



AgForce Queensland Farmers Limited

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Date 05/05/2023

RE: Review of Philanthropy

PRODUCTIVITY COMMISSION

AgForce Queensland Farmers submission 5 May 2023

Introduction

AgForce Queensland Farmers (“Agforce”) – AgForce is a peak organisation representing Queensland’s cane, cattle, grain and sheep, wool and goat producers. The cane, beef, broadacre cropping and sheep, wool and goat industries in Queensland generated around \$10.4 billion in on-farm value of production in 2021-22. AgForce’s purpose is to advance sustainable agribusiness and strives to ensure the long-term growth, viability, competitiveness and profitability of these industries. Over 6,500 farmers, individuals and businesses provide support to AgForce through membership. Our members own and manage around 55 million hectares, or a third of the state’s land area. Queensland producers provide high-quality food and fibre to Australian and overseas consumers, contribute significantly to the social fabric of regional, rural and remote communities, as well as deliver stewardship of the state’s natural environment.

AgForce is a registered charity.

AgForce provides information and communication on agriculture to educate and inform the general community by providing training programs for individuals, families and businesses in agriculture to help them adapt to new challenges, embrace climate variability and improve their resilience.

We specialise in support to Cattle, Grains, Cane, Sheep Wool and Goats Commodities.

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.

ADVANCING SUSTAINABLE AGRIBUSINESS

- 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

AgForce submission

The reference to tax concessions is a very sweeping and broad statement. At the Commonwealth level the tax concessions in addition to the DGR concessions include:

- **Income tax exemption;**
- **FBT exemption concession; and**
- **GST concessions.**

Income tax exemption is provided to NFPs under two broad headings-

- Those organisations whose activities are within the specific exemption categories contained in Division 50 of the ITAA 1997 including,
- Those organisations who are required to apply for income tax exemption (ITEC).

Division 50 prescribes requirements that must be met to retain income tax exemption by a charity.

As a registered charity, pursuant to Subsection 50-5 of the ITAA 1997 AgForce is income tax exempt provided it continues to meet two broad requirements and three specific tests at all times.

The broad requirements for Australian based charities are:

1. The entity must have a physical presence in Australia and, to that extent, incurs its expenditure and pursues its objectives principally in Australia (paragraph 50-50(1)(a))
2. The entity must be endorsed as exempt from income tax by the ATO

There are separate requirements for charities

- That meet the requirements of Item 1 of 30-15 (the DGR rules);
- Is a prescribed institution located outside Australia and is income tax exempt in its country of residence; or
- Is a prescribed institution based in Australia but incurs its expenditure and pursues its objectives principally outside Australia.

The three specific tests are

1. Comply with all the substantive requirements in its governing rules (paragraph 50-50(2)(a))
2. Apply its income and assets solely for the purpose for which the entity is established (paragraph 50-50(2)(b)); and
3. Continue to be recognised as a registered charity by the ACNC (Section 50-47)

AgForce applies all of the funds generated to further the objects in the Constitution. To do this it is submitted that this cannot be measured in a single year. In fulfilling its activities AgForce uses assets that are held for long periods of time such as business premises, assets that are held for medium periods such as cars, office equipment and shorter life assets. In addition AgForce incurs expenditure of an operational basis such as salaries and wages.

AgForce generates its revenue from membership income and agricultural support initiatives.

If AgForce was required to pay income tax, this amount would diminish the amount of reserves retained and would immediately restrict the ability to deliver services. If AgForce was required to pay income tax, new services will be more difficult to implement and may not occur at all.

The introduction of the annual return for non-charity income tax exempt NFPs will over time provide the regulatory structure for the Federal Government as the controller of the income tax legislation, to be satisfied that those who have access to the income tax exemption remain qualified to receive access to that tax concession.

This requirement will apply to the commodity entities associated with AgForce and we have no hesitation in supporting this new requirement.

State and Territory tax concessions for AgForce includes land tax and duty exemptions in Queensland. In a similar manner to the income tax exemption the object of these concessions is to allow AgForce as a charity to better deliver its purpose.

Any benefits to the charity from these State and Territory concessions are subject to the ACNC governance rules and the income tax rules – that is any benefit must be applied solely to the purpose of the organisation.

The ACNC has provided that oversight of charities since 2012.

This process will protect the integrity of the tax concession.

For further information on this submission please contact our office on 07 3236 3100.

Yours sincerely

Brett Cameron
CFO