

Consultation on the Definition of Charity
The Board of Taxation
C/- The Treasury
Langton Crescent
PARKES ACT 2600

1. Name of Organisation and Contact details

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2. Dominant (main) purpose of your charitable organisation

The collection, maintenance and publishing of information in relation to the services available to meet the health and community services needs of South Australians and assistance to not-for-profit organisations in information management practices and skills.

NB Our organisation is income tax exempt but we do not have DGR or PBI status.

3. Do you have any concerns or issues that wish to raise about the workability of the legislative definition of a charity proposed in the exposure draft Charities Bill 2003?

- The definition of a disqualifying purpose is not only contrary to long established principles of freedom of speech within Australia but misunderstands the historical role of charities and other not-for-profits in legitimately seeking to address issues of inequity in society.
- Defining a *disqualifying purpose* will be unworkable in that establishing at what point attempting to change the law or government policy, for example, has crossed the line into being a dominant purpose will be impossible. What criteria would be used to measure that and, even if such a measure were available, what expertise would ATO officers have in making such fine, and potentially politically-charged, distinctions?
- Having once been disqualified, there appears to be no mechanism for an independent mechanism of appeal against such a decision (eg Administrative Appeals Tribunal) or for regaining charitable status at some future point.
- Having gone to the trouble of defining a charity, there appears to have been no attempt to link that definition with taxation status. In our view, if an organisation's work is deemed to be charitable it should automatically qualify for

Deductible Gift Recipient status, which would greatly enhance the ability of many not-for-profits to fund-raise by providing strong incentives for business to be more involved in philanthropic activity, as is current Government policy.

4. Would the Bill impose any additional administrative burden on your charitable organisation?

Only if we were ultimately granted DGR status, in which case we would have to establish a trust fund, separate accounting mechanisms etc, which we would be willing to do.

5. Does the Bill provide the flexibility to ensure the definition can adapt to the changing needs of society?

In our view, no, because although the draft Bill has broadened the notion of what constitutes a charitable organisation in some areas, it is still inclined to favour direct one-on-one service delivery as the core model for charity, with some amendments at the fringes. We believe, in general, that if an organisation is not-for-profit and its purpose is to improve the human condition of a definable group of people then it is a charity. We also believe that any hair-splitting on that issue should be overseen by an independent Charities Commission, not the Taxation Office.

6. If the public benefit test were further strengthened by requiring the dominant purpose to be *altruistic*, would this affect your organisation? If so, how?

It may assist those organisations like ourselves who provide a less tangible service than others but only if it opened the door to DGR status.