

SUBMISSION TO THE BOARD OF TAXATION

CONSULTATION ON THE DEFINITION OF A CHARITY

1. Organisation Name: Berry Street Victoria

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2. The dominant purpose of Berry Street Victoria is to provide support and care to Victoria's most vulnerable and disadvantaged children, young people and families.
3. Berry Street Victoria's principal reason for making a submission on the workability of the Charities Bill 2003 is:
 - The Treasurer has stated that the Charities Bill 2003 does not intend to change the status quo of existing charitable organisations. However, in endeavouring to codify the status quo of existing common law definitions as they relate to charities, the Bill has introduced unforeseen consequences relating to the advocacy and governmental relationship roles of many charities. In particular, the disqualifying provisions of Section 8 (2) (c) of the Bill could result in charitable organisations that principally provide advocacy related services losing their existing charitable status. If this section is not modified or removed, there will be a number of consequences:
 - Charitable organisations will be required to devote more time to managing their own direct involvement in advocacy related work in order to improve or maintain their clients' welfare. This will lead to an increase their own administration costs and will detract from their core business activities.
 - Organisations that currently comply with Section 6 of the Bill regarding "dominant purpose" may run the risk of no longer complying as their advocacy activities become more prevalent.
 - There will be some contradiction in that many peak bodies and advocacy groups are partly or wholly funded by

Government to facilitate and advocate change in practice and policy.

4. Berry Street Victoria is currently endorsed with the Australian Taxation Office as an Income Tax Exempt Charity.

Berry Street Victoria would still be entitled to endorsement on the basis of the Charities Bill 2003.

5. Not applicable.
6. The Charities Bill 2003 would not impose any additional administration burden on Berry Street Victoria.
7. In Berry Street Victoria's assessment, the Charities Bill 2003 does not provide the flexibility to ensure the definition can adapt to the changing needs of society for the following reasons:
 - Although the spirit of the Bill is laudable, its restrictive definitions make it too prescriptive. Consequently, it will not achieve its objectives, as many current and future charitable organisations will be excluded.
 - The greatest flexibility would be provided by the "purpose" or "objective" of the organisation being the factor determining whether it be classified as a charity.
 - In its current format the Bill is unclear and uncertain in terms of definition as certain advocacy groups are excluded.
 - The Bill needs to be all embracing e.g. Public Benevolent Institutions (PBIs) are not defined. If organisations lose PBI status, they will not have access to philanthropic donations. This will result in a significant loss of capacity and / or increased reliance on Government funding.

8. Berry Street Victoria would not be affected if the public benefit test were further strengthened by requiring the dominant purpose of a charitable entity to also be *altruistic*.

However, Berry Street Victoria does not believe that this requirement would strengthen or add value to the public benefit test as charitable entities are formed ipso facto to perform services that will benefit the public, either directly or indirectly.