

13 August 2025

The Hon. John Graham, MLC
NSW Minister for the Arts

Dear Minister

Diversity Arts Australia Submission: Cultural Tax Reform

(submitted via [NSW Government website](#))

Diversity Arts Australia welcomes the opportunity to contribute to the NSW Government's Inquiry into Cultural Tax Reform and commend the NSW Government for initiating this important and timely discussion.

Diversity Arts Australia (DARTS) is the peak national organisation promoting racial and cultural equity across the arts, screen, and cultural sectors, in an ethnocultural and migrant context. Headquartered in Parramatta, with significant programming in Western Sydney and across NSW, we work to build a creative sector that reflects the cultural diversity of NSW and Australia. We believe that creative expression is a fundamental human right that strengthens and connects communities and we deliver our work guided by this principle.

Australia's tax system must recognise the unique working conditions and contributions of its creative workforce and broader creative ecosystem. This submission outlines a series of proposed reforms, grounded in principles of fairness and equity, and an understanding of the realities of creative work.

Our recommendations are informed by our engagement with thousands of Culturally and Racially Marginalised (CaRM) creatives¹ and communities through our programs, talks, events, research and advocacy. Additionally, this submission reflects insights gained through collaboration with a range of grassroots and advocacy organisations.

We would welcome the opportunity to join leaders across government and the creative sector, policy-makers, and tax experts at *The Art of Tax Reform Summit* in September to discuss these recommendations further.

Kind regards

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¹ Please see the next page for more information about DARTS' language choice.

About Diversity Arts Australia

Diversity Arts Australia (DARTS) is the national voice for ethno-cultural and migrant racial equity in the arts, screen, and cultural sectors. Our vision is clear: A creative sector empowered by Australia's cultural, linguistic and racial diversity. Guided by principles of self-determination, autonomy and social justice, Diversity Arts combines service provision — resources, events, research, training, advocacy — with creative production. We act as a broker between artists, industry, educators and government, and commission content from culturally and racially marginalised (CaRM) creative workers that articulates key issues and showcases leading practice. While our focus is on underrepresented cultural and linguistic diversity (CaLD), we work intersectionally and in partnership with other communities to deliver programs, in particular with First Nations, women, gender diverse communities, and people with disability.

A Note on Terms

Creative workers and **Creatives** refer to practitioners working in the arts, screen, cultural and creative industries.

Culturally and Racially Marginalised (CaRM) is used as an umbrella term to refer to individuals who identify with any of the following groups: Culturally and Racially Marginalised, underrepresented Culturally and Linguistically Diverse (CaLD), People of Colour (PoC), people with migrant, refugee, asylum-seeker, or humanitarian-entrant backgrounds or experiences, and members of the Global Majority.

First Nations When First Nations is used in this submission, it is specifically referring to Aboriginal and/or Torres Strait Islander peoples.

We acknowledge the limitations of these terms and respect individuals' right to self-identification.

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Context

Australia's creative workforce is an essential contributor to our national cultural, social and economic fabric. However, the current tax system fails to recognise the distinctive working conditions of creative workers, especially those engaged in freelance and project-based work. Research shows that most artists and cultural workers in Australia have low and irregular income, and are reliant on short-term projects, commissions and grants, instead of steady, continuous employment.² This results in income instability, limited access to tax concessions, and challenges in claiming legitimate deductions — barriers further compounded for CaRM creative workers by structural racism, limited access to mainstream funding, and fewer pathways into employment.³ Similarly, small-to-medium arts and cultural organisations are the bedrock of Australia's cultural ecosystem. They produce more work and attract more audiences than larger organisations⁴. Furthermore, these organisations are led by or support the work of First Nations, CaRM and other underrepresented creatives. Yet, these not-for-profit organisations face significant challenges including limited core funding, financial instability, high level compliance, and issues with workforce retention.

Our recommendations take into account these disproportionate impacts on marginalised communities — particularly First Nations and CaRM creatives — whose experiences during recent crises, such as the COVID-19 pandemic, illustrate and intensify long-standing inequities in the sector. Our 2022 report, *Lost Work 2.0*, found that 79% of CaRM creatives — and 85% of First Nations creatives — lost income as a result of the pandemic, many losing more than half of their earnings. Women faced the greatest financial insecurity during this period.⁵ This illustrates how our tax system disadvantage First Nations, CaRM and women compared to other groups in the sector, as these creative workers are more likely to earn less⁶ or be more impacted by events such as the pandemic. These findings highlight the need to apply an intersectional lens to tax reform.

As a NSW-based organisation with significant programming in Western Sydney — one of the most culturally diverse yet economically disadvantaged regions in the country — Diversity Arts Australia witnesses first-hand how structural inequities in the tax system disproportionately affect local marginalised creatives. These challenges are intensified in communities where cultural participation is high but access to stable, fairly remunerated

² For example, see: Eltham, B., Gu, X., & Badham, M. (2025). 'Artists as workers'? Re-imagining cultural policy for insecure and precarious artists and cultural workers. *Journal of Sociology*,

<https://doi.org/10.1177/14407833251345856> and Throsby, D., & Petetskaya, K. (2024). *Artists as Workers: An Economic Study of Professional Artists in Australia* (p. 268). Creative Australia, Macquarie University.

³ While people from non-English speaking backgrounds make up 23% of the general workforce, they account for only 13% of the arts workforce (Source: Throsby & Petetskaya, 2024) — indicating a lack of employment and career development pathways.

⁴ Eltham, B., & Verhoeven, D. (2020). A 'natural experiment' in Australian cultural policy: Australian Government funding cuts disproportionately affect companies that produce more new work and have larger audiences. *International Journal of Cultural Policy*, 26(1), 81–94. <https://doi.org/10.1080/10286632.2018.1436167>

⁵ Diversity Arts Australia (2022), *Lost Work 2.0 Report: The impacts of the pandemic on creatives of colour and First Nations creatives*, Sydney, Australia.

⁶ According to the report by Throsby, D., & Petetskaya, K. (2024) women now outnumber men roughly two to one across most artistic occupations, and earn 24% less on average than their male counterparts. (p.9)

creative work is limited, as recognised by the NSW Government in its *Plan for Western Sydney Arts, Culture and Creative Industries 2025-2028*⁷ and confirmed by research such as *State of the Arts 2023*⁸ which highlights long-standing underinvestment in Western Sydney's creative industries despite their significant cultural and economic contribution. Equitable tax reform has significant potential to complement these priorities by addressing income instability and barriers to participation for culturally and racially marginalised artists and creative workers in Western Sydney.

Our recommendations align with UNESCO's recognition of inclusive cultural participation as a human right and its call to improve the social and economic rights of artists. They also echo other sector analyses, which highlight the urgent need for structural reform to address precarious work and systemic exclusion in the creative sectors.⁹ Without targeted, equity-driven tax reform, the sector risks deepening inequality, losing talent, and diminishing the diversity that strengthens Australia's cultural landscape. Tax reform must therefore address both economic and structural inequities to support a diverse, inclusive and fair cultural sector.

Summary of Key Recommendations

Opportunities for Tax Reform Relevant to Organisations:

1. Extend Public Benevolent Institution (PBI) status to eligible cultural organisations.
2. Strengthen tax incentives for private donations and sponsorships.
3. Develop a tax rebate scheme modelled on the Producer Offset to support investment in diverse areas of the creative economy and foster local talent from underrepresented communities.

Opportunities for Tax Reform Relevant to Creative Workers:

4. Exempt creative workers from Non-Commercial Loss (NCL) provisions if they meet the "in business" test under TR 2005/1 regardless of income thresholds.
5. Expand and simplify access to income averaging for creative workers.
6. Exclude government grants, fellowships, and art prizes from taxable income.

⁷ *Plan for Western Sydney Arts, Culture and Creative Industries 2025–2028* (2025). The Plan highlights the need for structural support to strengthen the region's diverse creative workforce and ensure long-term economic sustainability.

⁸ Itaoui, R., Merrillees, D. Gerace., G. (2023), *State of the Arts in Western Sydney*, Parramatta, Centre for Western Sydney. <https://doi.org/10.26183/tvye-5r23>

⁹ For example, Pennington and Eltham (2021), *Creativity in Crisis: Rebooting Australia's Arts and Entertainment Sector After COVID-19*; and, Diversity Arts Australia (2022), *Lost Work 2.0 Report*.

Alignment with Principles for Good Tax Policy

These recommendations are grounded in the principles of good tax policy and targeted government support outlined in the Inquiry. They promote **fairness** by addressing both horizontal inequities (ensuring creative workers and organisations in similar circumstances are treated equally) and vertical inequities (reducing the disproportionate tax burden on those with low and irregular incomes). The *Lost Work 2.0* findings discussed in the previous section findings illustrate this need clearly.

They improve **neutrality and economic efficiency** by removing distortions caused by tax rules that do not reflect the realities of creative work, ensuring that creative workers' economic decisions — such as whether to take on certain projects, invest in skills, or maintain their practice — are not unduly influenced by tax disincentives. Proposals to simplify income averaging and provide **plain-language** ATO guidance support **simplicity**, reducing compliance costs for both taxpayers and government.

While maintaining **integrity**, these reforms are designed to minimise unintended use and focus support where it is most needed, with safeguards such as clear eligibility criteria, reporting requirements, and periodic review. In line with the principles for targeted interventions, they serve a clear **public purpose** by addressing market failures and advancing cultural policy goals that strengthen Australia's creative industries.

In NSW, and particularly in Western Sydney, these reforms would deliver tangible benefits by improving financial stability for artists and organisations in regions where economic disadvantage intersects with high cultural and linguistic diversity. They are **effective**, backed by robust evidence, showing their capacity to address entrenched inequities; **cost-efficient**, targeting high-impact reforms with long-term benefits; and **sustainable**, enabling a more resilient and diverse creative economy that can attract private investment and generate social and cultural value. To manage risks, they should be implemented alongside clear evaluation frameworks and regular reviews.

Proposed Tax Reform Interventions

1. Extend Public Benevolent Institution (PBI) status to eligible cultural organisations

While PBI status is determined under federal legislation, the NSW Government can play a vital role in advocating to the Australian Government for reforms that extend eligibility to cultural organisations whose work addresses social and cultural disadvantage. Currently, PBI status is typically limited to organisations providing direct benevolent relief, such as housing, health, and social care. This excludes cultural organisations that deliver indirect but equally critical services to advance social justice and reduce disadvantage — including small and medium-sized charitable not-for-profit arts organisations.

We recommend that the NSW Government support efforts to broaden PBI eligibility criteria to include such organisations, recognising their role in addressing structural inequities through creative, intersectional, and culturally safe approaches. Gaining PBI status would improve their financial sustainability, enhance their competitiveness as employers, and increase their ability to attract and retain skilled staff through fringe benefits concessions.

2. Strengthen tax incentives for private donations and sponsorships

The current tax incentives around cultural giving unintentionally favour large cultural institutions which are more likely to hold DGR status, are highly visible, and have an administrative infrastructure that sustains their fundraising capacity. This leaves many small to medium organisations under-supported despite their community impact. Tax incentives for private giving and sponsorship should be redesigned to better support the sustainability of small to medium arts and cultural organisations.

3. Develop a tax rebate scheme modelled on the Producer Offset to support investment in diverse areas of the creative economy and foster local talent from underrepresented communities.

The Screen Producer Offset has proven to be an effective mechanism for supporting investment in Australian screen content. A similar model could be developed for other areas of the creative economy — including community cultural development projects, festivals, live music, and the performing and visual arts. A key focus of this scheme could be the development of local talent, particularly through tax rebates for projects and productions that engage underrepresented and financially marginalised creatives and communities.

4. Exempt creative workers from Non-Commercial Loss (NCL) provisions if they meet the “in business” test under TR 2005/1 regardless of income thresholds.

Creative workers often invest significant time and money into developing their work, yet their income may vary greatly year to year. The ATO, through the Tax Ruling 2005/1, already has clear criteria for determining whether a creative worker is in business. If these professional standards are met, creative workers should be able to claim deductions for legitimate expenses regardless of their yearly income. This tax change would acknowledge the realities of creative practice shaped by intermittent work and irregular income, including long creative development periods and low financial returns.

5. Expand and simplify access to income averaging for creative workers.

Many creative workers earn income on an irregular basis, and some years they might receive a one-off major grant, fellowship, or prize. This means that, at times, they can be pushed into a higher tax bracket which does not reflect their regular yearly income. Currently, income averaging can be accessed, if eligible, by creative workers. However, accessing this benefit could be confusing. The Australian Tax Office (ATO) should provide clearer guidance and plain-language resources for creative workers to use income averaging without navigating complex rules and specialist terminology.

6. Exclude government grants, fellowships, and art prizes from taxable income.

This type of income often represents compensation for work that has already happened, such as research, grant and project writing, community engagement, networking and relationship building. These payments are also meant to fund future work, including creative projects delivered across several years. Taxing these funds decreases the resources available for creating and presenting work, and unfairly assumes that this funding is stable rather than irregular income. We recommend excluding these payments from taxable income to align the tax system with the realities of creative practice.