

Personal Properties Securities Register:

The PPS Register is a new federal register of security interests on personal property. Under the provisions of the Act establishing the Register, suppliers who provide goods on retention of title arrangements and lessors of property will become secured parties with a security interest retained over the goods. The Act covers all forms of property other than real estate.

The PPS system is designed to have a central registry in respect to securities rather than the diverse number of places where registers could be checked through the Commonwealth and State systems. Personal assets such as cars, machinery, art, crops, intellectual property and contract rights are now capable of being secured under the PPSR.

More information is available on the web at www.ppsr.gov.au

ATO Charity review:

We have heard ATO is carrying out a review of a number of charitable entities. It appears this is connected with a general updating of the ATO Charity Register in preparation for the coming Charity Commission. Such an updating is needed to ensure the Commission has reliable contact information for charities.

If you have not reviewed your Charity status recently, we suggest it would be timely to use the NFP Checklist.

ATO NFP Checklist:

The ATO have now established a checklist for ATO compliance which embraces a much wider area than the earlier checks for Tax Concession Charity or Deductible Gift Recipient entities. The new format of the checklist includes income tax exempt status, deductible gift status and also includes obligations for GST, FBT, PAYG Withholding Tax, superannuation and more.

You can explore the potential benefits of this checklist by going to the ATO website and from the Non-Profit tab the search “self-governance checklist for non-profit organizations”. We suggest this checklist would be a useful review of your entity to be carried out annually by your Board at the first Board Meeting after your AGM.

FBT Update:

For NFP entities who need to lodge an FBT Return for the year just ended, ATO have provided an information guide. You can access a copy from the ATO website by keying “Completing your 2012 Fringe Benefits Tax return” into the Search box.

Tax Concessions for NFPs – review pending:

The Federal Government has established the Not For Profit Sector Tax Concessions Working Group. It will operate as a part of the NFP Sector Reform Council and has as its aim, ways of making tax concessions for the NFP Sector “fairer, simpler and more effective.”

The aim is commendable. However it appears that included in its brief, the Working Party has to identify offsetting budget savings where there is a budget cost. While the government has stated that they will not introduce change harmful to the Sector, including removing tax concessions, presumably the project will have some tensions until its findings are available. Its report is due by December 2012.

Bicycle Victoria a Charity:

A recent Administrative Appeals Tribunal has held that Bicycles Victoria is a charity, as its primary purpose was to benefit the general community by promoting cycling as a means to develop fitness. However it also held that it was not established for the prevention or control of diseases in human beings. Accordingly it was not granted Deductible Gift Recipient status.

We are planning to send this Newsletter by e-mail wherever possible in future. Please provide us with your current e-mail address to assist us.



Newsletter APRIL 2012

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Previous copies of this newsletter are also available on the website.

Publications available:

Voluntary Treasurers’ Handbook —
Hard copy — 59 pages\$50.00

Missionary Tax Guide—2010
Hard copy— 47 pages \$50.00
E-mail copy \$30.00

(GST Free supplies under Section 38-250 of GST Act)

Charities Commission Update:

The NEWS just to hand is: -

Charities Commission start date is now 1 October 2012 deferred from 1 July 2012.

The “Better Targeting Not-for-Profit Tax Concessions” have been deferred from 1 July 2011 to 1 July 2012.

We gave a summary of this project in our July 2011 newsletter and we quote from that source: -
“The announced aim is to ensure that where an NFP engages in commercial activities unrelated to their altruistic purpose, restrictions will be imposed regarding income tax exempt concessions. The intent is to limit the income tax exemption only to a situation where the profits of a commercial activity are directed to advance the altruistic purpose.”

It appears that most charities will be applying all their resources for their altruistic purposes in any event.

The new Assistant Treasurer, David Bradbury, has advised that the deferral of implementation dates will provide additional time for consultation with the Sector. It indicates that Government is, at last, listening to the significant concerns expressed by a very wide range of charities and also some substantial not-for profit entities that are not charities themselves.

It also appears that the “In Australia” conditions for charities have been delayed significantly. We can only hope this means there will be a substantial softening of the original Treasury position. The previous Assistant Treasurer advised that they would undertake further consultation with the Sector and this is continuing. A second exposure draft is expected by July 2012.

The Bill to introduce the Australian Charities and Not-For-Profit Commission (ACNC) Law will, we understand, be presented to Parliament by 18 June and will then be fast-tracked through Parliament. In the meantime the ACNC Implementation Task Force continues to be very pro-active. The tenor of the advice from the interim Commissioner, Susan Pascoe AM, is

refreshingly different from the tenor of the Discussion Papers issuing from the Federal Treasury Office itself. The Implementation Task Force has now been joined by the initial six department heads, all of whom appear to be well qualified and experienced for their respective roles.

Training and the ACNC?

One matter of concern relates to the scope of advice and education provided by the ACNC. In a statement prepared for the Education and Advice Round Table in October 2011, the Implementation Task Force stated, “It is usual for regulators to produce information and guidance about their role, the regulatory framework and compliance duties. It is beyond the scope of the ACNC to be involved in broader NFP Sector capacity building and more general advice on how to run a charity, which is better dealt with by other organisations. Given the proposed size of the ACNC (about 90 staff) it cannot afford to duplicate services that are already being provided to the community. The ACNC is focusing on the accessible information, guidance material and technologies to assist NFPs to understand their obligations. The creation of a public portal has the capacity to build economies of scale that would allow the ACNC to train the Sector, not only on compliance practices but also the new regulatory arrangements in a cost-effective manner. The ACNC will also be delivering a phone advisory service.”

In other words there is no plan, and more importantly, no budget, for any face-to-face training for the Charity Sector at all. Given the substantial changes that are taking place this is a significant concern.

Add-Ministry is proposing to provide training seminars and workshops to provide support for the Sector. This will be done working in close co-operation with other relevant organizations, including WACOSS and the Christian Churches in WA. Due to the deferral of implementation dates, it is unlikely that any training will commence until much later in this calendar year. More information will be available later.

National Health and Safety Laws:

Effective from 1 January 2012 the Work, Health and Safety Act was introduced on a national basis. Its aim was to harmonise workplace health and safety laws across Australia.

Currently Western Australia and Victoria have chosen not to participate in regard to this new Act. WA based charities operating in other States should nevertheless be aware of these changes.

Accounting Standards:

The Australian Accounting Standards Board (AASB) are, at last, initiating some moves that are intended to be of assistance to the Not-for-Profit Sector.

AASB 1053 “Application of Tiers” introduces a second less-onerous tier for General Purpose Financial Reporting requirements while retaining the full recognition and measurement requirements of Australian Accounting Standards. It substantially reduces disclosure requirements for NFPs, subject to the requirements of other regulators.

The AASB is also looking at the information needs of the users of financial reports. They have established a Service Performance Reporting Project to examine issues relating to inputs, outputs, outcomes and performance measures, not just related to financial information.

The AASB have also commenced a paragraph-by-paragraph review of AASB 10 Consolidated Financial Statements and have tentatively decided that the principles of AASB 10 can be applied in an NFP context. There is a recognition in this area that much of the terminology in this Standard is oriented for a for-profit situation and are seeking to clarify the terminology accordingly.

The AASB is overall seeking to reduce the disclosure burden and Service Performance Reporting for the NFP Sector. It would be hoped that this ultimately proves to be the result achieved.