

Our Reference: willj01:With

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Manager
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The Treasury
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Dear Manager

I wish to make a submission responding to the discussion paper "Improving the Integrity of Public Ancillary Funds."

My organisation supports the general intent of the discussion paper, but wishes to draw your attention to the following matters.

Public Trustee of South Australia is the Trustee for the Community Foundation of South Australia. This Public Ancillary Fund was established by deed and allows for testators and donors to establish perpetual trusts. Public Trustee took written advice from the Australian Taxation Office prior to finalising the Deed of the Community Foundation.

Currently Public Trustee is holding a number of wills that leave considerable estates to the Community Foundation to establish perpetual named funds. There are also a number of existing perpetual named funds already in existence from both bequests and donations. The suggested change to a minimum distribution of 5% of capital value each year will place the perpetual nature of these named funds at risk.

If this change proceeds, I strongly encourage a grandfathering or exemption arrangement for the Community Foundation of SA to continue with its current income distribution regime.

The Community Foundation of South Australia currently has provision to accumulate capital and income for a period to allow, for example, a school to save for capital works of a new building. I encourage you to allow this flexibility to continue.

If there are any specific requirements enacted for corporate trustees, please be aware that some, like me, are statutory trustees and corporations sole, with no board of management.

The discussion paper refers to non-compliance by some PAFs in paying to overseas beneficiaries. The Community Foundation of SA is fully compliant in this area, however there is a demand from donors to have capacity to pay income to overseas beneficiaries directly. It would seem an opportune time to consider an alternative arrangement where can pay beneficiaries who have DGR-equivalent status with the Taxation authority in other designated countries.

Thank you for the opportunity of making this submission.

Yours sincerely

A handwritten signature in black ink, appearing to read "Debra Contala". The signature is fluid and cursive, with a prominent initial "D" and a long, sweeping tail.

Debra Contala
Public Trustee