

10 February 2016

General Manager  
Law Design Practice  
The Treasury  
Langton Crescent  
PARKES ACT 2600

Via email: [taxlawdesign@treasury.gov.au](mailto:taxlawdesign@treasury.gov.au)

Dear Sir/Madam,

**RE: Exposure draft of amendments to Private Ancillary Fund Guidelines 2009 and  
Public Ancillary Fund Guidelines 2011**

I am writing to support, in general terms, the submissions made by Philanthropy Australia (PA) and Australian Community Philanthropy (ACP), in response to the exposure draft. Australian Communities Foundation (ACF) is a public, independent, not-for-profit charitable foundation and is a member of both Philanthropy Australia and Australian Community Philanthropy.

In particular, I wish to make comment on the following proposed amendments:

- Australian Communities Foundation (ACF) supports the intention of the amendments to reduce 'red-tape' and duplication within the reporting framework. We support the integration of the ACNC into the regulatory framework for Public and Private Ancillary Funds and the consequent elimination of duplication, by not requiring material provided to the ACNC to be also provided to the ATO.

ACF, along with the vast majority of philanthropic and community sector organisations, strongly believes that the ACNC plays an extremely valuable role within the charitable sector and that it should be retained. We are encouraged by the incorporation of the ACNC as a co-regulator in the draft amendments.

- In principle, ACF does not support the proposed changes to the minimum annual distribution requirements for Ancillary Funds. These Funds have been created (and tax deductions provided) in order to provide resources to support much needed programs and services within the community. We agree with Philanthropy Australia that a well-crafted investment strategy should ensure that an Ancillary Fund can both meet its annual distribution (at current levels) and maintain the real value of its assets or grow them. We would also argue that the proposed changes are complex and confusing, and are likely to lead to reduced levels of philanthropic support.

For a number of years, ACF has exceeded the minimum distribution of 4% of assets, and in 2014/215 made grants totalling \$7.7 m, which constitutes 12% of assets. We envisage that this will continue into the future. However, as part of the broader community foundation sector, ACF understands the situation of smaller community foundations across Australia which are in the early stages of building their corpus and establishing themselves as sustainable organisations.

We recognise that the current difficult economic climate makes it more difficult for these PuAFs to grow their corpus whilst at the same time meeting the 4% distribution requirement. A reduced minimum distribution requirement may assist these organisations to develop so that they are better able to support their communities in the longer term.

Therefore, ACF supports PA and ACP's position that whilst the annual minimum distribution requirement for Private and Public Ancillary Funds should not be lowered generally, an exception should be made for community foundations with a corpus below \$2m. This is in recognition of the valuable role that community foundations play within their local communities and the difficulty they can have in generating enough income to support both corpus growth and distribution as grants to NFP organisations.

- ACF strongly supports the PA and ACP submissions in relation to the portability of Ancillary Funds. It is crucially important that the PAF guidelines enable portability of PAF assets to any other Ancillary fund, both PAF and PuAF. For the same reasons, it is important that the PuAF guidelines continue to enable the transfer of PuAF assets to any other Ancillary Fund.

We note that this was clearly the intention of public statements made by relevant government ministers in relation to portability and it provides greater options and flexibility to donors to structure their philanthropy in order to best realise their philanthropic goals. There does not appear to be any policy rationale for restricting portability to between the same type of Ancillary Fund.

We would further support the ACP recommendation for legislative change to allow for distributions from Private to Public Ancillary Funds in order to enable private philanthropy to leverage the unique value of community foundations in relation to local knowledge and collaborative funding.

Feel free to contact me to further discuss the issues raised in this letter if this is would be considered helpful.

Yours sincerely,



**Maree Sidey**  
**Chief Executive Officer**