

# **SUBMISSION in response to the Productivity Commission Philanthropy Inquiry Draft Report**

from

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February 2024

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I welcome this opportunity to make a submission in response to the Productivity Commission's Philanthropy Inquiry Draft Report (Productivity Commission, 2023). I have more than 45 years of experience in research and policy analysis in education, health and other social fields for professional associations, other organisations and government agencies.

## **Submission assumptions and focus**

In this submission, I take account of and agree with the Treasurer's first sentence in his Background to the terms of reference:

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. (Productivity Commission, 2023, p. iv)

I make two assumptions in my analysis and recommendations, which are expanded on further below:

1. That taxation expenditures should be treated by this inquiry similarly to government direct expenditures in their impact and opportunity costs. Donations for recognised charitable purposes are fundamentally different from work-related expenses, and the logic of tax deductions for work-related expenses does not apply to charitable giving.
2. That externalities and unintended consequences matter. They should be anticipated and taken into account in the recommendations of this inquiry and in evaluations of philanthropic activities.

I agree with the Commission's approach of drawing on the established principles of 'efficiency, equity, simplicity, accountability and transparency' (p. 86). However, as I argue below (especially Section 2), some of the analyses and recommendations in the Draft Report are, either implicitly or explicitly, contrary to these principles.

Finally, I largely focus on the inquiry's fifth term of reference:

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. (p. v)

## 1. Deductible Gift Recipient status of school building and similar funds

I strongly support the Commission's draft recommendation (6.1) to end the Deductible Gift Recipient (DGR) status of school building funds and related funds, including many school-based library and scholarship funds<sup>1</sup>.

### Recommendation 1.

- (a) That tax deductibility or tax credits be no longer available for donations to school building funds or other funds such as school-based library and scholarship funds.
- (b) That this be implemented as soon as possible. Until that time, that public funding through tax expenditures be reported on the My School website and other appropriate places of record, and be accounted for in the assessment of the entitlements of the schools for additional public funding.

## 2. Information request 4.2: Tax deductions or tax credits?

The Commission's discussion of tax deductions versus tax credits is very weak. It focuses only on what will achieve the highest level of total donations, rather than appropriate principles and the social outcomes of the two different types of public subsidy of donations.

**Tax deductions for donations are inherently inequitable and undemocratic relative to tax credits.** Tax deductions for donations are different from tax deductions for work-related expenses. A tax deduction for a donation is a (tax) expenditure from all citizens (through government) to the recipient organisation chosen by the donor. Therefore, through tax deduction, Australian citizens provide higher levels of funding to higher income donors' chosen recipient organisations or activities than to those chosen by lower income donors, whatever their choices.

**Tax deductions for donations are more likely to result in citizens subsidising a higher proportion of organisations and activities that do not 'support vulnerable Australians and build social capital and connectedness in Australian communities' than those that do.** The Australian public is not only disproportionately supporting through tax expenditures the choices of high income individuals over the choices of those of lower income individuals, but in general the recipients selected by high income individuals, while they might be worthy, are less likely to 'support vulnerable Australians and build social capital and connectedness in Australian communities' than those of most other Australians, and thus not align with Government priorities. Box 1 provides significant example in major fields.

**Tax deductions are thus contrary to established tax principles:** they are patently **inequitable** as higher income individuals receive a proportionally higher public subsidy of their donation than do lower income individuals, and they are generally inequitable in that higher income individuals are often (but not always) more likely to donate to recipients that benefit higher income communities and/or have externalities that damage disadvantaged individuals and communities. Tax deductions are also **not accountable or transparent** in that

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<sup>1</sup> A relevant personal experience: I received a scholarship to a high fee independent school (which I would have attended without the scholarship). My father was displeased when he subsequently received a letter from the school inviting him to make a substantial donation to the school. If he had done so, and claimed a tax deduction, there might well have been public subsidy of the scholarship through tax expenditures to the scholarship fund, as well as public subsidy of the claimed amount of my father's donation – effectively substantial public subsidy of my tuition. This occurred at a time when independent schools, through headmasters' and headmistresses' associations, and, for Sydney Anglican schools, the Archdiocese, had policy opposing (direct) 'state aid' to private schools.

there is no clear reporting to the public that the public funds a larger proportion of donations to the recipients chosen by high income individuals (such as performance arts companies with high ticket prices) than recipients chosen by middle or low income donors.

#### **BOX 1. Examples of the principles and social outcomes involved in tax deductions**

In each example, higher income individuals are more likely to be associated with the first recipient type than the second. It could also be argued that the first recipient types are less likely than the second to have ‘net community-wide benefits’ and to ‘support vulnerable Australians and build social capital and connectedness in Australian communities’.

**Donations to school building funds** (note that I agree with the draft report that such tax deductions should be ended): The Australian public, through tax expenditures, funds a higher *proportion* of every dollar donated to the building funds of high fee independent schools in metropolitan centres than of every dollar donated to the building funds of low fee Catholic or independent schools in rural towns.

**Donations to arts organisations:** the Australian public funds a higher *proportion* of every dollar donated to arts organisations in capital cities with high ticket prices, compared with more accessible institutions in the suburbs and country towns.

**Programs to support disadvantaged school students:** The Australian public funds a higher *proportion* of every dollar donated to programs providing scholarships for disadvantaged students to attend high fee independent schools (at high cost and with often substantial negative externalities discussed in Section 3 below), compared with programs that do not take students out of their school community, and either support the whole disadvantaged school or particularly disadvantaged individuals or cohorts.

Whether or not a more total donations is incentivised is of lesser importance than whether (a) the net *outcomes* are consistent with the overall objectives of policy, and (b) the system treats the choices of high income individuals no more advantageously than those of low income individuals. Consequently, I make the following recommendation:

#### **Recommendation 2.**

- (a) That the Commission recommend that tax credits replace tax deductions for donations made for recognised charitable purposes.
- (b) ‘Matched giving’ must be rejected – it would provide public (tax) expenditure supporting the choices of high income individuals over those of low income individuals to an even greater extent than do tax deductions.

### **3. Support for the school education of disadvantaged students and communities**

The issues discussed in this section concern school education, may well apply in health, welfare, the arts and other fields supported by donations and tax expenditures.

Externalities and unintended consequences particularly matter for philanthropic programs for the **school education** of disadvantaged students. They should be anticipated and taken into account in the recommendations of this inquiry and in evaluations of philanthropic activities.

The major philanthropic programs that support Indigenous students and students from other equity groups are either **scholarship programs** that take students from their communities and the school they would have otherwise attended, or **place-based programs**, where students remain in the communities and usually attend the school they would have attended if not involved in the program. (Scholarship programs can be place-based

when they fund education and activities at the school the student would attend if they had not received a scholarship. Here I am concerned with scholarship programs that take the student away from the school they would otherwise attend.)

**Major scholarship programs** usually involve students boarding at high fee independent schools. The program boards and committees usually include individuals associated with such schools, and the programs are important in the schools' public relations. Donors are, again, usually associated with the schools involved, or are corporate donors. There is no doubt that, for many participants, their experiences are richly rewarding and can transform their lives. However, for others it can be an alienating and even damaging experience to leave their familiar community and be with peers of high socio-economic status and the common associated (unconscious) assumptions of entitlement and superiority (as I am personally aware of). To mitigate such problems, the programs can provide high levels of support and pastoral care – which add to the cost per participant. I estimate that the total cost per participating student is in the order of over \$100,000, including tuition and boarding fees (forgone by the school, if not covered by the program), expenses normally covered by parents of students at such schools (for uniforms and fashionable clothes, devices, excursions, social activities and entertainment, extra-curricular activities, travel, and so on) and support and pastoral care. Such an amount per student would make an extraordinary difference for very disadvantaged schools and students in disadvantaged localities. For example, according to the My School website, Walgett Community College (Secondary), has an ICSEA value of 669 and over 90% of its students are in the bottom ICSEA quartile, yet it receives less than \$60,000 per student per annum.

While participants, the schools and donors benefit from such scholarship programs, there can be very substantial detrimental externalities. If disadvantaged rural, remote or urban schools are depleted of educationally aspiring and already achieving students, the quality of education of the rest of the cohort remaining can be damaged. The negative impact increases with any increase in the number (and proportion) of students leaving with scholarships. Not only is the peer group affected by the loss of educationally keen role models, but the school may lose staff, especially in important specialisations such as maths. The school is also likely to lose the support and advocacy of the families of the scholarship recipients (who have already shown their support for education by supporting their child's application for the scholarship). **Scholarship programs can seriously residualise schools in disadvantaged communities**, especially if large numbers from relatively small communities are involved.

My experience, detailed in the footnote<sup>2</sup>, provides an example of the impact of depleting local schools of secondary students who are educationally aspiring and higher achieving - or just from higher income families.

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<sup>2</sup> I grew up in the central west of NSW, near where my mother's family had lived since the 1880s as successful pastoralists. Her family, like other successful broad-acre farmers and pastoralists in the locality, sent their children away for secondary education at city boarding schools for generations. With the depletion of secondary school age students (especially those educationally supported and aspiring), no accessible public full secondary schooling was provided. The next town had a secondary school that did not go beyond Intermediate/Year 10, and there was no bus. My siblings and I went away to the Sydney boarding schools my mother and uncles had attended – contributing to the continuation of local secondary student depletion. The only option for those students who did not go away and could not access the nearest secondary school was post-primary correspondence classes as the back of the year six classroom until they were old enough to leave school. Secondary schooling in the area had been depleted and residualised over generations.

A few hundred kilometres away the demographics of population density and socio-economic status had been similar since the 1940s. However, there was no strong tradition of going away for secondary schooling. Consequently, there was a thriving public secondary school, with a high rate of retention to Leaving/Year 12, and a high rate of transition to university.

### **Recommendation 3.**

- (a) That the Commission ensures that externalities and unintended consequences are anticipated and taken into account in its analysis and recommendations. For example, in the final draft of the Commission's report, that the content of Box 9.1 (or similar) explicitly include externalities and unintended consequences as Outcomes.
- (b) That the Commission recommends that philanthropic organisations undertake periodic, rigorous external evaluations of their programs, and that those evaluations include externalities and unintended consequences among in their criteria.

## **4. Concern with commitment to double philanthropic giving by 2030**

I am concerned that the Government's commitment to 'double philanthropic giving by 2030' might come at the expense of the objectives of philanthropy, and the integrity and democratic fairness of the system as a whole.

I am also concerned that governments (this and subsequent governments at all levels) might withdraw from responsibilities that are rightly those of government in the hope that philanthropy will cover the need.

### **Recommendation 4.**

That the Commission recommend that the Government give lesser priority to its goal of doubling philanthropic giving by 2030 than ensuring that the philanthropic system is meeting explicit objectives, does not have unintended negative outcomes, is fair, and has integrity.

That the Commission recommend that the Government ensure that it is not transferring to philanthropic organisations what are rightly government responsibilities

## **5. Tax expenditures and other subsidies at other levels of government**

As noted in the draft report, as well as government-subsidised donations, Australian, state, territory and local governments may offer other tax concessions and support to charities, including concessions on stamp duty, payroll tax, land tax, and local government rates.

### **Recommendation 5.**

That the Commission recommend that all levels of government adhere to appropriate principles in their support for philanthropic activities. This includes phasing out current support that is not consistent with appropriate philanthropic principles.

## **6. Not claiming a tax deduction: Information request 4.1**

I donate several thousand dollars a year to organisations with DGR as regular and one-off payments. I have been doing so for decades.

I have seldom claimed tax deductions because I feel that the donation is my choice, and I should not require all Australians to subsidise my choice.

When I have claimed, it is because I felt that the needs that my donations supported should be supported through government direct expenditures – for example when I have donated to food banks providing meals

in everyday circumstances (not in extraordinary emergency situations) to people on basic benefits or in intermittent employment.

## **7. Principles for public information**

It is less important for the public to be informed about donations that are not subsidised by tax expenditures than those that are because public funds are not involved. However, for research and policy purposes information about all donations and charitable activities should be available. In addition, it is important that the Commission is clear in providing data that, for example, ATO data is restricted to those claiming deductions (or, in the future, credits), and not all donations.