



Tabled  
29/6/10

**NICK XENOPHON**  
Independent Senator for South Australia  
**AUSTRALIAN SENATE**

OUR REF: GRE/N-RW

Mr David Green  
Commissioner for Consumer Affairs  
Office of Consumer and Business Affairs  
Level 3 / Chesser House  
91-97 Grenfell Street  
Adelaide SA 5000

Dear Commissioner,

**RE: Church of Scientology Religious Education College Incorporated SA Incorporation  
No: A5172**

In recent months, I have received communications from many Australian residents who have been the victims of alleged crimes and abuses by the Church of Scientology, both in Australia and overseas. I have raised some of these matters in the Federal Senate, with police and various regulatory authorities, as appropriate.

I have also introduced into the Senate a Private Senator's Bill proposing amendments to taxation laws governing exemption of entities from liability to pay income tax. The proposed amendments would ensure that the exemption applies only to those entities which deliver a benefit to the public, balanced against any harm they commit. That Bill has been referred to the Senate Economics Committee for inquiry and report by 31 August 2010.

South Australia is the domicile of Church of Scientology Religious Education College Incorporated (COSRECI), a significant entity within the European part of the complex structure that is the Church of Scientology internationally.

I enclose a number of sets of financial statements lodged by COSRECI with the UK Companies House.

The unaudited statements show annual gross receipts from ordinary operations exceeded £1m even in 1977, the entity's first year of operation, and in recent years have approached £13m.

Given COSRECI's substantial wealth and its claims, made in its UK financial lodgements, that it is a "charity" in South Australia, it is surprising that the South Australian Register of Associations shows that no documents have been filed by the entity since incorporation in 1976<sup>1</sup>.

I would appreciate answers to a number of questions about COSRECI.

- A. Is the Extract of the Associations Register dated 19 May 2010 (Attachment 1) accurate? If not, may I please have an accurate extract.

<sup>1</sup> Attachment 1 - Extract of Associations Register - South Australia, 19 May 2010

- B. Is the document purporting to be a copy of a certified copy of a Form 9, Declaration verifying alterations to Rules of an Association lodged with the Corporate Affairs Commission in South Australia on 26 July 1982 a true copy of a document lodged on that date (Attachment 2)?<sup>2</sup>

The following questions, articulated later in this letter, are reproduced here for convenience:

- C. Was COSRECI a "prescribed association" for the purposes of the Act<sup>3</sup> during the period 1999 – 2008?
- D. Has COSRECI breached s36(1) of the Act by failing to lodge with the Commission periodic returns for those years?
- E. In all the circumstances, is it in the public interest of the people of South Australia that COSRECI remain registered as an incorporated association in South Australia?

## BACKGROUND

1. COSRECI was incorporated in South Australia on 19 October 1976 under the Associations Incorporation Act 1956<sup>4</sup>.
2. According to a copy of the COSRECI Constitution and Rules filed in the United Kingdom four months later<sup>5</sup>, COSRECI's stated purposes were, in summary, the advancement of Scientology throughout the world and the administration of religious colleges for the instruction of members of the College or their delegates in the doctrines and Creed of Scientology.
3. On 31 January 1969, another association had been incorporated, also in South Australia, under the name The Church of the New Faith Incorporated. That association was registered in Victoria under the Companies Act 1961 (Vic) as a foreign company. Subsequently, a change in name to "The Church of Scientology Incorporated" was registered in South Australia. Though no change of name was registered in Victoria, the corporation used and was apparently known by its new name in that State. It was this 1969 corporation that was the appellant in the High Court of Australia case in 1983, known as "The Scientology Case"<sup>6</sup>, in which the Court determined that, under Australian law, Scientology was a religion.
4. It is not known if COSRECI ever traded in Australia. It does not have an Australian Business Number<sup>7</sup>.
5. On 25 March 1977, COSRECI was registered as a foreign company in the United Kingdom pursuant to s407 of the Companies Act (UK) 1948<sup>8</sup>.
6. Since then, the operations of the Church of Scientology in the United Kingdom and in southern Europe have been conducted in large part by COSRECI and its subsidiaries.

## LODGEMENT OF PERIODIC RETURNS – S36

7. COSRECI has filed unaudited financial statements in the United Kingdom each year up to and including the year ended 31 December 2008. For the 10 years to the end of 2008, the following gross receipts of COSRECI were disclosed:

<sup>2</sup> Attachment 2 – Form 1F, List of documents delivered for registration by an overseas company, obtained from UK Companies House

<sup>3</sup> Unless otherwise stated, all statutory references are to the Associations Incorporation Act 1985 (SA)

<sup>4</sup> Attachment 1 – Extract of Associations Register – South Australia, 19 May 2010

<sup>5</sup> Attachment 2 – Form 1F, List of documents delivered for registration by an overseas company

<sup>6</sup> Church of the New Faith v Commissioner of Pay-Roll Tax (Vic) [1983] HCA 40; (1983) 154 CLR 120 (27 October 1983)

<sup>7</sup> Attachment 3 – ABN Search results for "scientology", <http://abr.business.gov.au>, retrieved 25 May 2010 and verified with the ATO by telephone

<sup>8</sup> Attachment 4 – UK Companies House Current Appointments Report for COSRECI, 17 May 2010



### Gross Receipts

1999	£ 5,704,655.00
2000	£ 8,610,042.00
2001	£ 8,531,462.00
2002	£ 8,353,743.00
2003	£ 10,129,646.00
2004	£ 9,822,963.00
2005	£ 10,311,696.00
2006	£ 11,424,607.00
2007	£ 20,987,594.00
2008	£ 12,958,196.00

Was COSRECI a "prescribed association" for the purposes of the Act during the period 1999 – 2008? Has COSRECI breached s36(1)) of the Act by failing to lodge periodic returns for those years?

If the answer to the latter question is "Yes", do you concede there is a real possibility that COSRECI has also breached:

- s35(2) (Failure to have the prescribed association's accounts audited); and
- s35(6) and (7) (failure to have audited accounts laid before an AGM).

### OFFICERS

According to a UK Companies House Current Appointments Report for COSRECI dated 17 May 2010 (Attachment 3), the officeholders of COSRECI and their respective dates of appointment are:

Massimo Angus	12 March 1997
Marthe Springall	24 July 2007
Richard Edward Wilkins	4 August 1998

In contrast, the only officeholder disclosed on the SA Extract is the original public officer, B.M. Hudson who was appointed at incorporation (the date on the SA Extract is clearly wrong).

It appears that COSRECI relies upon its incorporation in South Australia as a non-profit association to claim exemption from liability to pay corporation tax in the UK.

In each year's unaudited financial statements lodged with the UK Companies House, the trustees have made a similar statement with respect to corporation tax.

In 2005, the statement read:

#### *"Taxation*

*The Church is a South Australian charity, and is established in England for charitable purposes only. The trustees consider that corporation tax is therefore not applicable. References to taxation and deferred taxation are included solely to comply with accounting standards."*

In 2008, the statement read:

#### *"Taxation*

*The Church is a South Australian charity, and is established in England for charitable purposes only. The trustees consider that corporation tax should not therefore be applicable, however*

*corporation tax and deferred tax have been provided for in these financial statements."*

Questions about payment of income tax and corporation tax by COSRECI will be directed to the Australian Taxation Office and the UK Companies House respectively.

The length of time that has passed since the appointment of the public officer – BM Hudson in 1976 – means that it is likely that either COSRECI has no public officer currently or that there has been a change of public officer.

According to the UK Companies House Current Appointments Record, there are four officers at present, none of whom is resident in South Australia.

In all the circumstances, is it in the public interest of the people of South Australia that COSRECI remain registered as an incorporated association in South Australia?

I look forward to your urgent response on this matter.

Yours Sincerely,

✓ **NICK XENOPHON**

/ / 2010

cc: The Hon Gail Gago MLC



Tabled  
29/6/10

**NICK XENOPHON**  
Independent Senator for South Australia  
**AUSTRALIAN SENATE**

OUR REF: DAS-N/EE

15 June 2010

Mr Michael D'Ascenzo  
Commissioner of Taxation  
Australian Taxation Office  
PO Box 9990  
CIVIC SQUARE ACT 2601

Dear Mr D'Ascenzo,

**RE: Church of Scientology Religious Education College Incorporated SA Incorporation  
No. A5172**

In recent months, I have received communications from many Australian residents who have been the victims of alleged crimes and abuses by the Church of Scientology, both in Australia and overseas. I have raised some of these matters in the Commonwealth Senate, with police and various regulatory authorities, as appropriate.

I have also introduced a Private Senator's Bill proposing amendments to taxation laws governing exemption of entities from liability to pay income tax. The proposed amendments would ensure that the exemption applies only to those entities which deliver a benefit to the public, balanced against any harm they commit. That Bill has been referred to the Senate Economics Committee for inquiry and report by 31 August 2010.

South Australia is the domicile of Church of Scientology Religious Education College Incorporated (COSRECI), a significant entity within the European part of the complex structure that is the Church of Scientology internationally. I enclose a number of sets of financial statements lodged by COSRECI with the UK Companies House. The unaudited statements show annual gross receipts from ordinary operations exceeded £1m even in 1977, the entity's first year of operation, and in recent years have approached £13m.

The South Australian Register of Associations shows that no documents have been filed by the entity since incorporation in 1976<sup>1</sup>. Since its incorporation, COSRECI has claimed in its UK financial lodgements, that it is not liable to pay UK corporation tax because it is a "charity" in South Australia.

I have written to the South Australian Commissioner for Corporate Affairs to verify the accuracy of the extract of the Associations Register and to enquire as to what appear to be a significant number of breaches of the SA Associations Incorporation Act 1985.

<sup>1</sup>Attachment 1 - Extract of Associations Register - South Australia, 19 May 2010



I would appreciate answers from the ATO to a number of questions about COSRECI.

- A. Is COSRECI exempt from paying income tax in Australia?
- B. If the answer to that question is "no", has COSRECI ever been exempt or entitled to any concession on payment of income tax in Australia?
- C. Is COSRECI, or has it ever been, entitled to any other concession on payment of taxes in Australia?

## BACKGROUND

1. COSRECI was incorporated in South Australia on 19 October 1976 under the Associations Incorporation Act 1956<sup>2</sup>.
2. According to a copy of the COSRECI Constitution and Rules filed in the United Kingdom four months later<sup>3</sup>, COSRECI's stated purposes were, in summary, the advancement of Scientology throughout the world and the administration of religious colleges for the instruction of members of the College or their delegates in the doctrines and Creed of Scientology.
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None of those officeholders is resident in Australia.

In contrast, the only officeholder disclosed on the SA Extract is the original public officer, B.M. Hudson, who was appointed at incorporation (the date on the SA Extract is clearly wrong). The length of time that has passed since the appointment of the public officer - BM Hudson in 1976 - means that it is likely that either COSRECI has no public officer currently or that there has been a change of public officer.

## TAXATION

It appears that COSRECI relies upon its incorporation in South Australia as a non-profit association to claim exemption from liability to pay corporation tax in the UK.

In each year's unaudited financial statements lodged with the UK Companies House, the trustees have made a similar statement with respect to corporation tax. In 2005, the statement read:

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Questions about liability for payment of UK corporation tax by COSRECI will be directed to the UK Companies House.

I look forward to your urgent response on this matter.

Yours Sincerely,

**NICK XENOPHON**

15 / 6 / 2010