

IMPROVING THE INTEGRITY OF PRESCRIBED PRIVATE FUNDS THE TREASURY – DISCUSSION PAPER, NOVEMBER 2008

ANDYINC FOUNDATION SUBMISSION

18 December 2008

Background

Andyinc Foundation was established as a Prescribed Private Fund in 2002. Andyinc Foundation provides strategic investments in community organizations to address disadvantage, promote innovation, and effect change in the fields of social justice and environmental sustainability.

Andyinc Foundation is committed to improving the well-being of the community, and dedicates its efforts to affecting positive change. Our core focus areas are the environment, sustainability, community building, social justice, youth & self harm.

Andyinc Foundation is managed by a full-time staff member who reports to the board. The Board meets twice a year.

Community Engagement

We established a PPF as a way for our family to strategically engage with the community. As a result we have granted more than \$1,000,000 to 98 projects through 62 charitable organizations.

We believe we should be encouraging families to commence traditions of giving, not discouraging them, as we believe the proposals in the Discussion Paper will do.

PPF Rules

Distributions

We would not have established a PPF under the rules suggested by Treasury's Discussion Paper. In particular if PPF's are compelled to:

- distribute as much as 15% of the closing value of the fund each year, effectively eliminating perpetuity; and
- make their contact details available publicly.

The proposal to distribute 15% per annum is inconsistent with the original rules under which our Foundation was established. We would consider this a breach of faith by the Government to encourage philanthropic giving.

The rules suggested in Treasury's Discussion Paper will likely:

- close down the majority of existing PPFs within a 15 year period;
and
- result in very few new PPFs being established.

One of the major reasons for establishing our PPF was for the family to engage with the community in a strategic way over a long period of time, hopefully including many generations. Depending on various assumptions, a distribution rate of 15% per annum will result in the Foundation having an immaterial corpus within approximately 10 years, resulting in the Foundation being closed. We would like Andyinc Foundation to contribute to the community long into the future. Philanthropy requires a long term approach to major issues facing the community. Lack of perpetuity will make this very difficult and certainly result in a short term focus.

We agree that the current PPF Guidelines are ambiguous and we welcome the abolishment of accumulation plans. We further agree that for simplicity PPFs distribute a minimum amount each year based upon the market value of the PPF's net assets at the close of the previous financial year. We agree that this would provide greater certainty to PPF trustees and provide more consistency to giving by PPFs. We believe such clarity, at a distribution rate which allows perpetuity of the foundation, will also lead to an increase in the establishment of PPFs.

A reasonable distribution rate would be 5% per annum. This will ensure at least 5% of the corpus reaches the community each year and would allow the Foundation to accumulate funds over a reasonable period of time so that the annual distribution can be meaningful in amount. This is similar to the rate used in the USA and will maximise the long term benefit to the community.

Contact Details

If PPFs are required to publicly provide their contact details we would be inundated with requests for funds. We understand that there are over 20,000 deductible gift recipients ('DGRs') in Australia. Notwithstanding that a proportion of these may be ineligible to receive gifts from a PPF. If a list of PPF addresses is made publicly available we would expect a vast number of these DGRs would likely write to each PPF seeking funding. To minimise costs our Foundation employs just one staff member, however, if the Foundation was to be inundated with funding requests it is likely that additional staff would need to be employed to manage this process. This would have a material adverse impact on grants made by the Foundation each year.

Additionally this would result in a significant waste of resources for charities. We would imagine that we will receive requests for many projects which fall outside the mission and scope of the Foundation.

Minimum Corpus

For those with PPFs with a corpus at or near \$500,000, emphasis should be made that you intend to grow the corpus over time to the benefit of the community and that it would be a disservice to the community to stifle such community spirit by closing the PPF simply because the corpus fell below \$500,000.