

15 January 2009

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

Dear Sir/Madam

Comments on “Improving the integrity of Prescribed Private Funds (PPFs)”

Research Australia, a not-for-profit membership based organisation that supports the development of Australian health and medical research is pleased to respond to the Treasury discussion paper “Improving the integrity of Prescribed Private Funds (PPFs)”.

Philanthropy is an important source of support for health and medical research. Research Australia supports measures to redress the current low level of philanthropic support in Australia. A study by Queensland University of Technology¹, commissioned by Research Australia, found that:

- leading nations have research supported by multiple sources, including government, industry and philanthropy;
- philanthropic funding can address gaps in other funding sources, including high risk investments, rare diseases and global health issues; and
- philanthropic funding generates an increase in funding from government and industry sources.

Research Australia supports Prescribed Private Funds (PPFs) as a vehicle to attract more funding to health and medical research. Research Australia agrees with the government that the primary purpose of these vehicles is philanthropic. Their value and success lies in the extent to which additional funds flow to worthwhile causes and deliver community benefits.

Research Australia supports the intent of the proposed amendments in improving certainty, transparency and efficiency, as well as ensuring that the philanthropic purpose of PPFs is achieved. The challenge is to make changes in such a way as to not discourage potential philanthropists through onerous reporting, or inflexible requirements that detract from the attractiveness of PPFs to individuals with the means and commitment to philanthropy, and in particular those who may not otherwise have been attracted to philanthropic causes. Some of the suggestions in the discussion paper could have a significant adverse impact on PPFs and ultimately the medical research sector.

¹ Queensland University of Technology. 2005. *Lifting the Lifegiving Dollar*, report for Research Australia

Sydney
The Exchange Centre,
20 Bridge Street, Sydney NSW 2000
Telephone •61 2 8298 8365 Facsimile •61 2 9227 0636

Melbourne
Suite 2, Mezzanine
257 Collins Street, Melbourne VIC 3000
Telephone • 61 3 9662 9366 Facsimile• 61 3 9639 4126

We address the specific consultation questions below. We also strongly recommend that any amendments are reviewed subsequently to ensure that they do not counteract the original policy intent of PPFs, namely to stimulate philanthropic support from companies, families and individuals.

What is an appropriate minimum distribution rate? Why?

Research Australia acknowledges the importance of ensuring that PPF funds flow to charitable causes. Given that income tax is foregone by the government in the year of donation to the PPF, we recognise that timing and the gap between receipt of tax benefit and distribution of funding is a critical issue. For the purposes of certainty and to ensure that PPFs fulfil their purpose as a philanthropic vehicle to generate public benefits, a minimum distribution rate is desirable.

Each PPF will have its own objectives and desired time-frame for supporting various causes. Some funds will prefer a period of funds accumulation to support high cost long-term projects, while others will wish to make regular donations that are initiated upon the establishment of the PPF and distributed at varying intervals. Health and medical research is by its nature a long term, relatively high-cost philanthropic option. Research Australia therefore recommends a cautious approach in determining the proportion of funds that must be distributed annually. A formula should be determined that balances the principles of philanthropic giving against the potential to discourage prospective philanthropists from choosing the PPF vehicle, and the need to accumulate funds to a point where long-term high cost projects, typical of medical research, can be supported.

According to QUT figures², \$117 million was distributed by PPFs to charities in 2006-07. This constitutes nearly 10 per cent of the \$1.2 billion invested in PPFs at 30 June 2007, or 14 per cent of the funds invested at 30 June 2006. As \$1.2 billion was donated to PPFs from 2002 to 2007 and the closing value of the PPFs at 30 June 2007 was \$1.2 billion, it appears that distributions are broadly in line with average investment returns over this period. Of the \$301 million distributed to date, \$17 million has been to health-related charities and \$6 million to research.

Philanthropy Australia, in its submission on the discussion paper³, recommended a minimum distribution rate of 5 per cent. This appears to be acceptable to the philanthropy sector and could be an appropriate starting point, with the potential to review in the future. A significantly higher distribution rate will make establishing PPFs in perpetuity difficult, to the detriment of medical research projects that would benefit from long-term philanthropic support.

Should the Commissioner have the ability to modify the minimum amount according to market conditions (for example, based on average fund earnings)?

Research Australia is inclined to support the Commissioner having the ability to modify the minimum amount, to ensure that the distribution requirement is not inflexible in negative financial circumstances. For example, in periods of low or negative average investment returns, the Commissioner might seek to determine a waiver of the minimum distribution.

² Queensland University of Technology. 2008. *Prescribed Private Funds*, CPNS Current Issues Sheet 2008/6 http://www.bus.qut.edu.au/research/cpns/documents/2008_6_PPFs_Final_Web.pdf

³ Philanthropy Australia. 2008. *Response to "Improving the Integrity of Prescribed Private Funds"*, http://www.philanthropy.org.au/pdfs/advocacy/PA_PPF_Submission.pdf

However, we note concerns from Philanthropy Australia about the negative impact of discretionary powers on certainty for PPF managers. For this reason, any discretion granted to the Commissioner would need to be limited to specific circumstances and we suggest consideration be given to only allowing for variations that reduce the mandatory distribution below 5%.

Should a lower distribution rate apply for a period (for example, 1-2 years) to allow newly established PPFs to build their corpus?

Research Australia recognises that many philanthropists prefer to build a corpus of funds prior to making significant distributions. We are inclined to support a lower distribution rate in the early stages of PPFs, as this not only allows a build-up of core funding, but also the development of review and distribution mechanisms, selection of suitable projects etc. However, this must be balanced against the simplicity of having a consistent distribution rate for all PPFs.

Is setting a minimum PPF size appropriate? What should the minimum PPF size be in dollar terms?

Research Australia notes that there is no minimum size requirement for superannuation funds. Administrative costs and regulatory compliance impose a natural limitation on feasible size. We consider that the judgement of trustees and donors will be sufficient to ensure that PPFs are not of inefficient scale, although we note the view proposed by Philanthropy Australia on this matter.

Are there any concerns with the proposal to require that the contact details of PPFs be provided to the public? What information should be provided publicly?

Many donors to PPFs have chosen this vehicle as it attracts less public attention than alternatives, allowing them to direct funds without significant pressure from individuals and organisations making funding approaches. Research Australia supports the requirement that PPFs be registered as businesses with ABNs. However, the proposal to provide contact details to allow charities to make representations may inhibit the attractiveness of the essentially private nature of PPFs. The burden of filtering through unsolicited funding requests will impose administrative costs and may discourage many philanthropists who would otherwise be drawn to PPFs.

Will two years be a long enough transitional period for existing PPFs to comply fully with the new Guidelines?

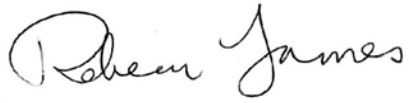
Research Australia supports a transitional period of two years for existing PPFs.

Are there any cost or other concerns relating to the corporate trustee proposal?

84 per cent of existing PPFs already use corporate trustees and corporate trustees are widely used in the self-managed superannuation fund sector. However, we understand that there are concerns within the sector about this proposal limiting the freedom to use co-trustees, increasing administrative costs and possibly conflicting with state trustee laws.

Please do not hesitate to contact Mr David Pullar, Manager, Policy and Partnerships (telephone 02 9227 0346), should you wish to discuss any aspect of this letter.

Yours sincerely

A handwritten signature in black ink that reads "Rebecca James". The signature is written in a cursive style with a large initial 'R'.

Rebecca James
Chief Executive Officer

ATTACHMENT

- Research Australia Philanthropy Polling