

Submission to the consultation on giving fund reforms: distribution rate and smoothing

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Introduction

UNICEF Australia welcomes the opportunity to provide a submission in response to the Treasury's *Giving Fund Reforms: distribution rate and smoothing consultation paper* (the consultation paper).

UNICEF works in more than 190 countries and territories to help children realise their full potential by providing access to clean water, life-saving vaccines, quality education and health care. We work to ensure every child is safe and protected from harm and are always there during times of emergency. UNICEF Australia is a registered Australian charity. As an organisation that is 100 per cent donor funded, charitable giving allows UNICEF Australia to provide long-term and sustainable support to children in Australia and abroad.

UNICEF Australia supports the Federal Government's aim to double philanthropic giving in Australia by 2030. We note that the Productivity Commission's *Future Foundations for Giving* report (2024) outlined several proposals to enhance the domestic policy setting to support charitable giving. We commend the initial steps taken by the Treasury to respond to the proposals, including through this consultation process.

UNICEF Australia supports a range of funding strategies aimed at increasing sustainable charitable giving. We believe that reforms that incentivise wealthy individuals, families and organisations to make charitable contributions are important to achieving the Government's 2030 giving target. Greater charitable giving increases the resources available to UNICEF Australia to advance the rights of children globally and delivers essential support to a wide range of charities operating throughout Australia.

We provide the following submission in response to the consultation paper, including its consultation questions.

Summary of recommendations

Proposed giving fund reforms

UNICEF Australia believes in supporting the continued growth of giving funds, encouraging new entrants and preserving flexibility in philanthropic structures without introducing unnecessary risks.

We welcome the Treasury's proposal to rename ancillary funds as giving funds and support multi-year distribution smoothing to enable more flexible support. We believe that aligning the minimum distribution rates for private and public giving funds at eight per cent, in line with the higher end of the range recommended by the Productivity Commission, is appropriate.

Increasing the minimum annual distribution rate would enable funding to flow to charities more quickly and efficiently. By encouraging quicker charitable distributions, these changes would better fulfil the tax concession's goal of delivering real benefits to the public.

Fostering growth in charitable giving

Beyond the proposed changes to giving funds, UNICEF Australia believes that a variety of reforms are needed to foster continued growth in charitable giving. UNICEF Australia welcomes the Australian Government's announcement that it will remove the requirement that only donations of \$2 or more to Deductible Gift Recipients (DGRs) are eligible for tax deductibility. Optimising the Australian taxation system will incentivise smaller value charitable giving at a much greater scale across many Australian households and additional reforms could further strengthen these giving incentives.

In addition, UNICEF Australia believes strengthening mandatory reporting and transparency on charitable giving and harmonising state-by-state fundraising rules would provide tangible benefits. If harnessed appropriately, these opportunities could result in a substantial increase in charitable giving throughout the Australian economy. We note that the Productivity Commission's *Future Foundations for Giving* report recommended significant reform to Australia's DGR system and recognised the merit in trialling a carefully designed pilot charity voucher scheme in Australia.ⁱ We

encourage the Australian Government to continue to implement the Productivity Commission's recommendations to boost philanthropy and promote greater giving.

Reponses to consultation questions

Principles for setting the distribution rate for giving funds

1. Are these considerations appropriate in setting the minimum annual distribution rate?

UNICEF Australia believes that the considerations outlined in the consultation paper provide a valuable framework for setting the minimum distribution rate. We support the Treasury's commitment to striking a balance between maximising the benefits to charities and the public while continuing to encourage new giving funds.

2. Should the five-year transition period apply only to giving funds that exist at the time the distribution rate changes, or to all giving funds?

UNICEF Australia considers a five-year transition period to all giving funds to be appropriate to enable funds to adjust their investment strategy if necessary.

3. What other considerations, if any, should the government consider in setting the minimum annual distribution rate?

Any decisions in relation to the minimum distribution rate should be consistent with the expectations the Government sets for its own funds that perform a similar role.

Practical considerations for setting the minimum annual distribution rate

4. In setting the minimum annual distribution rate, is it appropriate to consider the time preferences of DGRs and the community?

UNICEF Australia believes it is important to consider the time preferences of DGRs and the community, and notes that they may vary across organisations. UNICEF Australia supports the suggestion made in the Future Foundations Giving report that the Government could commission a survey of charities to gather such information.ⁱⁱ

5. Is your preference for DGRs to receive distributions sooner (implying use of a higher discount rate), later (a lower discount rate) or no preference?

UNICEF Australia's preference is for DGRs to receive distributions sooner (implying use of a higher discount rate) so charities receive funds when they are most valuable and impactful, as reflected in the Treasury's analysis in the consultation paper. Receiving distributions sooner would also ensure better alignment of the relationship between the taxpayer cost and charitable benefit. Such changes would reflect the intent of the tax concession by promoting timely and effective support to the public through charitable giving.

6. To what extent should the wishes of donors to operate a fund in perpetuity be balanced against preferences of DGRs?

UNICEF Australia believes it is possible to balance the desires of donors who wish to maintain a giving fund in perpetuity with the goal of maximizing the flow of funds to charities.

7. Do you have a view on how increasing the distribution rate would affect the willingness of donors to set up giving funds?

There is a risk that significantly increasing the distribution rate could discourage some donors from setting up giving funds, depending on their intentions. However, UNICEF Australia believes increasing the rate to eight per cent would be

appropriate to strike a balance between ensuring timely charitable impact while maintaining donor incentives to establish and contribute to giving funds.

8. Given all considerations, do you have a view on what the appropriate minimum annual distribution rate should be?

We note that the Productivity Commission was inconclusive in determining what the precise minimum distribution rate should be in the Future Foundations Giving report. Based on the available evidence, the Productivity Commission recommended a rate range of five to eight per cent.ⁱⁱⁱ We consider that setting the minimum distribution rate at the higher end of the range recommended by the Productivity Commission maximises charitable impact while maintaining long-term philanthropic engagement.

Principles for smoothing distributions

9. Are these principles reasonable? If you don't agree with one or more of them, please provide reasons.

UNICEF Australia supports these principles.

10. Should the Commissioner of Taxation have the ability, following notification by a giving fund of its intention to smooth distributions, to direct the fund to instead make the 10 required minimum distribution in each year? (A fund would be able to object to a direction.)

UNICEF Australia encourages a simple implementation process and does not have a preference on whether the Commission of Taxation should be granted such a power.

11. If the Commissioner is given the power to direct a fund to instead make the minimum annual distribution, what factors should the Commissioner be required to take into account before giving the direction? Examples are the fund's reasons for smoothing, past compliance with minimum distribution requirements and the ability of the fund to make a distribution larger than the minimum in a year.

UNICEF Australia supports the 4 criteria proposed by Philanthropy Australia in their submission that should be considered before the Commissioner uses this power.

12. Should a giving fund be able to access distribution smoothing if it has never previously made a distribution? For example, a PuGF that is not required to and, in fact, has not made a distribution in the four years following its establishment might want to smooth distributions over the first three years in which it is required to make distributions.

UNICEF Australia has no objections to the proposal.

13. Are there other principles for smoothing that should be reflected in the guidelines?

UNICEF Australia does not have suggestions of additional principles.

UNICEF Australia has been pleased to see the Treasury's commitment to boosting the flow of support to charities. We are willing to work with others across the sector, and key Government agencies to strengthen charitable giving.

ⁱ Productivity Commission, 2024, 'Future foundations for giving Inquiry report', pp. 143-144, available at:

<https://www.pc.gov.au/inquiries/completed/philanthropy/report/philanthropy.pdf>

ⁱⁱ Productivity Commission, 2024, 'Future foundations for giving Inquiry report', p. 289, available at:

<https://www.pc.gov.au/inquiries/completed/philanthropy/report/philanthropy.pdf>

ⁱⁱⁱ Productivity Commission, 2024, 'Future foundations for giving Inquiry report', p. 288, available at:

<https://www.pc.gov.au/inquiries/completed/philanthropy/report/philanthropy.pdf>