



FUNDRAISING
Institute – Australia Ltd

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14 May 2004

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

Dear Sir,

Consultation on the Definition of a Charity

Please find attached a submission from the Fundraising Institute-Australia Ltd to the Board of Taxation on the Definition of a Charity.

The Institute would be happy to elaborate on this submission, before the members of the Board of Taxation, should that be useful.

Thank you for the opportunity to comment on this draft legislation

Yours sincerely

Wayne M Clarke PhD CFRE
Chief Executive Officer

Fundraising Institute–Australia Ltd

About The Institute

Fundraising Institute–Australia is a peak member organisation focused on fundraising for Not-for-Profit organisations around Australia. The members come from a broad spectrum of the not-for-profit sector and include fundraisers working in, hospitals, medical research, welfare, schools and universities, religious organisations as well as the arts and sporting organisations.

The Institute has approximately 1200 members who represent more than 750 organisations. The individual members are employed by organisations that raise more than \$5billion annually in Australia.

Vision

A culture of ethical fundraising and philanthropic giving creating better communities.

Mission

“Leading and empowering fundraisers to best serve their organisations and communities through integrity and professionalism.”

Objectives

In order to achieve our mission, we will:

1. Promote and enhance education, training & professional development of fundraisers
2. Provide a resource of fundraising information
3. Advocate fundraising practice to Government, industry and the community
4. Support and promote Certification of fundraisers
5. Develop standards and Codes of Practice
6. Promote and enhance fundraising as a profession
7. Promote and encourage research into fundraising and philanthropic giving

Training

One of the Institute’s primary objectives is the provision of a range of fundraising programs for professional development. A national training program has been developed which offers basic fundraising skills and is offered around Australia. These courses provide information for beginning fundraisers and volunteers as well as higher level skills that may be more appropriate for fundraising management. The Institute has also established an accredited Diploma of Fundraising Management which is offered by distance education. Training is specifically aimed at providing practical skills for the fundraiser to help them raise greater funds for their organisations and to enhance philanthropic giving.

These courses also include awareness and understanding of fundraising legislation that is appropriate to the particular State as well as the requirements of other Commonwealth legislation and taxation legislation relating to fundraising.

Advocacy

The Institute has no political affiliations and its main activities are involved in training professional fundraisers and providing support for members on Commonwealth and State Governments issues, which impact on fundraising.

The Institute has made a number of submissions to various inquiries including the Industry Commission on Charitable Organisations in Australia, the Productivity Commission inquiry into Australia's Gambling Industries, the Senate Committee on the GST and to inquiries related to Privacy and Definitions of Charities.

The Institute is a national organisation with Chapters in each state. Chapter representatives in a number of the States are involved in ministerial consultative committees providing advice to governments on a broad range of matters involving fundraising.

Conferences and Special Interest Groups

Each Year the Institute holds a National Fundraising Conference and Conferences and Special Interest Seminars are conducted in the various States. These have included practical information on such items as Australia Post Bar Coding, Direct Marketing, Cause Related Marketing and Fundraising on the Web. These programs are designed to provide members with an opportunity to learn about new technology and fundraising methods that may assist them to maximise donations and bequests.

Submission to the Taxation Board; Draft Charities Bill 2003

Fundraising Institute-Australia Ltd is unique in that it is a peak organisation representing a major function of many Not for Profit organisations. It represents the broad spectrum of fundraising.

The Institute is particularly concerned with advocating philanthropic fundraising through the professional development of individuals who are employed to raise funds for the sector. It aims to improve the accountability of fundraising in the community, and to develop codes of practice for ethics, financial reporting and privacy which will enhance the public understanding of the fundraising processes which support the many services in the Australian community.

The individual members of the Institute come from the following general areas of the Not-for Profit sector and represent approximately 750 organisations around Australia.

Religious

- Bible & Scripture organisations
- Church & related organisations

Education

- Universities
- Private Schools
- Public Schools

Welfare

Child Abuse
Family Support
Aged Care
Employment Services
Drug and Alcohol Services

Overseas Aid

Children's Services
Adult Services

Aboriginal

Children's Services

Medical Research

Asthma
Arthritis
Diabetes
Heart
Kidney
Brain
Eye
Breast Cancer
Hearing
Glaucoma
Epilepsy
Leukaemia
Haemophilia
Cystic Fibrosis
Melanoma
Leprosy
Schizophrenia

Disability Services

Cerebral Palsy
Intellectual Disability
Blind
Deaf
Sheltered Employment
Quadriplegia

International Support Organisations

Hospitals & Related Organisations

Private Hospitals
Public Hospitals
Life Education
Surgical Research
Ambulance Services

Community & Environment

Environment Groups
Girl Guides
Boy Scouts

State Libraries
Zoos
Women's Development Groups

Animal Welfare & Research

Animal Welfare
Animal Conservation

The Arts

Ballet
Art Galleries
National Trust

Specific Comments on the Draft Legislation

The Institute welcomes the opportunity to comment on this draft legislation and doing so also congratulates the Treasurer's response to the *Report of the Inquiry into the Definition of Charities and Related Organisations*. In particular the Institute welcomes legislation that will provide a workable definition of a charity which is unambiguous and clearly understood by the community.

Members of the Institute have identified the following issues in draft Charities Bill 2003 which may require further clarification.

Charities Bill 2003 Clause 6 Dominant purpose

An entity has a dominant purpose that is charitable if and only if:

- a) it has one or more purposes that are charitable and*
- b) any other purposes that it has are purposes that further or are in aid of, and are ancillary or incidental to, its purposes that are charitable.*

The Institute noted much of the media that followed the release of the Draft legislation and would have some concern if the part (b) of this Clause were to be used for any purpose other than defining the dominant purpose of an organisation.

The Institute is concerned, however, that in the Example 1.1 of Explanatory Notes the fundraising activities of the organisation are referred to as small scale and incidental to the dominant purpose.

The concern for the Institute is the wording 'small scale'. Many organisations may be considered small, particularly self help organisations, and fundraising may be a significant part of their activities during the early phase of the organisation. The Institute recognises that this wording is not incorporated into the legislation, but wishes to point out that for a number of organisations fundraising in aid of the organisation may be a dominant purpose of that organisation.

Charities Bill 2003 Clause 8 Disqualifying purposes

(2) (c) the purpose of attempting to change the law or government policy; if it is, either on its own or when taken together with one or both of the other purposes, more than ancillary or incidental to the other purposes of the entity concerned.

Although the Institute is primarily concerned with fundraising many of the Members have expressed some concern with this clause. A large proportion of charities at one time or another will attempt to get legislation changed or government policy altered in the interests of those who are benefit from the service. In general these representations are incidental to the objectives of the organisation, but such objectives could change over time due to social, economic changes.

Administration

The Members of the Institute have raised some concerns about any further administrative burden that may be required if this Bill is to be adopted. The Charities were required to go through a process of re-registration at the time of the introduction of the GST and they are facing continued intervention of legislation at both Commonwealth and State Government level that is creating significant administrative costs.

Compliance Costs

The Institute would be concerned to ensure that there are no further compliance costs associated with the introduction of the Bill.

Public Benefit Test

The Institute is concerned about the use of the word 'altruistic' and the Board of Taxations view of its meaning – *'a voluntarily assumed obligation towards the wellbeing of others or the community generally'*. 'Others' which generally means the 'human species' could disqualify services to animals and the environment. The Institute's suggestion is to not include the word 'altruistic' in the public benefit test.