



Submission to:

The Economics Reference Committee

Senate Standing Committee on Economics

Inquiry into Not-for-profit Entities
- Tax Assessments

October 2024

Introduction

This brief submission outlines Community Council for Australia (CCA) concerns and issues in relation to the impact of new Australian Taxation Office (ATO) requirements for every self-assessed income tax exempt not-for-profit in the country to complete an annual return.

It's important to note that this submission doesn't override the policy positions outlined in any individual submissions from CCA members (see attached listing).

The content of this submission includes: a brief background to CCA; an overview of the current issues for the charities and not-for-profit (NFP) sector; a listing of our key concerns with the new impositions on NFPs, and a conclusion.

CCA welcomes the Senate's engagement with this issue. CCA is aware that this new measure is having a significant negative impact on NFPs across Australia, seemingly for no justifiable purpose.

CCA welcomes this opportunity to make a submission on this important issue, and is more than willing to engage in detailed discussion about any of the points raised in this submission.

The Community Council for Australia

The Community Council for Australia 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. It does so 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 in the sector to deal with change and build sustainable futures
- providing a catalyst and mechanism for the sector to work in partnership with government, business and the broader Australian community to achieve positive change.

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.

Context: charities, not-for-profits

The charities and NFP sector encompass over 600,000 organisations - from large to very small – supporting and enhancing our society and contributing over 6% of GDP. Australia’s 50,000+ charities employ over 1.4 million staff (around 11% of Australia’s workforce), mobilise over 3.5 million volunteers and collectively turn over more than \$200 billion each year.

These facts tell only a small part of the story. The real value of the charities and NFP sector is often in the unmeasured contribution to Australian quality of life. Charities and NFPs are at the heart of our communities, building connection, nurturing spiritual and cultural expression, and enhancing the productivity of all Australians. Collectively, they make us a more resilient society.

COVID19 highlighted the critical role played by charities and NFPs in Australia. Government acknowledged this role in extending a modified form of JobKeeper payments to charities as well as supporting increased giving during the pandemic. These measures were important to many charities, but the impact of inflation and economic pressures make the years ahead incredibly challenging.

At a time when we need to support resilience within our communities, the Australian Charities and Not-for-profit Commission Charities Report from 2022 found that increases in costs are roughly double increases in revenue across the charities sector. This cost squeeze is compounded by uncertain income streams and reduced access to volunteers. These costs and income trends are likely to be applicable not just to charities, but the whole NFP sector.

At the same time, charities and NFPs are required to invest in critical capacity building, including training of staff and volunteers, data storage and use, and adaptation to respond to climate change.

In fact, there is an expectation from government and the community that charities and NFPs will protect their personal information, invest in their capacity to address cybersecurity issues and prevent scams that might see charitable funds captured by fraudulent actors targeting what they may see as a vulnerable individuals and organisations. Yet there is no investment or support being provided to the broader NFP sector to undertake this important work.

While Australia’s charities and NFPs represent a social and economic strength, a failure of government and funders to invest in organisational capacity acts as a handbrake on sustainability and realising more benefits for our communities.

Given the size of the sector, its critical role in our community and the foundation it provides to achieve so much more, the Federal Government should prioritise strategic investment in the charity and NFP sector. As the Assistant Minister for Competition, Charities and Treasury said pre-Election, *The future of the charity sector is too important to our economy and our communities to grow and develop without planning or strategic investment. Even a one per cent productivity increase would add \$1.4 billion to the resources available to the sector, creating more jobs and providing services to more Australians.* ([Labor to ensure strong future for Australia’s charities - Media Release, 22 April 2022](#))

Key Issues with the ATO NFP returns requirement and process

1. The policy is a carry-over from the previous government that has evolved beyond its original purpose to impose a major burden on the NFP sector

The policy of requiring self-assessed income tax exempt organisations to provide an annual return was never meant to make small local NFPs update and use the Australian Business Register, do all the MyGov ID level 2 security process, and then complete a newly imposed assessment process.

The measure, as CCA has been informed, was always framed around risk, that is, risk of lost government revenue.

The risk of lost revenue from 140,000+ NFPs with an active ABN is negligible. Less than 20% of these organisations register for GST, less than 10% pay payroll tax, and 80% currently use no professional services in relation to tax. What we know about these groups suggests the vast majority are volunteer run, and turnover less than \$50,000.

We are mostly talking about micro-organisations.

No evidence has been produced to indicate a pattern of tax avoidance amongst these organisations. If there was, the amount of tax avoided, in most cases, would be minimal.

Groups, including CCA, have supported the measure, but only with an appropriate threshold so that it's commensurate with the level of risk – i.e. a threshold of around \$1 million or even \$5 million that justifies all the resources and effort required within the ATO and across our communities to pursue any possible tax avoidance.

2. The Australian Charities and Not-for-profit Commission (ACNC) is the appropriate vehicle to collect information from charities and NFPs

The ACNC has for over ten years collected annual returns from all charities achieving a world leading level of voluntary compliance from charities across Australia. The ACNC has the skills, expertise, the appropriate portals and data management, and is clearly the appropriate vehicle to collect annual returns from NFPs. Part of the ACNC's core business is to positively engage with a very diverse NFP sector.

The last independent review of the ACNC in 2018 recommended that the ACNC commence collecting annual returns from all self-assessed income tax exempt NFPs with a turnover above \$5 million, and then in a second stage, collect returns from NFPs with turnover above \$1 million.

From a policy and structural level it makes no sense for the ATO to be the organisation seeking to collect self-assessed information from thousands of small voluntary organisations with minimal income streams and low turnovers. The ACNC is the entity that has specialist capacity in this area.

While the ATO may strive to offer appropriate levels of support and engagement with NFPs, the task they are being asked to complete is so distant from its core business that it presents real challenges. It's the wrong organisation to be trying to positively engage with thousands of small NFPs across Australia that have no ongoing relationship with the ATO. It's the wrong organisation to be collecting and analysing information about the purpose of these organisations, their activities, and their role in the community.

It's not surprising that the ATO have struggled to effectively implement strategies targeting NFPs, as we have seen.

3. The process for completing the returns is unnecessarily complex and demanding

CCA has tried completing an annual return for a small tennis club. The first problem is that the person completing the return must be the nominated responsible person on the Australian Business Register.

Given that the Australian Business Register (ABR) has no active outreach to promote updating of their records, there is a very good chance that well before the organisation is able to complete the required return, they will have to step through a separate process to update the ABR. This is not always a straight-forward process.

Assuming the ABR is appropriately updated, the nominated responsible person must then log in to access the return through the MyGov website. This second process, like the first, is often not straight forward. It is made more complex because the nominated person must obtain a level 2 security through their MyGov ID. Again, this is a barrier to completing the form, and can be time consuming finding and loading the appropriate documentation.

Finally, having jumped through two hoops already, the person completing the form needs to access the form and complete the required questions. For most organisations, this last step will be the easiest to complete, but for some, it isn't always clear exactly how to classify their purpose and activities.

Specialist lawyers and accountants have raised various issues of legal interpretation where the required form requires considered clarification, and in some cases, cross referencing to the ACNC website.

There may be serious implications in relation to the status of the organisation. Are they potentially really a charity? CCA has had representations from some NFPs, including community radio stations, that have received conflicting legal advice about whether they are charities, how they can accurately complete the return if they choose not to pursue charitable status, what changes might be needed to their constitution.

There may also be flow on implications in relation to tax liabilities, including potentially a level of retrospective tax liabilities going back several years.

4. Costs to government of this measure have not been adequately addressed

CCA understands that around 10% of the ATO's own data about NFPs in Australia is out of date or inaccurate.

It's expected that approximately 10% of NFPs will choose to register as charities for a range of reasons, including that it seems to be easier to complete an annual return to the ACNC than to the ATO.

Limited provisions have been made to support the ACNC in addressing increased new charity registration applications resulting in a blow-out of wait times for new charity registrations as well as other implications across the ACNC of having more of their resources directed to the additional initial assessment work requirements.

Thousands of calls have already been received by the ATO help lines for this issue, and thousands of additional applications for charitable status have been made to the ACNC, yet no additional allocations were made in the Federal Budget.

This suggests to CCA that the ATO might have thought the additional costs involved in this measure would be met through additional taxation revenue collected as a consequence of forcing all self-assessed income tax exempt organisations to complete the return. If so, CCA would like to know how much the anticipated additional taxation is and how was that calculated? If not, why were there no additional provisions allocated to implementing this measure?

5. The impact of this measure will be increased costs for NFPs, less volunteers, and less services in the community

Many NFPs feel uncomfortable completing an annual return to the ATO without getting professional advice. This measure has driven an identified increase in the number of NFPs seeking assistance from both accountants and lawyers. Given the relatively small budgets of most NFPs across Australia, the only way the costs of these additional professional services can be met is through increased income raising activities or reduced services to the community.

People involved in small community NFPs are invariably volunteers. Finding people to take responsibility for administering these organisations is not always easy. This measure, requiring volunteer administrators to engage with the ATO to complete an annual return, makes volunteering for roles in community organisations less attractive.

The worrying aspect of the increased administrative burden on many NFPs across Australia and the flow-on reliance on professional services is that it's not a one-off cost, but an ongoing imposition.

Conclusion

The ATO has a very important role in Australia in ensuring fairness across our tax system.

CCA supports the ATO in this role and actively engages in consultation mechanisms including the ATO Not-for-Profit Stewardship Group. CCA has repeatedly raised concerns about this measure, but our concerns have been ignored or dismissed.

CCA believes this measure makes no policy or practical sense. The vast majority of the work involved in delivering the measure will have to be provided by small volunteer organisations that have limited capacity to complete the task.

If this measure is about the core role of the ATO, collecting taxation revenue, it should target organisations that may have significant unfulfilled tax obligations.

In practice, this measure mostly targets micro volunteer run organisations by imposing significant new obligations that are likely to produce no significant benefit to anyone.

This measure also imposes a fear factor on every small NFP in Australia. If self-assessed income tax exempt organisations get their self-assessment wrong, they could find their organisation facing a retrospective debt going back years.

This risk, however remote, can and does create a chill factor for many NFPs. Even if an NFP has no likelihood of owing the ATO money, many will still seek professional support to complete the return, costing many small communities money, time, and creating an intimidating imposition on organisational administration.

If this measure is to proceed or be repeated, it should be more appropriately targeted and proportionate in only applying to organisations where the potential loss of revenue justifies the effort and cost involved.

If this measure is more about record keeping and data collection, it would be much better to allow the ACNC to fulfill its role and work constructively with NFPs across Australia, as it has already done with charities.

CCA doesn't support the measure unless an appropriate threshold is applied, or the measure is managed more appropriately through the ACNC.

Current Membership – Community Council for Australia *Attachment A*

Adult Learning Australia

Alannah & Madeline Foundation

Alliance for Gambling Reform

AMP Foundation, Nicola Stokes, General Manager (CCA Board Director)

Arab Council Australia

Australian Conservation Foundation

Australian Council for International Development, Marc Purcell, CEO (CCA Board Director)

Australian Environmental Grantmakers Network

Australians Investing in Women

Australian Red Cross

Barnardos Australia, Deirdre Cheers, CEO (CCA Board Director)

Benefolk Foundation

Brave Foundation

Brotherhood of St Laurence

Camp Quality

Carers Australia

Centre for Social Impact

Chain Reaction Foundation

Christians Against Poverty

Churches of Christ in Victoria and Tasmania

Community Broadcasting Association of Australia, Jon Bissett, CEO (CCA Board Director)

Community Colleges Australia

Connecting Up

Drug Arm Australia

Ethical Jobs

Everyman

Feanix Foundation

Fitted for Work

Foundation for Alcohol Research and Education

Fragile X Association of Australia

Girl Guides Australia

Good Samaritan Foundation

Good2Give

HammondCare

InfoXchange

Justice Connect

Kilfinan Australia

Learning Links

Life Without Barriers, Claire Robbs, CEO (CCA Deputy Chair)

McGrath Foundation

Menslink

Mission Australia, Sharon Callister, CEO (CCA Board Director)

Missions Interlink

Non Profit Alliance

Our Community

OzHarvest

Prison Network

Philanthropy Australia

Public Interest Journalism Initiative, Anna Draffin, CEO (CCA Board Director)

Queensland Water & Land Carers

Ronald McDonald House Charities

RSPCA Australia, Richard Mussell, CEO (CCA Board Director)

Saba Rose Button Foundation

SARRAH

Save the Children Australia

Settlement Services International

Smith Family

Social Leadership Foundation

Social Ventures Australia, Suzie Riddell, CEO (CCA Board Director)

St John Ambulance Australia

Social Leadership Foundation

Starlight Foundation, Louise Baxter, CEO (CCA Board Director)

The Centre for Volunteering

Variety – the Children’s Charity of Victoria

Volunteering Australia, Mark Pearce, CEO (CCA Board Director)

Wesley Mission

Workplace Giving Australia

World Vision Australia

World Wide Fund for Nature Australia