-year growth rate since the December quarter 2012 (*ABS, Wage Price Index, December 2022*).

Given the pay gap between employees in the not-for-profit sector, the commercial and public sectors, FBT concessions are considered vital in the not-for-profit sector. They provide better financial outcomes and remuneration structures that can easily be tailored to employees' specific circumstances.

Previous surveys and analysis have indicated the FBT concessions are highly valued by the overwhelming majority of employees and are extremely important for employers in attracting and retaining employees. Further, given the heavy gender bias towards women in the not-for-profit sector employee population (as recognised by the Productivity Commission in its analysis of the contribution of the not-for-profit sector in January 2010), we consider it is critical to ensure that women in particular are not inadvertently financially disadvantaged by any changes to the current arrangements.

- There is also a symbolic value to the tax concessions accessible through salary packaging. Even if employees do not take-up the salary packaging options, their availability is likely a significant factor that encourages workers to make philanthropic contributions and specifically, to contribute their time to the organisation.
- Whether or not employers use salary packaging providers or run in-house systems, the vast majority report that the administrative cost of their salary packaging is very low. Evidence shows that this cost has been reducing over time, as systems are improved and competition between providers increases. For most, the systems are now either almost entirely automated, or routine and simple.

Anomalies & Inequities:

- The real value of the FBT concessions for the not-for-profit sector has shrunk over time, due to the annual dollar caps for the concessions not being indexed/reviewed as originally intended. On 13 April 2000, then Federal Treasurer, The Hon Peter Costello, upon announcing that the Government had reached agreement with the Australian Democrats on the passage of the legislation giving effect to the FBT capping of concessions measure (capping of the grossed up taxable value per employee for NFPs and charities), also announced that *"The Government has further agreed to review the level of the cap from time to time in the light of general salary movements"*. *Such a review has never taken place to our knowledge as promised.*

NALSPA is supportive of a review of the relevant capped amounts to restore their real value. If we applied simple CPI increases (using March quarters) from 2001 to 2023, the \$30,000 and \$17,000 thresholds would now be **\$53,830 and \$30,503**, respectively.

- The value of the FBT concessions is different for employees at different salary levels. But the maximum percentage increase in disposable income applicable to most employees in the sector is significant, and the larger dollar size of concessions at higher salary levels is also vital in attracting highly skilled workers.

Rather than being considered inequitable, NALSPA considers the differing values of the concessions across employee bands to be appropriate, and in line with the overall structure of our tax system.

NALSPA also notes that the majority of the tax expenditures resulting from the FBT concessions are attributable to lower to middle income earners. The following simple example shows the difference in dollar value and percentage value at different salary levels:

	Without salary packaging	With salary packaging	Without salary packaging	With salary packaging
Starting gross salary	\$80,000	\$80,000	\$150,000	\$150,000
Salary sacrifice	-	(\$15,900)	-	(\$15,900)
New gross salary	-	\$64,100	-	\$134,100
Tax incl. Medicare	(\$18,067)	(\$12,581)	(\$43,567)	(\$37,366)
Net salary	\$61,933	\$51,519	\$106,433	\$96,734
Benefits received	-	\$15,900	-	\$15,900
Net take home amount	\$61,933	\$67,419	\$106,433	\$112,634
Dollar increase		\$5,486		\$6,201
Percentage increase		8.85%		5.82%

Unintended & Adverse Consequences:

- NALSPA is aware that the restricted access to the minor benefit FBT exemption for entertainment provided by income tax exempt bodies is considered inequitable, and the resulting effort to track and report entertainment is burdensome. Whilst there is no penalty of non-income tax deductibility for this group, the current system is inequitable due to the additional FBT cost imposed on small ad hoc benefits.

The employers impacted by this are mainly the FBT rebatable employers, but FBT exempt employers can also be affected. Extending the minor benefit exemption, so that it is consistent across all employer types, would be a fairer approach and would reduce administrative costs for the income tax exempt employers.

Further, on a macro level, anecdotally, most income tax exempt bodies tend not to spend a lot on entertainment outside of salary packaging, so we doubt that this would result in any significant cost to government revenue. Whilst at a micro level, reducing this cost for relevant organisations would allow them to direct more of their funding and philanthropic activity to achieving their mission.

Efficiency, Effectiveness & Equity of Tax Concessions in Comparison to Alternative Approaches:

- If volunteers are to receive any kind of reward or 'thankyou' from an organisation, the organisation must assess whether they should be considered an employee and if so, the resulting tax consequences. This can be quite a cumbersome task, given it is a 'balance of factors' type assessment, on a case-by-case basis, and the decision contains some risk.

We suggest introducing a de minimis test, or safe harbour, for not-for-profit organisations to apply in making this determination. Applying a relatively high threshold under which someone can be deemed a volunteer may be helpful in encouraging further donations of volunteer services and be a useful way to encourage this type of philanthropic giving.

- There is a view held by some that the FBT concessions are somewhat administratively burdensome and inefficient. But, in practice, as stated above, the application of the concessions through salary packaging has evolved to become very efficient and well targeted. In fact, the cost to administer salary packaging is typically significantly less than 5% of the benefit delivered, and competitive pressures keep this low. Further, employees bare the administrative costs of salary packaging, which is efficient and equitable, and which is highly unlikely to be the case under alternative funding models.

NALSPA submits that, even if an alternative to the current FBT regime were considered more equitable, the cost of change could easily outweigh the benefits. Costs would accrue in many areas, including the following (and potentially much more):

- updating employer systems, such as payroll and remuneration systems, as well as related policies, procedures and processes;
- updating tax compliance software;
- updating ATO return formats and ATO systems;
- time required for consultations and explanations in order to change salary packaging arrangements;
- reduced effectiveness of the workforce due to the disruption caused;
- the costs associated with potential loss of employees from the sector; and
- time cost of people engaged to make the relevant changes.

Further, the not-for-profit sector has clearly indicated it is not in favour of direct grants as a potential alternative, due to the lack of surety around ongoing eligibility and funding making strategic planning much more difficult.

Grant arrangements also carry their own, not insignificant, administration costs. Any increase to costs, such as for system changes, would require the not-for-profit sector to divest more of its resources to administration, and possibly remuneration, with less remaining for direct delivery of mission.

Thank you for the opportunity to make this submission. We would be pleased to provide further details or to have a discussion if that would be helpful.

For further information, or to arrange a meeting, please contact:

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