



Queensland University of Technology
Brisbane Australia

This is the author's version of a work that was submitted/accepted for publication in the following source:

Smith, Greg (2000) *Tax concessions in support of charitable giving: an international comparison*. [Working Paper]

This file was downloaded from: <http://eprints.qut.edu.au/50693/>

© Copyright 2000 Queensland University of Technology

Notice: *Changes introduced as a result of publishing processes such as copy-editing and formatting may not be reflected in this document. For a definitive version of this work, please refer to the published source:*

TAX CONCESSIONS IN SUPPORT OF CHARITABLE GIVING

An International Comparison

Working Paper No. PONC85

By Greg Smith

B.Bus, MM. FCPA, FAICD
Assistant Chief Executive (Corporate Services)
Royal Institute for Deaf and Blind Children

The assistance of Professor Mark Lyons, University of Technology - Sydney
in supervising and reviewing this paper is acknowledge

The Program on Nonprofit Corporations is a research unit at the Queensland University of Technology. It seeks to promote research from many disciplines into the nonprofit sector.

The Program on Nonprofit Corporations reproduces and distributes these working papers from authors who are affiliated with the Program or who present papers at Program seminars. They are not edited or reviewed, and the views in them are those of their authors.

A list of all the Program's publications and working papers are available from the address below:

© Queensland University of Technology 11 May 2000
Published by the Program on Nonprofit Corporations
The Queensland University of Technology
GPO Box 2434
BRISBANE QLD 4001
Phone: 07 3864 1020
Fax: 07 3864 1812
Email: ponc@qut.edu.au
<http://www.qut.edu.au/bus/ponc>

ISBN 1 86435 485 2
ISSN 107-1516

Contents

1.	Introduction	3
2.	Comparative levels of giving	4
3.	Why people give	5
4.	Government support of nonprofits	9
5.	Taxation concessions for giving	9
6.	Australia	10
7.	United States	12
8.	Canada	13
9.	United Kingdom	14
10.	Further analysis and international comparisons	16
11.	The People's Republic of China	17
12.	Indonesia	18
13.	Conclusions and opportunities for Australia	18
14.	References	21

Introduction

The Australian taxation system encourages charitable giving through tax deductibility for donations made by individuals and companies, and via tax exemption for income distributed to charities through charitable trusts. Other means of giving, such as through bequests enjoy little tax concessions.

This paper will make comparisons with taxation arrangements in some other countries in order to investigate Australia's international competitiveness in this regard. The taxation systems in the United Kingdom, United States and Canada are studied for this purpose.

The first part of this paper, from data available upon each of the above countries, makes observations regarding levels of donor support to charitable organizations, the extent of support by individuals and corporations, and the application of support to the various fields of endeavour by nonprofits. Some analysis and commentary is made upon the potential reasons for differences between the results obtained in the various countries.

It is recognised that taxation is not the only catalyst for donors' actions and the second part investigates various potential motivators, not intended as a major focus, but to place taxation concession in its proper perspective with respect to the broader philanthropic picture.

The econometric modelling which may be used to measure the financial effectiveness of government's provision of tax concessions for donors is recognised as being complex, and analysis of this area is beyond the scope of this research. It is useful, however, to mention the results obtained from work undertaken in this area, which may support or contradict the economic legitimacy of taxation as a tool in encouraging support for charities. Support through the taxation system provides opportunity for donors to individually target areas for support in the community, and for this reason, economic effectiveness should not be the only justification for providing tax concessions. It would seem however, that confirmation of the economic value of taxation concessions, as a partial alternative to government support through tax collection is an important precursor to the hypotheses;

“That further taxation concessions towards charitable giving would provide improved support of needs in the community”,

and

“that international comparisons provide opportunities to identify potential improvements for such taxation concessions in the Australian context”.

The core content of this research draws upon readings which analyse the countries' taxation systems and the ways in which taxation is used to encourage giving to charities. This involves the study of the range of organizations to which tax deductions or other concessions apply, the effect of rates of taxation upon propensity to give, and the structure and limitations upon tax concessions. At this point, the research extends beyond the countries listed above so as to maximise the potential to draw upon international experiences.

It is the intention that this research provides the author with an improved understanding of the international perspective on tax concessions in support of charitable giving, and thus provides productive support for submissions to the Federal Government in this important area.

Comparative levels of giving

A number of international comparisons of levels of donor support have been reviewed. The results vary significantly between each study, possibly due to factors including the research methodology used, the potential unreliability of source data and the timing of each research project. The measures used in reporting the results also vary. In order to examine broad trends which may be useful in drawing conclusions concerning differences between countries, some assumptions have had to be made in extrapolating different findings in order to standardise results. This places a limit upon the efficacy of the results.

An international survey into individual charitable giving and volunteering (Brophy, 1994), coordinated by the Charities Aid Foundation in the United Kingdom, was undertaken in 1991. Participating organizations from Britain, France, Spain, Canada and the United States contributed to the study. Information was obtained from interview of individuals, concerning respondents' giving during the month prior to interview. The results drawn from the interviews included estimates of the percentage of each country's population who made financial donations and the average monthly donation per donor.

The following information is drawn from the survey results in relation to Britain, Canada and the United States, and is further extended to estimate the standard measure outlined above:

	Britain	Canada	United States
Percentage donating	65%	62%	55%
Average donation per person per month (UK pounds)	7.20	21.80	17.10
Annualised	86.40	261.60	205.20
National per capita donations per annum (UK pounds)	56.16	162.20	112.90

Some doubt needs to be cast upon the reliability of this comparison for two important reasons:

1. The levels of giving during the month prior to the survey may not be representative of the entire year. Seasonal factors affecting the levels of donor activity such as Christmas period, winter appeals and end of tax years would be expected to cause significant variances throughout the year.
2. The report from which this data was drawn does not specify the methodology in approaching respondents. The statements that, for example 65% of the populations in Britain made charitable donations in the month prior to the survey must be questioned. Positive responses from contacts to households for example, would not necessarily lead us to assume that all members of the households, including children, had donated.

Subject to the above reservations, the research indicates that levels of giving in the United States and Canada are higher than those in the United Kingdom. It is noted that religious organizations feature significantly in the United States, and to a lesser extent in Canada, as a major beneficiary of donor support.

Lyon (1993) provided some broad comparisons between countries of the levels of giving as a percentage of the GDP in each country during 1984 and 1985. A summary of these findings is provided below:

Country	Giving as % of GDP
United States (1985)	1.66%
Canada (1985)	0.63%
United Kingdom (1985)	0.45%
Australia (1984)	0.38%

The above confirms the findings of the Charities Aid Foundation study, in that levels of giving by households in the United States and Canada are higher than those of the United Kingdom. Levels of giving in Australia were similar to those enjoyed in the United Kingdom.

A further comparison undertaken by Lyons (1993a) provides a comparison of giving by destination in Australia and the United States. It emphasises that the amounts given by households to religious institutions in the United States during 1989 accounted for 53.9% of the total given as compared with only 22.8% in Australia during 1988/89. The much higher level of religious observance, while not the only reason, is a major factor which must be considered in explaining differences between the two countries.

An analysis of giving by businesses shows a quite different result. Lyons (1993b) concluded that nonprofits in Australia are supported to a greater extent by businesses than is the case in the United States, although it is suggested that the United States' estimates may be understated.

Greater levels of support for nonprofits by households in the United States are evident, however, both of the above comparisons clearly show that religion dominates as the primary beneficiary in that country.

Why people give

The motivations for giving to nonprofits differ greatly. Taxation concession is but one reason, amongst a complexity of human factors which have been studied in order to determine why people donate.

Rose-Ackerman (1996) as a part of study into altruism, outlined and examined a number of potential donors' motivations to give. As a precursor to her discussions however, she drew upon various studies into factual differences in relation to the sizes and compositions of nonprofit sectors between countries.

In John Hopkins comparative nonprofit sector project, Salamon & Anheir (1994) found significant differences the size of the sector, measured by employment as a percentage of each country's total employment. The result showed an average of 3.4%, with the greatest proportion being employed in the United States (6.8%) and the lowest in Hungary (0.8%).

The project also identified important differences according to the types of activities undertaken by nonprofit sectors. The following comparisons between the United States and the United Kingdom show that as a percentage of total nonprofit expenditure, health services are prominent in the USA, while UK expenditure is directed at the greatest levels to education:

	United States	United Kingdom
Health	53%	4%
Education	23%	43%
Social Services	10%	12%
Business	5%	7%
Culture, Arts	3%	21%
Other	6%	13%

A comparison of the sources of funding for the nonprofit sector was also provided in this study, and this showed that the levels of support from private fees, public funding and private giving vary substantially. The figures for the UK, USA and Japan are drawn from this comparison:

United States	Private fees	51%
	Public funding	30%
	Private giving	19%
United Kingdom	Private fees	48%
	Public funding	40%
	Private giving	12%
Japan	Private fees	60%
	Public funding	39%
	Private giving	1%
Seven country average	Private fees	47%
	Public funding	43%
	Private giving	10%

In viewing the above comparisons, it is important to consider the extent to which motivations for giving may be affected by the size, composition and other income sources of the nonprofit sector. Later discussions of the phenomenon of “free riding” may be important in analysis of the levels of private giving which are seen in various countries. Conversely, the success of acquiring donor support may be an important determinant to the sizes and compositions of the sector in countries.

Rose-Ackerman discusses ideological factors which may explain donors’ actions. Beliefs include:

1. The basic premise that income distribution should be more equal than that those in need should therefore be provided basic services.
2. That particular services such as health and education are deserving of a higher level of support in the community.
3. That certain principles, such as religious philosophies should be supported.

It is argued that these beliefs may be seen to have survival value in being passed on through generations, providing for a genetic predisposition to altruism in some cases.

Motivation to support others can be recognised as serving a number of human desires in the minds of people who give. Those who wish to see others consume goods and services of which they personally approve are considered as “paternalists”. Such people may prefer to assist in providing education and health services to those in need, but they would be less inclined to provide general financial support. “Liberal affection”, on the other hand is felt by those who derive personal satisfaction from the happiness of others, and thus they would be more inclined to give in an untied way.

Some may be motivated, not by the benefits seen to be provided to others, but by the perception of satisfaction of a general goal which is seen to provide benefit to the community as a whole. People who are so motivated might support environmental, artistic or research objectives. Their propensity to give is often restricted by what is termed as the “free rider” problem: an expectation that due to the perceived public worth of the cause, public funds should be applied in meeting its objectives.

Donors may give for purposes of their own feelings of well being, derived from the act of giving itself, regardless of any consideration of the benefits which are derived by recipients. At the other extreme, some may act on what is termed by Rose-Ackerman as a “buying-in” mentality in that their feeling of well being stems from the knowledge that they are able to make a difference for the recipients of the giving. Most commonly however, some combination of the two is considered to exist.

Robert Sugden (1984) provided the view that giving is not undertaken with reference to one’s own attitudes, but also with reference to the attitudes of others within a reference group. He refers to a model of reciprocity, whereby a feeling of obligation to meet the normal expectations of one’s reference group strongly drives the levels of giving.

Rose- Ackerman concludes that the funding strategies of nonprofits need to take account of the most appropriate motivational factors to the circumstance. The existence of feelings of commitment, sympathy, reciprocity, prestige, pride and elitism can be utilised in order to determine the most effective fundraising approaches. These may include the development of individualised stories of need, the use of potential donors’ colleagues to solicit gifts and demonstration of the effectiveness of gifts in meeting the objectives of the recipient organization. Simon (1992) emphasised the importance of ties with respect to ethnicity, religion, organization and class in sourcing donor support.

Mention is made in Rose-Ackerman’s work of the analysis of the effectiveness of taxation in the encouragement of charitable giving. There are two conflicting factors arising from taxation levels seen to affect donors’ abilities and propensities to give:

1. Higher levels of taxation decrease an individual’s or company’s disposable income and therefore its ability to provide charitable support.
2. Higher levels of taxation lower the net cost of giving where such gifts are subject to tax deduction.

The question for the recipients of charitable giving therefore relates to the determination of which one of these forces is the greater. This has particular relevance to the impending restructuring of the Australian taxation system, where a lowering of the direct taxation is to be countered by the introduction of a goods and services tax. The net cost of tax deductible giving will be increased by a lowering of marginal tax rates, while the income effect will be enhanced, although being partly offset by other forms of taxation.

Reference is made to a number of U.S. studies in this regard. Clotfelder (1985) found that giving is price elastic and income inelastic. This would suggest that tax rate increases would tend to cause an increase in levels of giving as a result of lowering net cost, to a greater degree than would the resultant lowering of disposable income cause a reduction in giving. Steinberg (1990) however, found that giving is price inelastic. Further studies by Steinberg (1990a) and those by Lankford et al (1991) found that price elastic donation functions existed mainly amongst wealthy donors.

Randolph (1995) suggested that transitory factors apply in this area, leading to timing of gifts in order to take best advantage of income and price effects.

The recent tax debate in Australia has included many issues of interest to and impact upon the nonprofit sector and its clients. In respect of the above issue, the exclusion of direct tax reductions

from the higher margins of income would suggest that the impacts of price elasticity in relation to wealthy donors will not present a significant concern. Of greater concern is the overall loss of tax benefit to middle income earners without a proportional increase in income utility, as the goods and services tax will partly lessen the income benefit arising from direct tax cuts.

Further analysis of this issue in the following international tax comparisons is too complex to deal with in this paper and goes beyond its scope, however amongst the complexities of the analysis of donor motivations, it needs to be recognised that taxation levels and structures in general will impact upon donors' abilities and propensities to give.

In addition to the study of motivation towards supporting causes, Rose-Ackerman discusses the motivations which see people supporting nonprofits rather than for-profit firms and governments. It is contended that donors perceive the behaviours of nonprofits as being more worthy of private support for a number of reasons:

1. That less likelihood exists for nonprofits to divert income towards the private purposes of managers than is the case in for-profit firms. While potential for this exists and such cases do occur, it is illegal and the frequency is lower than in for-profits, where managers may be seen to have a greater legitimacy in receiving bonus payments and owners in having entitlements to returns in their investments.
2. That the motivation towards the causes of non-profits is served without the interference of profit motive.
3. That compared with governments, there is a lower level of political motivation towards popular support. While it is true that nonprofits receiving high levels of government support may simply be viewed as arms of government, private support gives rise to some levels of independence from governments.
4. That broader range of services to the community can be pursued by nonprofits in an environment of creativity and experimentation which is less reliant upon cost justification measures.

The above give rise to an environment whereby the altruistic behaviour of the organization in addition to the causes being served provide motivation for giving. Critics of nonprofits may contend that the lack of market discipline and incentive for managers to perform may lead to poor management, however the size of many for-profit firms and governments creates a bureaucratic separation from ownership or political accountability such that similar problems of management performance are seen in those sectors.

The above discussion shows that taxation incentives is but one of the many potential motivators towards charitable giving, many of which are interlinked in the minds of supporters. The following analysis of taxation treatments in various countries cannot therefore be used as a definitive measure of the reasons why people give, as countries social, political and legal environments will differ in complex ways. It will however, provide some useful insight into the various uses as taxation as a tool for the encouragement of philanthropic behaviour.

Government support of nonprofits

Governments provide support for welfare and other community purposes in a number of important ways. These include:

1. The direct provision of public services by departments and agencies, where the control of the service provision is maintained and predominately funded from the public purse. This is seen to include not only support for certain disadvantaged classes, but more commonly those services perceived by societies to be required at a scale and level of importance to be necessary for the maintenance of civilised society. Examples include education, health, defence, transport systems and police. The political forces which establish and maintain governments in democratic societies tend to support the interests of the majority in this form of community endeavour.
2. The provision of financial support through grants and subsidies to private nonprofit organizations. In one sense this may be seen as a means of supporting private community initiatives which are seen as worthwhile by governments. Increasingly however, governments are using such means of funding to outsource functions which had traditionally been undertaken directly by governments. Such measures can be considered as weakening the influence and effectiveness of private nonprofit endeavour.
3. Exemptions from different forms of taxation and other government charges for certain nonprofit organizations, the nature and extent of which may vary within and between different countries.
4. The allowance of taxation concessions for donations and other means of giving by private individuals and other entities, who support nonprofit organizations. Such concessions effectively lower the cost to the donor as an incentive for charitable support, as discussed above. This nature and extent of government support for the basis for the international comparison undertaken in this paper, of the treatments provided in various countries.

Taxation Concessions for Giving

An important philosophical issue which this paper will attempt to address is the fundamental reasons why governments should or should not provide tax concessions. It is considered that governments should levy taxation upon its citizens on the basis of income and other economic measures alone? If this is the case, the taxation relief in support of donations would be seen as revenue forgone by government, therefore as an indirect means by which the public provides funding for causes. Alternatively, if levels of taxation are considered as being levied upon taxpayers, based upon a combination of economic and social factors, then tax concessions would be seen as less of a right conferred upon donors by governments than as entitlements rightly belonging to citizens who choose to direct their support to causes as they see fit. Salmon and Flaherty (1997) explore this issue and observe that those who support the former view would contend that taxation support for donations is somewhat undemocratic, allowing individuals to target taxation revenue towards organizations or needs to the detriment of those which governments might decide to direct funds. The broad array of possible donor motivations which attract people to give, would suggest to the proponents of this view that appropriate needs are not necessarily served by taxation support by governments.

Salman and Flaherty outline issues which may be studied in considering international comparison of the taxation treatment of contributions. These are:

1. The range of organizations or purposes to which tax concessions may be extended in various countries. Important differences may be found in the types of organization to which contributions may result in taxation relief for donors. Issues of public benefit compared with mutual benefit, domestic or international benefit and the concept of charitable intent may lead to differences in the ways which different countries confer tax concession status.
2. The means by which taxation concessions are provided. The structure of the tax system within each country, and further the basis of and limitations upon tax concessions need to be compared. This may involve issues such as deductibility, rebates or credits of tax, absolute or percentage limits, both maximum and minimum, placed upon levels of giving and the valuation and treatment of gifts in kind.
3. The classes of donors who may benefit from tax concessions for giving. The various types of taxpayer legal entities may experience differential tax treatment of donor support. The impacts of organization structure of donors including individuals, companies, trusts and deceased estates, upon tax treatment of donations are to be studied.

Salaman and Flaherty discuss the rules of law and legal systems as being important determinants to the fundamental views towards basic citizens' rights, freedom of association and therefore the ability for nonprofits to function effectively. The differences between common law and civil law would significantly impact upon the environments which nonprofits develop and continue to operate. While some analysis of countries whose legal systems may differ will be undertaken later in this paper, the four countries which are primarily analysed below share common law jurisdictions. Although the Canadian province of Quebec operates under a civil code, this difference is not considered to be significant to the overall purpose of this study.

Australia

Lyons (1997) outlines the Australian legal system as being based upon English common law, inherited from the settlement of colonies in the eighteenth and nineteenth century and the establishment of the Commonwealth of Australia at the start of the twentieth century. In addition, statute laws have been passed by parliament to provide additional clarification where common law does not apply.

Separate judicial and legislative systems apply in the Commonwealth, each of the six States and two Territories. The constitution divides powers between the Commonwealth and States and Territories.

The Commonwealth of Australia levies income tax under the Income Tax Assessment Act 1997 (the Act), upon the taxable income (assessable income less allowable deductions), of individuals and companies. In addition, wholesale sales tax, capital gains tax and fringe benefits tax are levied by the Commonwealth. The states have limited taxing powers including payroll tax and stamp duty. Taxation reforms to take effect from 1 July 2000 will see wholesale sales tax and some other taxes abolished, to be replaced by a broadly based consumption tax (GST).

Nonprofits exist in various forms such as charitable trusts, unincorporated associations, incorporating associations and companies limited by guarantee. Most nonprofits are exempted from the various forms of Commonwealth, State and Local Government taxes under a self assessment regime and it is therefore seldom necessary for tax exemptions to be subjected to scrutiny.

Deceased estates giving to charities are subjected to capital gains tax even though the proceeds of a bequest are directed towards a deductible gift recipient, and in this sense an anomaly exists which effectively imposes tax upon charities. Recent announcement in relation to taxation reform are expected to give rise to the removal of this anomaly.

For income tax calculations purposes, business expenses in such forms as sponsorship of nonprofits are generally allowable as deductions provided it can be demonstrated that the cost is incurred in the earning of assessable income. In addition, gifts and donations of \$2 or more are specifically allowed as deductions against income under Div.30 of the Act. Organisations approved as donees under this division include those fulfilling broad category requirements such as Public Benevolent Institutions, as well as those specifically listed as deductible recipients.

Observations on the Australian taxation system as it relates to tax concessions for giving are:

Limits on the size of deductible gifts

In most cases, subject to a minimum donation of \$2, there is no limit to the amount which may be claimed by an individual or other entity as a deductible gift. Some limits apply such as is the case for donations made to political parties (\$100). McGregor-Lowndes (1999) considers that the general absence of a ceiling on deductions is very generous by international standards.

Limits on the types of deductible gift recipients

Donee exemption categories have arisen from two sources. Common law, with its precedents from the English has determined exemption categories with relevance to the circumstances in England without substantial reference to the social and environmental needs.

McGregor-Lowndes contends that the cost of overturning precedents makes developments to take account of contemporary needs in this areas slow. In addition, the listing of deductible gift recipients by the Australian Taxation Office appears piecemeal and in response to political rather than with due regard to the merits of each case. Australia lacks a centralised regulatory regime such as exists in the United Kingdom.

The above suggests that the types of donees to which deductible gifts may be made is narrow and not consistent with the contemporary community needs of Australia, and it is therefore in need of review.

Registration and assessment processes

As the administration of Federal income tax is based upon self assessment, there is no requirements for tax exempt bodies or deductible gift recipients to undergo any real assessment procedures. While many organization may have obtained advice upon their status as a public benevolent institution, for example, such advice has been inconsistently applied, often by regional taxation offices and does not take account of changes occurring in the organization.

Impending tax reforms

Legislation was recently introduced into Parliament which will require tax exempt bodies and gift deductible recipients to register with the Australian Taxation Office. This will provide the opportunity to acquire much needed information on the sector, and while it has been indicated that the registration procedures will be based upon self assessment of entitlements for tax exemption and deductibility it will give the tax office the ability to identify and audit organisations' actual entitlements.

Growth in the sector

The past 20 – 30 years have seen enormous growth in the demands placed upon the nonprofit sector as community needs have emerged. This, combined with reductions in public funding has placed a greater reliance upon charitable giving and the nature and extent of tax concessions will be critical factors in the enlistment of much needed support.

The United States

Although the United States is a country whose laws are based upon the common law, it has a written constitution which confers certain rights upon its citizens. These include the right to freedom of speech and the right to assemble peaceably. Religious organizations are conferred a right to exist by prohibiting governments from support.

The national government and each of the country's 50 states have the power to levy taxes, making the means and levels of tax somewhat inconsistent across the country.

The federal government levies income tax on individuals and companies and such means of taxation is also applied at state and local levels.

Under the federal system, tax exemption is afforded to a range of nonprofits. These are outlined by Hopkins (1997) to include charitable (including religious, scientific and educational) organisations, and social welfare organizations. The sources of a nonprofit's income will sometimes determine its tax status, however. Examples are the unrelated business income of nonprofits, net investment income of private foundations and non-member income of social clubs, all of which are subject to income tax at state and federal levels. He explains that the legal rationale underlying tax exemption is that, "a democratic society is best served by encouraging a pluralistic variety of private institutions through which individuals can come together to pursue non-commercial purposes." (1997a). Some, but not all states follow the federal system in the extent of income tax exemptions for nonprofits.

Tax concessions are provided in relation to gifts made to certain nonprofits at both state and federal levels. Deductions are able to be taken against income, gift and estate taxes. Approved donees include charitable organizations as defined in terms of tax exemption, as well as certain veteran's organizations, fraternal societies and cemetery companies.

Unlike Australia, where no maximum levels of deductions for donations are imposed, limits expressed as percentages of gross income for individuals and pre-tax profits for companies apply in any year in relation to United States Federal income tax, although excess amounts can generally be carried forward to the next year. These percentages of an individual's contribution base vary, and include:

1. 50% - total charitable contributions.
2. 30% - for gifts to public charitable organization, of property which has appreciated in value.
3. 30% - for gifts of money to charitable recipients other than public charitable organizations.
4. Husbands and wives may file a joint return, and aggregate their gifts for percentage determination purposes.
5. 10% for corporations (of pretax net income) – total charitable contributions.

State laws follow similar guidelines that in comparison with Australia:

1. Deductible donations are available to a broader range of organizations.
2. While the limits imposed upon the levels of deductible donations for individuals in the United States may be seen as more restrictive than is the case in Australia, these levels represent a reasonably high proportion of disposable income for individuals. Lyons (1993c) notes that "(A) standard deduction (exists) automatically and irrespective of whether or not they have

made a donation". This removes the taxation incentive for donating in respect of many small gifts.

3. The deductible levels for corporations (generally 10% of pre-tax profits) is quite low and this may, in part, explain why the level of corporate donations in the United States is low.
4. Tax relief is available against gift and estate taxes in the United States. While no such taxes are imposed in Australia, the impact of Capital Gains Tax is such that tax is often applied as a consequences of a gift or bequest. As mentioned above, it is intended that this be corrected in Australia.

Canada

Canada is comprised of a number of provinces and territories, each with its own parliament, in addition to the federal parliament, with a significant degree of sharing of power. The legal environment in which nonprofits operate is impacted by each jurisdiction. Taxation is levied at the federal level.

Canada's constitution provides for freedoms through a "charter of rights". Bromley (1997) explains, "Under these general rights and freedoms, it is possible for citizens to come together to establish a society, corporation or foundation for any social, political, religious or other legal purpose as a matter of right upon complying with minimum requirements".

While Canada is primarily a common law country, Quebec operates under a civil code, and while this represents a significant difference in the basis of law, being only recently established (1 January 1994), it is not known how and to what extent this will impact upon nonprofits. In this, it should be noted that federal tax laws will continue to be of primary importance.

Canada has a system of registration for charitable organisations and once obtained, it confers exemption from taxation upon all income, regardless of the source. A goods and services tax, similar to that which will apply in Australia is imposed upon most supplies of goods and services. There are two important differences however:

1. Most supplies by charities are exempt from GST. Exceptions relate to a small number of specified circumstances where the supply is usual in commercial enterprise. The Australian legislation will provide for a much broader exception, including many fundraising activities.
2. While input credits may be obtained for taxable supplies, a rebate of 50% rather than a full credit is allowed for exempt supplies. Australia will see a full credit for inputs regardless of whether a supply is taxable or GST-free. A small range of supplies including financial services and residential rents will not attract the credits.

In a distinctly different way from Australia, the United States and the United Kingdom, Canada has moved to providing a system of tax credits for charitable donations. The previous deduction system was considered to provide greater benefit to high income earners though the application of higher marginal rates of income tax. The tax credit system, introduced in 1988, allows for a rebate calculated at the highest combines federal and provincial tax rates for all donors, regardless of the individual's actual marginal tax rate. This effectively allows for a positive tax incentive for lower income earners, but it is effectively lost in relation to small donations, with a lower limit of \$200 being applied for rebate purposes.

As in the United States, Canada imposes an upper limit on tax relief for gifts, calculated as a percentage of taxable income, although more generously at 77%. Excess amounts can also be carried forward, but for a maximum of five years.

The treatment of capital gains is more generous than is seen or proposed in Australia. Capital gains tax is triggered upon death, but exemption applies where a bequest is made to charity. In addition, a deduction against taxable income is allowed and this can be applied to the deceased's final or previous year of income.

Taxation relief for corporate giving remains in the form of deduction from taxable income, with a limit of 75% of taxable income applying. A five year period for the carrying forward of excess amounts also applies.

All charitable organizations, and public and private foundations are able to attract tax-preferred donations, whether in cash or in kind, with the donor being able to elect to apply cost to the valuation of property donations, thus avoiding capital gains tax liability.

Absolute limits are placed upon the extent of tax relief for an individual by the imposition of "alternative minimum tax". This effectively sees a cap of \$40,000 being applied to total tax credits (including those relating to charitable donations) for an individual in any one year, with the excess being subject to tax at the lowest marginal tax rate.

The above shows, in comparison with Australia:

1. Generous treatment of income and other tax exemption for charities and certain other nonprofits.
2. Application of GST, such that it disadvantages charities in respect of the partial loss of input credits.
3. A progressive system of tax relief for charitable gifts, with the provision of tax credits as distinct from deductions against taxable income.
4. Relatively high upper and lower limits being placed upon tax preferred giving by individuals as is seen in the United States.
5. Relatively high upper and lower limits being placed upon tax preferred giving by individuals as is seen in the United States.
6. More generous limits for corporations than those which apply in the United States.
7. Favourable capital gains and income tax consumptions for bequests from deceased estates which extend further than is proposed for Australia.

United Kingdom

Despite the absence of a constitution conferring rights upon its citizens, as a common law country with a long history of legal precedents, the United Kingdom enjoys established inherent principles of freedom of association, to the benefit of the nonprofit sector. Charitable organizations, the definitions of which have developed in case law, enjoy privileges in taxation and other areas. The "entity" residing in the principle of incorporation led to rights and entitlements which are not enjoyed by unincorporated associations.

Registration requirements apply in the United Kingdom although these are not consistent across England, Scotland, Northern Ireland and Wales. In England and Wales, Specific charities which are not excluded as "excepted" or "exempt" are required to be registered under the Charities Act 1993.

The tax treatment of income varies between charitable organization and other nonprofits. Thomas (1997) outlines particular types of income of charities which are exempt from income tax. These include rents, interest, dividends and certain revenue from trade, but are subject to specific limitations, mainly with reference to the use of such income for charitable purposes. Generally, but subject to similar restrictions, charities are exempt from capital gains tax and inheritance tax.

A value-added tax is applied to supplies of goods and services which are not “zero-rated” or “exempt”. Many of the supplies made by charities are exempt, leaving input taxes payable by charities in relations to these supplies, unable to be claimed for refund.

Other taxes, rates and charges are subject to partial exemption for charities.

Non-charitable nonprofit organizations are not afforded exemptions from income tax to the same extent as charities. Entitlement to tax exemption largely follows the principle of mutuality. Some other limited exemptions apply to specific types of organizations including industrial, provident and housing associations and friendly societies.

While no general system of tax relief exists in relation to charitable donations in the United Kingdom, a number of particular arrangements apply.

A deed of covenant refers to an arrangement whereby donors undertake to pay amounts to a charitable organization over a fixed period of time. Provided this period exceeds three years, the amounts paid would be net of tax with the mount deducted being claimable from the government directly by the charity. This system appears relatively complex, however it provides for a degree of monitoring over donations in comparison with the reliance upon self-assessment which is seen in Australia.

Single donations of 250 pounds or more in any one year (in net terms as outlined above) also attracts taxation relief. A number of small gifts made during a year, totalling at least 250 pounds may also receive taxation support provided they are made to an agency charity.

Donations made through payroll deduction schemes, limited to 1200 pounds in a year enjoy deductibility where payments are made through an agency charity for subsequent transfer to the designated charities.

Salaries paid to staff of organizations are deductible where such staff are temporarily seconded to work in charitable organizations.

It is noted from the above that:

1. The common law has developed an environment for tax relief of nonprofits and for donors to them, with charities, as determined by case law enjoying significant benefits.
2. A system of registration provides for a high level of information on charitable organizations and a monitoring of contributions.
3. The direction of tax benefits accruing from donations and deeds of covenants rely upon a centralised system which is highly controlled by the government.
4. With the exception of payroll deduction schemes, tax relief is not available to small donations.
5. Agency charities are utilised as a tool to monitor and control tax preferred gifts.

Further international analysis and comparison

In addition to the countries studied above, reference is made to the nonprofit sectors of other countries in the analysis below (refer endnote). This analysis includes some basic facts concerning each country's nonprofit sector as well as an outline of the taxation environments.

	Australia	United States	Canada
Size of the sector (by employment)	9%	6.8%	9%
Composition of the sector (most prominent – excl. religion)	Welfare, Schools, Clubs, Hospitals / Nursing Homes	Health, Education, Social Services	Hospitals, Teaching Institutions, Welfare
Proportion of income from private giving	15%	19%	14%
Basis of law	Common Law	Common Law with constitution	Common Law with civil code (Quebec)
Taxation of nonprofits	Broad with some limitations	Broad but excludes business income	Broad with some limitations
Tax relief for giving - limits	Deductions with unlimited maximum, minimum \$2 for donations, bequests excluded	Deductions with 30-50% maximum – individuals, 10% for corporations, standard deduction limits effectiveness of small donations	Rebate system for individuals – max. 77%, - min. \$200, Deductions for corporates to 75%
Tax relief for giving - donees	Narrow definitions and specific listing	Broader range of nonprofits	All registered charities

	United Kingdom	Hungary	Italy
Size of the sector (by employment)	4%	0.8%	1.8%
Composition of the sector (most prominent – excl. religion)	Education, Culture and Arts, Social Services	Culture and Arts, Social Services	Social Services, Business, Education
Proportion of income from private giving	12%	20%	4%
Basis of law	Common Law	Civil Law	Civil Law
Taxation of nonprofits	Only certain income types exempt	Previously liberal, now restricted to public purposes	All non-business income exempt, reduced rates for certain causes incl. Charity and welfare
Tax relief for giving - limits	Very restrictive as to types of giving, complex system of max. and min. gifts	Some foundations, individuals to 30%, corporations to 20%	Limited to 2% of net income
Tax relief for giving - donees	Registered charities and agency charities	Specific on a case by case basis	Research, culture and arts, development, universities, Catholic and come other churches

	Japan	Germany	France
Size of the sector (by employment)	2.5%	3.7%	4.2%
Composition of the sector (most prominent – excl. religion)	Education, Health	Health, Social Services	Social Services, Education, Culture and Arts
Proportion of income from private giving	1%	4%	7%
Basis of law	Civil Law	Civil Law	Civil Law
Taxation of nonprofits	Certain types of public interest exempt business income, lower rates for business income	Exempt for charitable and public purposes, benevolence and church	Exempt from income tax limited to public benefit. CGT applies
Tax relief for giving - limits	Max. 20% of net income less Y10,000	Individuals and corporations to 5% or 10% of net income. Corporations may elect higher level related to turnover and payroll levels	40% credit for donations to 1.25% or 2.5% of net income, 50% credit for emergency housing
Tax relief for giving - donees	Public interest as approved	Benevolence, public purpose, church, scientific	Specific and limited, incl. Charities and specific churches

Two quotes drawn from Silk's book (1999) provide an insight into the desperate need for community work and therefore the role which private giving could play in many Asian countries.

Aquino (1999) writes, "The nonprofit sector is of critical importance in countries like the Philippines for it provides urgently needed basic services to the poor to compliment government programs."

The above confirms the needs of many Asian countries and indicates the analyses of their legal and taxation systems, while being of interest, does not provide meaningful opportunities for application to the Australian context. Vast differences to Australia are seen in the stages of economic and social development, culture, history, and political and legal systems.

Ridings (1999) refers to the importance of support by developed nations to overseas aid in stating, "From 1990 to 1994, international giving by U.S. foundations to Asia rose 35 percent to almost \$48 million." This says more about the success of the United States giving than of the local legal and taxation systems that encourage giving in Asian nations.

The brief discussions that follow serve to emphasise the extent of need for change on some Asian countries in relation to support for community needs.

The People's Republic of China

As a socialist country which follows the civil rule of law, the People's Republic of China (PRC) embraces a highly structured and politicised means of bestowing support mechanisms upon nonprofit organizations. The following reference by Xin Chunying Zhang Ye (1999) to the Regulations on the Registration and Management of Social Organisations confirms this. "Social organizations must obey the Chinese Constitution, laws and regulations; should uphold national reunification and national unity; and should not conduct any activities that are detrimental to the

national, social and collective interested or in violation of other citizens' legal freedom and rights." This is in stark contrast to the common law which operates in Australia, which serves to support the individual's right to associate for a broad range of purposes without obtaining the consent of governments.

In the PRC, exemption from taxes is not specifically provided to nonprofits, but rather implied by their absence from specific taxable categories. Tax deductions for corporate giving to specified nonprofit organizations are provided in a discretionary fashion, only being formalised in 1997 with the provision for tax relief on donations of up to 3% of corporate profits. The degree of government intervention in the affairs of nonprofits, minimal encouragement through the tax system for giving, and poor levels of economic development place the RPC a long way from possessing an adequate or acceptable system of support for philanthropy

Indonesia

Like the PRC, Indonesia exists within an environment of civil law, although affected by case law drawn from its variety of colonial influences. Satya Arinanto (1999) explains that opportunities for development were not provided by colonial intervention in the lives of the native population as the governments of Portugal, Britain, France, Japan and Holland respectively sought to control Indonesia for their own ends. Suppression of community work resulted from such intervention.

From 1983, taxation support for the nonprofit sector was provided in a minimal way; limited to tax exemption for foundations whose activities are religion, education, health or culture. In 1994 this was further restricted to certain types of foundation income, including contributions, aid, grants, inheritance and government subsidies. Contributors do not enjoy any form of taxation relief for gifts.

Conclusions and opportunities for Australia

Factors impacting upon the extent of private support which is enjoyed by nonprofit organizations are many, varied and intertwined in complex ways. Differences between countries depend upon a range of social, cultural, environmental and economic circumstances including:

1. The type and extent of community needs with regard to the level and stage of a country's development.
2. The ability of a country, through its level of economic prosperity to fund social welfare by way of private and public support.
3. The historical, legal, political and natural environments.
4. Established and inherent values and attitudes of individual citizens, ethnic groups and populations regarding giving.
5. Attitudes towards, and expectations from governments regarding the levying of taxation and provision of public services.
6. Levels of education and exposure to diverse points of view.
7. Religious attitudes and affiliations.
8. The extent of accountability and transparency of the nonprofit sector.

Taxation plays a role amongst the above factors, and review of the discussion of price and income elasticity of giving undertaken by Rose-Ackerman would suggest that opportunity exists for taxation policies in Australia to provide further incentive for private giving. To suggest that the implementation of tax measures drawn from international experiences would result in a measurable outcome in terms of donor support in Australia is questionable, and in any event too technical an issue for this paper. Rather, ideas and opportunities may be drawn from the best of the taxation systems of other countries for consideration in an Australian context.

Unlike Canada and the United Kingdom, Australia does not have an effective system of registration and compliance assurance with respect to eligibility for either tax exemption or tax concessions for giving. While the self assessment environment does provide a degree of simplicity and freedom from the complexities of compliance for organization, it does little to assure donors that accepted principles of eligibility are followed. While NSW charities regulation (1991) may pursue this objective, it is poorly resourced and largely ineffective. A national system of registration and regulation would, in addition to improving the sector's accountability and credibility, provide better sources for research and analysis of the sector. The present shortcomings in this regard may well serve to reduce some donor's inclinations towards giving. The draft "ROGATE" Legislation (1999), involving officers of the Australian Taxation Office (ATO) has seen a distortion of Parliamentary intent in the drafting of legislation and the development of ATO rulings by officers whose primary purpose is the protection of government revenue rather than positive support for nonprofit endeavour. The validity and independence of the sector are seriously threatened by the philosophical views of some "tax collectors" (as discussed earlier in referring to the work of Salamon (1997)), the tax concessions for giving represent government revenue foregone as distinct from an inherent right in society. This cultural "mis-match" would suggest that the role of registration and regulation of charities may be better undertaken by a department of agency which is specifically established for this purpose.

Somewhat related to the above is the absence of a system for the proper consideration of the merits of tax concessional treatment for certain causes in the development of statute. The inheritance of Britain's common law system and body of case law was discussed previously with reference to McGregor-Lowndes as being sometimes inappropriately applied in the Australian context, with statutory attention being applied in an "ad hoc" and politically driven way, and this had led to some degree of inconsistency. Australia could learn from the experiences of the United States and Canada in broadening the application of concessions. Regard should be paid to the types of causes requiring taxation support in the context of our community's needs.

The use of a system of tax deductions in Australia, in common with the United States and the United Kingdom, distorts the benefits of giving to the advantage of wealthy individuals. The Canadian system raises the level of incentive (to equal the top marginal tax rate) and this corrects this distortion. The adoption of such an approach would provide greater incentive to giving for low and middle income earners, particularly in light of the impending reduction in marginal tax rates for such individuals and the loss of tax benefit (and therefore the potential reduction in preparedness to give) which the partial shift to indirect taxation (the GST) may cause.

The absence of a ceiling on deductible giving provides a comparative advantage under the Australia taxation system. Ceilings applied in the United States and Canada would seem to follow the view that the state's sponsorship of an individual's right to support chosen causes should be limited, consistent with the abovementioned principle of tax foregone. Australia would be well served by continuing with the present position. The minimum deductible gift provision (\$2) is outdated and irrelevant. The Industry Commission Report (1995) recommended the removal of this minimum, but consideration should perhaps be given to raising the amount to a realistic level as is seen in the United Kingdom and Canada, with a view to encouraging donations of higher levels.

Australia suffers from poor levels of transparency in the nonprofit sector as a result of financial reporting standards which often follow the requirements of the type of legal entity rather than nonprofit and public accountability considerations. Borrowed from corporate standards,

requirements do little to address the specific issues of nonprofit stewardship, with the exception of state fundraising guidelines which are referred to above as being largely unenforceable and ineffective. Standards need to be developed in order to better support the effectiveness of giving towards organisations' stated objectives and to enhance levels of public confidence in this area. Responsibility for the regulation should rest with a government body established for this purpose, supported by input from the sector and the accounting profession.

The proposal to remove the impositions of capital gains tax in relation to bequests made to charitable organizations is well overdue and is to be commended. Australia could go further by adopting a system of tax deductibility (or rebate) against the final and immediately preceding year of income of the deceased person, as is the case in Canada. While the experience in Australia is such that charities do not benefit substantially from the residual bequests of persons with surviving spouses or children, there appears to be opportunity for the encouragement of specific legacies from a larger number of testators.

In addition to the tax treatment of donations, these discussions have included consideration of tax concessions provided to organizations through exemptions from income and other taxes. Primarily, such concessions are important in supporting nonprofits, as outlined earlier in the paper. One has to consider also whether secondary benefits, akin to the motivations for supporting nonprofit styled operations as explained by Rose-Ackerman, exists in the knowledge by donors that the effectiveness of the organization is not reduced but the imposition of taxation. The recent discussions surrounding the imposition of a Goods and Services Tax in Australia have included concerns that the taxable treatment of many areas of fundraising revenue will discourage support, and this must be seen as worrying in this context.

The demands upon the sector are ever increasing. Factors such as the ageing of the population, growth in unemployment, changes in family structures, enhanced awareness of a greater number of needs (including women's, indigenous and environmental issues) and changes in wealth distribution demand that society needs to fund such needs from new sources. Government support for nonprofits is declining as political attention is paid to middle-class welfare issues such as education, health and law enforcement. Globalisation has caused governments as well as businesses to need to compete at an international level as the focus of the recent Ralph report (1999) has emphasised.

Private giving needs to play a more important role, as the viability of many nonprofits, particularly smaller ones, is threatened by the above pressures. The readings have uncovered a range of potential motivations for charitable donations, all of which need to be pursued and managed in order for Australia to obtain the successes which are seen in the United States and Canada. While improved levels of taxation support as suggested in these conclusions will not be the only ingredient to such success, opportunities for taxation policies to play a vital role exist.

The pressures being placed upon nonprofit community service organizations by the current tax reform measures have given rise to substantial levels of consultation and political debate in relation to tax issues for nonprofit. There is a need to utilise these processes in a continuing way in order to pursue outcomes to the benefit of the nonprofit sector.

References

Aquino, C. (1999) Philanthropy and Law in Asia, Foreward, Jossey-Bass, San Francisco

Bromley, (1997) The International Guide to Nonprofit Law, Ch 6, Wiley, New York

Brophy, M., (1994), International Giving and Volunteering, The International Comparative Survey of Who Gives ... And Why, Charities Aid Foundation, London

Charitable Fundraising Act (1991) – Office of Charities, NSW Department of Gaming and Racing

Charities Consultative Committee – Australian Taxation Office (1991)

Clotfelder, C.T., (1985), Extracted from Rose-Ackerman (1996), p715

Hopkins, B., (1997a) The International Guide to Nonprofit Law, Ch 25, p 349, Wiley

Industry Commission Report (1995), Commission Report No. 45, 16 June 1995, Charitable Organisations in Australia, Australian Government Publishing Service, Melbourne.

Lankford, R.H., & Wyckoff, J.H., (1991), Extracted from Rose-Ackerman (1996), p715

Lyons, M., (1993), Private Donations and Australia's Welfare State, CACOM Working Paper No. 15, Table 23, p 21, CACOM, Sydney

Lyons, M., (1993a), Private Donations and Australia's Welfare State, CACOM Working Paper No. 15, Table 22, p 19, CACOM, Sydney

Lyons, M., (1993b), Private Donations and Australia's Welfare State, CACOM Working Paper No. 15, p 22, CACOM, Sydney

Lyons, M., (1993a), Private Donations and Australia's Welfare State, CACOM Working Paper No. 15, p 21, CACOM, Sydney

Lyons, M., (1994), Australia's Nonprofit Sector, CACOM Working Paper No. 13, p 10, CACOM, Sydney

Lyons, M., (1997), The International Guide to Nonprofit Law, Ch 4, Wiley, New York

McGregor-Lowndes, M., (1999), Philanthropy and Law in Asia, Ch 2, Jossey-Bass, San Francisco

Ralph, J., Allert, R., & Joss, B., (1999), Report to the Federal Treasurer on the review of business taxation – July 1999

Randolph, W.C., (1995), Extracted from Rose-Ackerman (1996), p715

Ridings, D.S., (1999), Philanthropy and Law in Asia, Foreward, Jossey-Bass, San Francisco

ROGATE (1999), Register of Gift Deductible an Tax Exempt Organisations – reference to draft legislation requiring endorsement.

Rose-Ackerman, S., (1996), Altruism, Nonprofits and Economic Theory, Journal of Economic Literature Vol XXXIV (June 1996), pp 701-728

Salamon, L.M., (1997), The International Guide to Nonprofit Law, Wiley, New York

Salamon, L., & Anheir, H.K., (1994), Extracted from Roser-Ackerman (1996), Fig 1 - p705, Fig 2 - p706, Fig 3 – p707

Satya Arinanto, (1999) Philanthropy and Law in Asia, Ch 4, Jossey-Bass, San Francisco

Silk, T., Ed. (1999) Philanthropy and Law in Asia, Jossey-Bass, San Francisco

Simon, H.A., (1992), Extract from Rose-Ackerman (1996), p714

Steinberg, R., (1990), Extract from Rose-Ackerman (1996), p715

Sugden, R., (1984), Extract from Rose-Ackerman (1996), p715

Thomas, (1997) The International Guide to Nonprofit Law, Ch 24, Wiley, New York

Xin Chunying Zhang Ye, (1999) Philanthropy and Law in Asia, Ch 3, Jossey-Bass, San Francisco

Endnote

Information for the tabular comparative analysis is drawn from Salamon (1997), Rose-Ackerman (1996) and Lyons (1994), included in the above references, and the website of the Canadian Centre for Philanthropy.