

**University of Melbourne Postgraduate Association
Submission to The Board of Taxation:
Consultation on the Definition of a Charity**

What is the name of your charitable organisation? What are your contact details?

University of Melbourne Postgraduate Association (UMPA)
Graduate Centre
University of Melbourne
PARKVILLE VIC 3010
Phone 8344 8657
Fax 9347 1257
Email president@umpa.unimelb.edu.au

What is the dominant (main) purpose/s of your charitable organisation?

Extract from UMPA's constitution:

PART 3 - STATEMENT OF PURPOSES

Section 4 - Purposes

The purposes of the Association are:

- (1) To advance the interests and welfare of postgraduates;
- (2) To represent postgraduates within the University and the community;
- (3) To provide academic and professional support services to postgraduates;
- (4) To foster a sense of community among postgraduates;
- (5) To promote free and accessible government-funded education; and
- (6) To promote the industrial rights of postgraduate students employed at the University of Melbourne.

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

UMPA is concerned that the statutory definition contained in the Charities Bill will require it to alter its constitution if it wishes to retain its income tax exempt status. Purpose (5) and (6) arguably do not comply with the proposed definition. We understand that these purposes have been in place since 1994.

UMPA is also concerned about the following section:

s. 8 Disqualifying Purpose.

(2) Any of these purposes is a disqualifying purpose:

(a) the purpose of advocating a political party or cause;

(b) the purpose of supporting a candidate for political office;

(c) the purpose of attempting to change the law or government policy;

Advocacy on behalf of our members is a key objective for UMPA, and is consistent with purpose (1), to advance the interests and welfare of postgraduates.

UMPA is alarmed at any notion that our tax exempt status might be in jeopardy should we speak up on our members behalf, particularly in relation to 8(2)(a) (as far as it relates to a political cause – such as the provision of free public education) and (c).

Would the Charities Bill 2003 impose any additional administrative burden on your charitable organisation? How? What additional compliance costs do you anticipate?

UMPA would have to hold an annual general meeting prior to July 2004 to change its constitution. This would involve a special mail out of proposed constitutional changes to our 10,000 members that would cost approximately \$6000.

UMPA would also have to obtain legal advice on any changes which would probably cost somewhere in the vicinity of \$2000.

These expenses are regrettable given that we endeavour to avoid unnecessary expenditure of student money.

In your assessment, does the Charities Bill 2003 provide the flexibility to ensure the definition can adapt to the changing needs of society?

UMPA believes that the common law definition of a charity should be retained. A statutory definition should only be formulated as a supplement to the common law definition so that new charitable purposes, like the provision childcare, can be included.

UMPA Council, rather than the Federal Government, normally instigates changes to UMPA's constitution. Irrespective of the merits or otherwise of the constitutional changes that would have to be made, UMPA resents being forced to make administrative changes in order to maintain its tax exempt status and hence the viability of essential services to its student members.

If the public benefit test were further strengthened by requiring the dominant purpose of a charitable entity to also be altruistic, would this affect your organisation? If so, how?

This may or may not be problematic. Opponents of student organizations might argue that obligations to student members are not ‘voluntarily assumed.’ This could be on the basis that Universities give official recognition to student organizations and collect student union fees on their behalf. That, in reality, it is the Universities that have encouraged student organizations to assume their obligations. If such an argument were accepted then requiring a charitable entity to be ‘altruistic’ would deny student organizations charitable status and the income tax exempt status that accompanies it.

It is also not clear how the word ‘well being’ would be defined. This may be construed as more narrow than the ‘student benefit’ requirements of the Victorian Tertiary Education Act 1993 as far as how student funds are to be spent by student unions. Accordingly, tax exempt status could be denied student organizations if their service offerings stray beyond mere ‘well being.’

Additional comment

UMPA considers the following term of reference for the consultation somewhat obtuse in the context of student organizations:

Term of reference

3. The Board should consult primarily with organisations intended to fall within the new definition of a charity.

The big question is whether Student organizations are intended by the Government to remain within the definition of a charity. UMPA hopes that they are, despite the Government’s Voluntary Student Unionism agenda. If they are not, then the Income Tax Assessment Act 1997 should be amended to create a separate category of tax exempt status for student organizations.

Mr Lachlan Williams
President
University of Melbourne Postgraduate Association