

Subject: Improving the Integrity of Prescribed Private Funds (PPFs)

The comments made below are submitted by the Goodeve Foundation, a Prescribed Private Fund with trustees Anthony James Munday and Michael James Munday. This fund was set up under the terms of the will of the late Peter Edward Goodeve who died without issue and, as he was an only child, without near relatives. As he had been a Geophysicist, he decided to leave his money so as to benefit those in, or intending to join, the Western Australian mining industry or disciplines associated with it. Following the guide lines provided, the Goodeve Foundation was established and has invested its funds in listed shares; these, of course, have depreciated greatly over the last year or so. This brings me to my first point: how is compulsory distribution to be managed so that realization of capital gains made in the short term does not jeopardize the long- term viability of the fund? I feel that such realizations of capital gains should be left to the trustees to decide unless there is a clear and consistent failure adequately to distribute the funds in the PPF.

It has always seemed to me that the guide lines for PPFs did not take into account our case (a setting up under the terms of a will) but, rather, were designed for PPFs set up by living persons. The various caveats were designed to prevent misuse of PPFs by such living persons. Your present proposals seem to be more of the same. Our foundation has enjoyed a very good working relationship with the ATO in the person of Tony Page and we would hope to continue in this way.

After the "launch" of our foundation by the Hon. Julie Bishop, we commenced making distributions. After consideration, we have decided to concentrate on two aspects: 1. the provision of "scholarships" to attend St George's College, a residential college associated with UWA in Perth, Western Australia. These are given mainly to students of aboriginal descent who intend to study for engineering or similar degrees at UWA. 2. the donation of money to the UWA Geoscience Foundation. This latter works with UWA to further the study of the subject within the university. Our foundation made an initial donation of \$100,000 and this and further, regular donations are to be used to fund the employment of a lecturer in Geoscience at UWA; this lectureship will be called the Goodeve Lectureship and it is hoped that, in time, it will rise to be a Chair at UWA.

Your Principle 1 gets to the nub of what you propose. We find much to object to in it. Firstly, as a fund set up under the terms of a will, we shall not be receiving further donations but will rely on the management of our initial funds, helped by income received back from the Commonwealth as a result of our charitable status, to continue as a viable and ongoing fund. In particular, we object to the last two bullet points in your paragraph 20.

It is not our desire that the Goodeve Foundation be eventually wound down. We operate with minimum expenses. These consist of: (a) accountant and auditor fees amounting, at present to about \$8,000 per year. (b) the cost of buying and maintaining a computer and broadband service for it. (c) small ongoing expenses such as postage and stationery (d) the cost of any functions such as for presentation of scholarships etc. and (e) the cost of a soon-to-be-acquired mobile telephone under a Telstra 2-year plan. At present and for the foreseeable future, I as "responsible person" do not intend to pay myself any fee.

We do not wish to be "eventually wound down" but rather to continue the Goodeve Foundation as an ongoing memorial to Peter Goodeve; we have entered into a long-term agreement with the UWA Geoscience Foundation to fund the new lecturer over a period of at least 10 years. To be able to do this, we must not be wound down but, rather, be able to retain and manage our assets in such a way that we shall be able to generate surplus funds for donating to the UWA Geoscience Foundation.

If you insist on the points of para 20 you will, in effect, be destroying and negating the efforts of a band of volunteers who operate such funds as ours and the UWA Geoscience one in the expectation of being able to plan their projects for many years ahead. These projects, in our cases, are of an educational nature and, as such, relieve the State and Commonwealth governments of some small part of their obligations in this field.

In the questions set out below para 20 you ask "should a lower distribution rate apply for a period to allow newly established PPFs to build their corpus?". Of course I think it should but this seems to be contrary to your stated intention that such funds be eventually wound down. The same applies to flexibility to allow for share market performance. It all gets back to a consideration of the perceived intentions of those donating to such PPFs: if you are so convinced that many or most of those setting up such funds do so with an ulterior motive, then why have them at all!? There would be many persons involved in volunteer work in such funds who will be grossly offended by the implications contained in this paper - that they are all

shysters intent on roting the system. I put it to you that many of these PPFs undertake charitable work which would otherwise fall to government and at much greater costs including paid administration.

Section 1b. Regular valuation of assets surely takes place under present rules once a year as part of the annual return required to be submitted to the ATO? In our case we just ask our share portfolio advisers for a valuation as at 30th June; this they supply easily and without cost.

Section 1d Increased public accountability. We already have an ABN. We do not need contact details to be made public. To do so would only result in nuisance calls from other charities and individuals seeking money; we have ways of identifying and contacting potential students for us to help attend St George's College; these work well and need no further help, thank you. By the way and on a different subject, your efforts could well be directed at the large number of pseudo-charities which operate outside shopping centres etc. with persons rattling tins for donations. They bear titles closely-resembling but different from regular charities; they seek to capitalize on current events -such as the para-olympics - and the tin-rattlers are generally backpackers who respond to advertisements in their hostels seeking paid collectors. I think you would find that the people behind such "charities" deduct from the takings not only the commission or pay given to the collectors but also the rent and other expenses for their office (which may also be used for other purposes) and a hefty salary for themselves. Just a small fraction of the takings would wind up in the hands of a genuine charity . I hope that you will investigate these "pseudo-charities" of which there must be many hundreds - if not thousands!

Principle 2; 2a. ATO to have greater powers. We have no objection to these proposals but we do object to any requirement for our PPF to have a corporate trustee. Your statement that corporate trustees are relatively popular in the self-managed superannuation fund sector should be seen in the context that it is required by law that one-member self-managed superannuation funds have a corporate trustee. So, popular by the insistence of the law not necessarily by desire How would the ATO's "all or nothing" approach to trustees or funds breaching the guidelines be altered by having a corporate trustee? A corporate trustee can mis-manage the PPF just as can an individual; how will the ATO monitor this and how will the ATO remedy any loss of funds. Maybe what is required is a more detailed tax return?! To mandate a Corporate trustee would only increase our costs for no gain to our foundation. Rather, such a system would remove the satisfaction I and other similar trustees obtain from such day-to-day involvement with our PPFs and result in the winding up of many of them for that reason. Please reconsider and do not decide to ruin the whole system in your efforts to crack down on those misusing the PPFs under ther control. Again I say, the guide lines do not take into account PPFs set up under the terms of deceased estates - such as in our case.

2b Introduce fit and proper person test for trustees. Under the present system, the ATO advises the Assistant Treasurer as to the acceptability of a potential "responsible person" to be a trustee; the qualifications set out are very limiting and perhaps not particularly relevent (are all ministers of religion capable and honest!?) but they do have a "let out" clause enabling the ATO to approve such other persons whom they consider fit to qualify. What is wrong with this present system? Your para 38 puts the case well. I see no need for changes.

Appendix B Investment Income. The allowance of increasing the value of assets by an amount to reflect the CPI is a good one; perhaps it should then be increased to, say, double to CPI? But I note that this provision is obviously one which helps to maintain the value of a PPF and is, therefore, at odds with your statement in Principle 1 , 1a para 20, second last bullet: "PPFs not continuing to receive donations are eventually wound down." This is the main proposal to which we object; we do not wish eventually to be wound down but, rather, to be able so to manage our assets that we can continue for a long time to come to donate to the educational causes for which our foundation was established. I hope that you will do nothing to make this impossible.

Anthony James Munday. The Goodeve Foundation ABN 14 204 326 092