

**Submission to The Board of Taxation
Consultation on the Definition of a Charity
With number references to
Guidance on Preparing A Submission of 5 August 2003**

**By K.J. Patterson, O.A.M., B.A., B.Com., Grad.Dip.Admin,
Formerly State Organiser 1963-85 and Mission and Extension Officer 1985-88
Of Churches of Christ in Western Australia Incorporated (CCWA)**

While CCWA is instanced herein, this document is not an official document of that body.

The author alone is responsible for its contents.

K.J. Patterson
75B Millcrest Street,
SCARBOROUGH WA 6019

E-mail churches@cocwa.asn.au

14 May 2004

Submissions in answer to questions numbered 1. to 8. of the Board of Taxation “Guidance on Preparing a Submission” paper page 2.

1. Churches of Christ in Western Australia Incorporated
22 Plantation Street, Menora WA 6050 (Post Office Box 334, Tuart Hill WA 6939)
Telephone : (08) 9471 8500 Fax (08) 9471 8600
2. The advancement of the religion of Jesus the Christ.
The following excerpts of the organisation’s constitution evidence this : “To establish co-operation between the Churches (of Christ) for the propagation of the Gospel of Jesus Christ, and the teaching of all things He has commanded, according to the Scriptures; To further Christian education among adults, youth and children; To promote thought and action on matters of social welfare;...”
3. I was invited to make a submission by your letter of 5 August 2003 - I had been a respondent to the Inquiry into the Definition of Charities and Related Organisations.
I have a continuing interest in legislation which relates to or may relate to the free exercise of religion.
4. (i) Yes (ii) Yes
Primarily the organisation is income tax exempt by reason of section 116 of the Constitution of the Commonwealth of Australia.
5. N/A but see 4 above
6. As I see it, it seems not
However it fails to address some questions in respect to costs arising from the imposition of GST on some particular exercises of religion and administration costs arising from the required compliance with the GST system.
7. This I consider to be a gratuitous question of uncertain meaning as to what “the changing needs of society” may or will be. Who knows the answer to such a question?
“Definition”, ipso facto, is precise, determinate, definite. The future alone will tell whether “the definition” will be flexible enough to meet society’s future needs.
“The definition” of itself does not ensure its own flexibility.
I am pleased to see section 12 (2) as intending to limit rigid prescription especially following several paragraphs relating religion to “the supernatural”.
The word “supernatural” does not appear in the Scriptures of the Old and new Testaments, the scriptures of the religion most commonly held and practised in Australia! But, the use of such a word arises from a legal judicial background not from a theological background! The religion of Jesus of Nazareth is better defined not in ethereal abstractions but in our living out of the loving kindness of Yahweh (our Father) in peace on earth and goodwill among men!

8. Would this imply the addition after the word “benefit” in draft section 4 (b) (ii) of words such as “and is altruistic”?

I am not persuaded by the case put by the “Report of the Charities Definition Inquiry” pp. 124-5 that “the public benefit test for charitable purposes should more explicitly embrace the concept of altruism” (p.124) or as the treasurer put it in his press release no. 59, “should require the dominant purpose of a charitable entity to be altruistic”

The addition to what is in the draft of such a qualitative, difficult-to-measure, further qualifying requirement, “and is altruistic” (however worded), is not in my view helpful, needed or required.

While the background statements of the “Report of the Charities Definition Inquiry” are interesting, the case fails to be sufficiently argued or comprehensive to warrant support.

Further Submission Re Section 8 of the Draft Bill

Section 8 which defines a disqualifying purpose is far from clear and transparent.

“Disqualifying purposes” should not include “advocating a political cause” , “attempting to change the law or government policy”.

The word, “cause”, has a variety of meanings including : position/ point of view/ outcome/ stance/ opinion/ case/ something to achieve, etc.

“political” means : in the arena of public/ community/ civil affairs and interests.

The draft bill goes well beyond the limits of Recommendation 17 of the Report of the Charities Definition Inquiry (p.128). In doing so, it can well be interpreted to be a fetter on the free speech rights of citizens, particularly citizens associated together for charitable purposes, prohibiting them from advocating causes in the arena of public and civil affairs, ie in the political arena, and/or from seeking/attempting to change a law or government policy any of which in a democratic society other persons, institutions, bodies, organisations entities are entitled to prosecute, essay and do.

The qualifying words, “if it is, either on its own or when taken together with one or both of the other of these purposes, more than ancillary or incidental to the other purposes of the entity concerned” invite the question, upon whom would lie the onus of proof that the purpose in question was or was not “a disqualifying purpose” or “was or was not a purpose to use the words of section 6 (not used in section 8) to “further or in aid of” the entity’s “dominant purpose”?

Most religious entities would regard it to be a fundamental exercise of their religion to advocate a cause in the arena of public discourse and to attempt to maintain a law or a government policy considered to be for the well being of the human persons and the community of the nation, and vice versa to oppose a public interest/political cause and attempt to change a law or a government policy considered to be inimical to the national interest or unjust in its treatment of human beings.

I submit that the additions beyond the limits of Recommendation 17 are unwarranted, that clarity and transparency become clouded thereby and that their continued inclusion would constitute a diminishment of our democratic entitlements.

Further, I submit that in respect to the exercise of any religion section 116 of the Commonwealth Constitution clearly states “The Commonwealth shall not make any law... for prohibiting the free exercise of any religion....”