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The Manager
Philanthropy and Exemptions Unit
Personal and Retirement Income Division
The Treasury
Langton Crescent
PARKES ACT 2600

Dear Sir,

Re: Draft Guidelines for Private Ancillary Funds: Public Consultation

With respect to the above draft guidelines, I respectfully make the following brief comments for your consideration:

- All who have commented recently on philanthropy in Australia, including politicians, appear to accept that philanthropy is inherently a "social good" and is to be encouraged. Therefore the fundamental basis for assessing the acceptability of the guidelines and the legislation from which they flow is whether they will actually encourage and facilitate philanthropy.
- On this basis it is clear that the process which commenced in late 2008, and of which the aforementioned Guidelines are the last stage, fails. It appears to have been undertaken from a narrow perspective which has not acknowledged any over-arching necessity to "encourage and facilitate" philanthropy and it has actually done the opposite. The aim of preventing Prescribed Private Funds being incompetently or corruptly administered is not disputed, in fact strongly supported, however a different approach was possible.
- The guidelines and legal framework under which our Fund was established offered the vehicle for establishing our family's active engagement in philanthropy in perpetuity. In taking the step to do so, and contributing our funds accordingly, we are bound by the legal framework and its intent of achieving genuine philanthropic outcomes.

- By changing these guidelines and how they will be reviewed and administered in the future, and by initially stating that PPFs should be forced to distribute all funds and close within a few years, the Government has clearly indicated that it is neither bound by, nor supportive of, the legal framework and moral contract to which we agreed.
- The fact that the administrative changes outlined in the current draft Guidelines seem fairly innocuous, and in some ways positive, may be a relief, but overall is of limited significance. The Guidelines can and no doubt will be reviewed in the future, to who knows what effect.
- For potential and existing donors to feel confident in establishing Funds or continuing to make donations it needs to be made clear, in words and action, that:
 - The Government will encourage and facilitate philanthropy
 - The Government accepts the “moral contract” under which donors establish complying philanthropic Funds and will not act to undermine the fundamental intent of existing Funds, particularly where there was a reasonable expectation of being allowed to operate in perpetuity.

I believe that the situation could be largely rectified by appropriate Ministerial action, however I also believe that the consequences of not doing so will be a substantial reduction in contributions to philanthropic funds.

Thank you for the opportunity to comment on the proposals.

Yours faithfully,

Paul Davis