

# Industry Insider

## Not-for-profit

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March 2010

Welcome to the second edition of Industry Insider - NFP. This bi-annual publication aims to keep you informed of current topical issues affecting not-for-profit (NFP) organisations in Australia.

The NFP sector (including charities, churches, sporting organisations, community organisations, co-operatives, trade unions and associations) is subject to constant review. The ongoing nature of this scrutiny means relentless change and anticipation as the next round of review findings and recommendations are eagerly awaited, the implications understood and processed. This makes for a challenging operational environment and often distracts from core organisational objectives.

Grant Thornton's aim is to alleviate such complications and help NFPs to understand implications, minimise disruption, and where possible take advantage of any benefits from the changes. This edition of Industry Insider considers some of the current reviews and changes faced by the NFP sector. In particular we examine:

- The Productivity Commission's work on assessing the contribution of the NFP sector in Australia and impediments to its development
- Snapshot findings of Grant Thornton New Zealand's recent NFP survey
- NFP income tax exemptions
- Salary packaging and FBT concessions for NFPs.



# Productivity Commission's final report requires decisive Government action

In September 2009's Industry Insider, we noted the forthcoming Productivity Commission's (PC's) work on assessing the contribution of the NFP sector in Australia and impediments to its development. The PC's final report has now been released (11 February 2010), so it is over to the Government to consider and hopefully implement the PC's recommendations.

[A copy of the report is available at: <http://www.pc.gov.au/projects/study/not-for-profit/report> ]

The PC report states that the "future of the [NFP] sector essentially rests on its ability to engage the community in supporting its purposes, and to allocate resources in ways to ensure the effective fulfilment of those purposes."

The five main elements of the PC's way forward report are:

- Knowledge systems that support the understanding of the sector
- Clearer governance and accountability
- Improving arrangements for more effective sector development
- Stimulus for social innovation
- Relationship building

Grant Thornton has supported the work done by the PC and has made submissions to the PC's April 2009 Issues Paper and the October 2009 Draft Research Report, concentrating on the need for reducing the regulatory burden

and improving accountability in financial reporting by NFPs. Whilst Grant Thornton generally supports the final recommendations, what is now needed is actual mechanisms for achieving them.

In tandem to the PC's report, the Government has announced proposed legislative amendments to companies limited by guarantee, which will impact those NFPs incorporated under the Corporations Act. The proposals include the elimination of any financial reporting where annual revenues are under \$250,000 and they are not tax deductible entities, and the choice of an audit or a cheaper audit review where annual revenues are below \$1,000,000. However the proposed Corporations Act amendments while positive, do nothing to bringing uniform financial reporting requirements for other NFPs not under the Corporations Act banner, and also do not provide any specific and relevant reporting for NFPs.

The Australian Accounting Standards Board is also doing work on the relevant disclosures that NFPs currently make in their Corporations Act reporting.

However no consideration has been given to date to the relevance of the full International Financial Reporting Standards (IFRS) recognition and measurement requirements, which the larger NFPs are often forced to follow. Allowing NFPs the option to adopt the more simplified and less costly IFRS for SMEs accounting standard would be a welcomed first step in Grant Thornton's view.

Nonetheless, the broad recommendations contained in the PC's report of:

- achieving a single relevant statutory regulator for NFPs
- a harmonised fund raising model
- a standard chart of accounts that is linked into an XBRL Standard Business Reporting structure (provided there is sufficient flexibility to meet the needs of the various types of NFP's and most importantly the needs of management)

are all welcomed reforms that need to be implemented now. We eagerly await the Government's decisive action to address these recommendations...

# Spotlight on New Zealand Not-for-profits

In September 2009, Grant Thornton New Zealand released the findings of its 2009/10 Not for Profit Survey: Pressing issues impacting New Zealand's Not for Profit sector.

This survey is the fourth in a succession of bi-annual surveys of its type. Each period builds on key results from previous years as well as incorporating current questions of particular relevance to the sector. The report for the 2009/10 NFP survey highlights interesting trends, challenges and perspectives and draws comparisons with past surveys. It also delves into the impacts of the global economic downturn on NZ NFPs, board responsibilities and skill sets, as well as New Zealand's Charities Commission.

Key findings of the survey include:

- There has been no change to the three most challenging issues facing the NZ NFP sector:
  - financing the activities of the organisation
  - fundraising
  - the role of the board and other governance issues
- Most NFP organisations responded to the economic downturn by taking a closer look at their cost base and assessing key risks to their businesses.
- Less than half of NZ's NFP organisations are open to either consolidation and/or merging with other 'like' organisations.
  - Those open to merging or consolidating have very little

interest in the amalgamation of branches and are more supportive of the option of focusing back on core businesses.

- Whilst financing the activities of the organisation and fundraising continue to be the most significant issue challenging NFP organisations, of those that do have a specific development and fundraising committee, only two thirds claim they are effective.
- Previous surveys have shown that respondents believe their board's most important task is strategic planning, however only 63% of those who participated in this survey believe their board members to be strategic thinkers.
- A high percentage of NZ's NFP organisations are producing financial budgets or forecasts that only look out for a period of up to 12 months.

To view or download a full copy of the complete survey report, including a useful self-assessment tool, please [click here](#).



Grant Thornton Australia recognises that while many of the trends identified in NZ's NFP sector are equally applicable in Australia, the two environments differ economically, demographically, socially, culturally and legislatively. We are therefore considering conducting a similar survey of the Australian NFP landscape and seek your feedback as to whether this would be welcome:

- Please [click here](#) if you would welcome an Australian NFP survey, and would be willing to participate anonymously in such a survey.

The NZ survey findings will be presented at the upcoming NZ Not for Profit Conference from 11-12 March 2010, at Waipuna Lodge, as well as the NZ Council of Christian Social Services conference from 22-23 April 2010. We encourage you to keep an eye out if you're planning on attending either of these events, and look forward to your feedback regarding interest in a similar Australian survey.

# Income tax exemptions under scrutiny

Those who are charged with the review of our taxation system will have looked closely at existing income tax exemptions, and regardless of the outcome of the soon to be released Henry Review, tax exemptions for charitable and other benevolent institutions will be subject to administrative scrutiny in future.



We are seeing more litigation over the tax exempt status of charities. The most recent decision in the Federal court in the case of *Bargwanna v Anor* is a good example of the support the Tax Commissioner may achieve as the cases are litigated.

Income tax exemptions are available for, inter alia, charitable institutions and funds established for public charitable purposes. For the latter - i.e. public funds - there is a specific requirement that in order for tax exemption, the fund be applied for the purposes for which it was established. In the *Bargwanna* case, Justice Edmonds made the following interesting observations, when he said:

“... in the case of a provision which confers an exemption upon the particular kind of body or fund which meets certain requirements, Parliament’s purpose is not promoted by construing the provision in a manner favourable to the body or fund referred to in it... Indeed, there is much to be said for the view that the privileged status of exemption from income tax from the income of a fund which aspires to that status demands strict adherence to the requirements that must be met before that status is conferred”

The decision of that single judge was that the fund did not continue to apply its assets for the purposes for which it was established, and, therefore, income tax exemption was denied. This case is on appeal, but these observations are still pertinent.

It is beholden upon all organisations that have tax status exemptions to review their constituent documents and ensure that their activities continue to be conducted consistently with them, and in a manner which satisfies every specific requirement of the law that gives income tax exemption.

In terms of managing tax risks for charities, there needs to be a process for continually monitoring the organisation’s activities, and referring them back to the constituent purposes that support income tax exemption, and this should be an on-going matter for management.

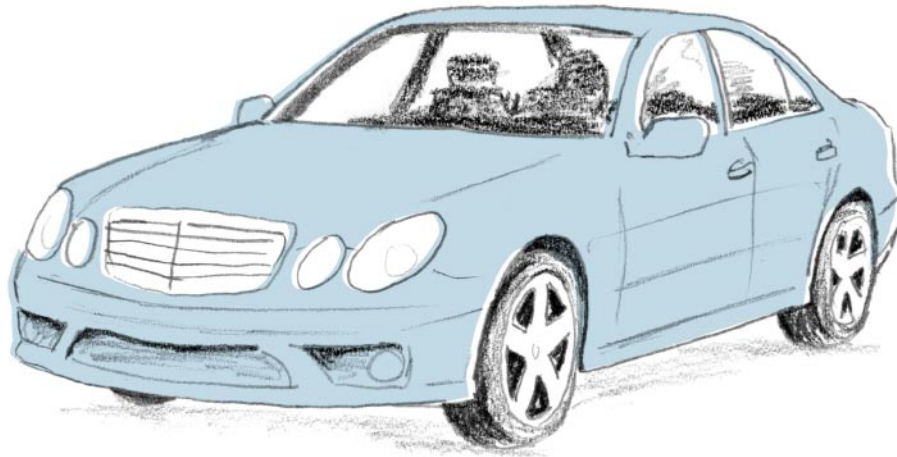
# Salary packaging – where to from here?

Elizabeth Lucas – FBT and salary packaging specialist – looks at what’s on the horizon for the not-for-profit industry in relation to remunerating employees and the impact of the Henry report.

You’ve probably heard the rumours – FBT concessions for not-for-profits to be abolished. But what are the facts? Apparently, Dr Ken Henry has recommended that the current FBT concessions provided to not-for-profits should be abolished in favour of direct funding to the organisations. However, the details on this are scant and until the government releases Henry’s report, we are unlikely to learn much more. And don’t hold your breath waiting for the report - the government recently refused a Senate order to release the report.

If the report does recommend abolishing these FBT concessions, what follows will be crucial. The not-for-profit industry now has a very strong lobbying position, and would certainly have something to say about the proposals. The government will then have to decide which, if any, of the recommendations it wishes to take up. And finally, the timing and detail of any proposed changes would need to be considered. Significant change would certainly be introduced on a prospective basis. With the lead time





required and considering the relative importance and timing of other tax changes, any FBT changes may not be ready for introduction until 2011 or later.

So essentially, for now it's business as usual, with perhaps an attitude of "make hay while the sun shines". The salary packaging strategies that not-for-profits can currently utilise to maximise their employee's net remuneration and attract and retain the right staff include packaging the following commonly used benefits:

- Private expenses to a grossed-up value of \$30,000 (or \$17,000 for hospitals) per FBT year
- Meal entertainment
- Novated lease cars

There are a number of other benefits appropriate in certain situations, such as benefits for employees in remote areas and living away from home benefits. However, two other lesser-known categories of benefit that are gaining popularity are venue hire and associate car leases.

### **Venue hire**

Venue hire is actually a reference to "entertainment facility leasing expenses" and includes things such as hiring a reception centre/function room/marquee for a social event/party and holiday accommodation (including hotel/motel room hire and caravan/site hire). It is treated for FBT purposes, and can therefore be packaged, in exactly the same way as meal entertainment, on an unlimited basis. It is likely to be tax effective for any employee of a public benevolent institution being tax exempt, and for employees of rebateable organisations who earn more than \$80,000 pa.

### **Associate car leases**

Associate car leases have been around for years, but were never really embraced, probably due to a lack of understanding. However, these days, associate car leases can be implemented extremely easily and with very minimal ongoing administration. From the employer's perspective, the arrangement is as simple as completing some set-up

documentation (mostly done by the employee), paying regular lease payments to the associate (which can actually go via the employee through the payroll), reviewing the employee's annual FBT form and making the resulting annual payroll adjustment.

From the employee's perspective, an associate lease can be attractive because it can be established for a car already owned (must be transferred to associate's name first) and the employee can therefore access the tax savings related to cars without having to take out a novated lease. Further, it creates an income stream for the employee's associate where they may have had little or no prior income.

Grant Thornton has developed various tools and pro-formas to assist with the simple and easy introduction and management of salary packaging in the not-for-profit industry. If you would like to talk to us in relation to this, please contact your local advisor, or:

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