From: [redacted]
To: Economics, Committee (SEN)
Subject: Not For Profit Taxation: A Supplementary Submission
Date: Sunday, 20 October 2024 9:58:30 PM

Attention Dr Sean Turner,
Secretary,
Senate Economics Reference Committee,
Inquiry into Not-for-profit entities – Tax assessment

Dear Dr. Turner,

I wish to have the submission below included in my submission.

The circumstance regarding this supplementary submission came about following discussions after a meeting of the Melbourne & District Branch of the Royal Scottish Country Dance Society (headquarted in Edinburg, Scotland) where I was discussing my appearance before the Senate Economics Reference Committee.

My colleague, Dr. Ross Gawler outlined the tax return his group submitted to the Australian Tax Office.

He believed that, after doing the calculations, his group had a NFP tax obligation of $87.00.

However, he was told by the Australian Tax Office that, as his group came within the definition of a cultural NFP, his groups was exempt from any taxation liability under the NFP requirements.

This advice appears to be contrary to the written advice in all the ATO information on NFP.

I believe that Dr. Gawler's comments are worthy of being brought before the Committee.

In view of this I would seek the Committee's approval to included Dr. Gawler's information within my original submission.

Yours sincerely,

Graham Stanley,
President,
Stonnington Scottish Country Dancers Inc.

Dear Graham,

My experience in dealing with the new not-for-profit (NFP) taxation processes has been extremely stressful, confusing and time consuming.

After eventually becoming aware of and finding a clear description of the mutuality principle, I applied it to the three sources of income of our NFP Waverley Scottish Society: Classes, Socials and Financial. The later is obvously not provided by members, so is fully taxable. The Classes and Socials have both member and non-member revenue sources which can be identified, as long as detailed records are kept on who pays or donates what and when. Fortunately, I was able to derive that data from October 2023 and so I created a tax return for the period 1 October 2023 to 30th September 2024 which is allowed under the published procedures for the 2024 NFP Tax Reurn.

Expenses are more diverse and include teacher honoraraium, insurance, hall hire, postage and stationery, class and social expenses for food and materials (eg disposable cups). Some of these expenses are common to class and social revenue (eg honoraraium), some can be associated with just classes and some to just socials. It is a time consuming process to set up these calculations for 44 events per year. I made it easier by processing each of four socials separately and the classes treated as one event, because the expense per class is steady from week to week being mostly hall hire. I estimated a tax due of about $87.00 for a taxable income of $841 (allowing for franking credits).

There is no clear definition of a cultural organisation which Waverley Scottish Society clearly is. It does not have characteristics of any of the other categories. It has been alleged by hearsay from the tax officie via third parties that it is a sporting organisation. No-one would imagine that they come to Monday night dance classes for sport. There is no performance measure, there is no competition, there is no way to win or lose. It's just dancing to a particular genre of dance and music (Scottish jigs, reels and strathspeys). It is clearly a specific cultural activity. The teacher volunteers her time to teach the class and receives an honorarium at the end of the year toward her expenses in delivering the class. Her likely travel costs and cost of materials consumed in delivering the teaching would probabaly exceed the honorarium. The teacher would not earn any net financial benefit. It is a labour of love and volunteering.

Assuming we were a cultural organisation as the only sensible category I submitted the self-assessment, including the following features:

Constitution requires that benefits do not have rights to the assets or surpluses of the organisation. Remaining assets can only be passed to a NFP with similar aims if the Society

is liquidated.
Revenue is less than $150,000 (about $11,000 actually)
It has an ABN
It has some charitable activities (dancing demonstrations for nursing homes and other associations for which no charge is sought). Members volunteer their time and travel expense for these demonstrations.

On this basis the self-reporting process assessed that we did not have to pay tax. There was no mechanism to report taxable income and expense or to declare the estimated $87 tax bill.

The whole process is confused and confusing.

For example: There is insufficient clarity on how to classify a community group teaching culturally specific dancing traditions. The documents say that cultural organisations include (teaching) music and ballet. Well Scottish Country Dancing uses and some features of ballet, so that fits the "cultural" criterion on that basis.

The proposed method for estimating tax is unnecessarily laborious and time consuming for volunteers to have to endure. Who would want to be a Treasurer of a NFP as a volunteer? No one.

The threshold of $416 taxable income is way too low to be commensurate with the administration effort required. It's absurd and burdensome.

Either the policy should be repealed or if we must tax NFPs, then a much simpler method should be adopted, say 10-15% of annual profit including offsets from franking credits if applicable. Losses could be carried forward to offset future propfits as for company taxation. We would pay tax on the standard cash or accrual accounting with capital gains taxed when realised. That would not require all the messing about classifying income and expenses into member and non-member categories.

Ross Gawler
[redacted]