



**CHURCH OF SCIENTOLOGY**

*Australia, New Zealand and Oceania*

**SUBMISSION TO THE SENATE ECONOMICS LEGISLATION  
COMMITTEE**

**TAX LAWS AMENDMENT (PUBLIC BENEFITS TEST) 2010 BILL  
INQUIRY**

**JUNE 2010**

## EXECUTIVE SUMMARY

The Trustees of the Church of Scientology in Australia have prepared this submission in response to the Senate Economics Legislation Committee's proposed inquiry to the Tax Laws Amendment (Public Benefits Test) 2010 Bill.

The key points of this submission are as follows:

1. Australia has a long and proud tradition of promoting and protecting religious tolerance and freedom. This freedom is formally safeguarded by section 116 of the Australian Constitution.
2. The Tax Laws Amendment (Public Benefit Test) Bill 2010 amends the tax laws to require that all Australian religious and charitable institutions meet a public benefit test to justify their exemption from taxation.
3. The Bill is a bill that imposes taxation and is therefore subject to the limits imposed by s.53 and 55 of *The Commonwealth of Australia Constitution Act 1900* ("The Constitution"). As a bill imposing taxation where none was imposed before the Bill is contrary to the initiation provisions of the first paragraph of s.53 of the Constitution. Only the House of Representative may initiate bills imposing taxation laws, as such, the Bill is in breach of the Constitution.
4. The Bill when read with the Explanatory Memorandum ("EM") accompanying the Bill, is in breach of s.116 of the Constitution as it interferes with the "fourfold guarantee of religious freedom".
5. The Bill is in breach of the rule of law as it is not a legitimate or desirable use of Parliament's power to delegate legislation, particularly as the body of the Bill is proposed to be contained in regulations.
6. As Regulations may not be amended by either House of Parliament but are required to be withdrawn in entirety the detail contained in the Regulations will be denied the normal process of Parliamentary debate and amendment
7. The EM in the second paragraph, but for Parliamentary Privilege, amounts to group libel and false implication libel and should be referred to the Senate Privileges Committee under resolution 5 of the Privilege Resolutions of 1988.
8. The proposed Bill imposes legislation that negative impacts on individual rights, liberties and obligations, and on parliamentary propriety.

9. The Bill trespasses unduly on personal rights and liberties as well as make rights, liberties or obligations unduly dependent upon insufficiently defined administrative powers.
10. The Church of Scientology has a long established presence in Australia and is deeply seated within our nation's grassroots communities. Each Church in Australia undertakes its own local community activities of social support which is as varied as the parishioners and what skills they have to offer their local community.
11. The Church of Scientology has placed enormous efforts and resources into the following global programs, which have delivered significant lasting benefits for Australians and people around the world including:
  - Extensive Drug Education and Prevention;
  - Volunteer Ministry;
  - Defending Human Rights; and
  - Promotion of the Universal Declaration of Human Rights.
12. The Tax Laws Amendment (Public Benefits Test) 2010 Bill should not proceed before the Senate.

## AUSTRALIA AND FREEDOM OF RELIGION

Australia has a long and proud tradition of promoting and protecting religious tolerance and freedom.

As outlined by the Hon Justice Michael Kirby in the Griffith Lecture (November 2007) freedom of religion is one of the oldest internationally recognised human rights, enjoyed by the citizens of our great Federation<sup>1</sup>. This right can be formally traced to the Peace of Westphalia in 1648, which marked the conclusion of the Thirty Years War.

Our founding fathers in uniting the six colonies to create the Commonwealth of Australia, recognised and understood the need to enshrine this basic human right for future generations.

This freedom is formally safeguarded by section 116 of the Australian Constitution.

This foundation stone of our modern system of government prohibits the Commonwealth from making any law establishing any religion, imposing any religious observance, or prohibiting the free exercise of any religion. Further, individuals Australians are free to express a diversity of views, as long as they do not incite religious hatred within our neighbourhoods and communities.

Religious freedom is now enshrined in a number of international human rights instruments. The Universal Declaration of Human Rights (1948) and the International Covenant on Civil and Political Rights (1966) provide an international framework to protecting and promoting this fundamental and universally acknowledged right.

It is important to recognise that religion and spirituality also lies deep within our Australian culture. It is as ancient as the first Australians, the indigenous peoples and nations that inhabited of our continent before settlement in 1788.

Today, Australia has no official state religion.

Australians are free to have a religion.

Australians are also free not to have a religion.

Australians have the freedom to practice any religion as long as the laws are obeyed and respected.

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<sup>1</sup> The Griffith Lecture 2007, Queensland Conservatorium, Griffith University, Friday, 16 November, 2007

## IS THERE A NEED TO AMEND THE EXISTING TAX LAWS?

Australia already has substantial and effective tax laws governing the operation of charities. To obtain charitable status in Australia is already a highly regulated process. There are already existing lengthy tests and requirements that must be met to prove that a charitable status is deserved and the Australian Tax office have full powers to investigate and review decisions. Charitable status is not readily handed out to any organisation merely claiming to be charitable. It must be proved in detail. The existing **taxation ruling TR2005/21 Income tax and fringe benefits tax** on charities already covers the points raised in the new Bill. Parts of this are excerpted below.

### **Technical legal meaning of charitable**

8. For a purpose to fall within the technical legal meaning of 'charitable' it must be:
  - beneficial to the community, or deemed to be for the public benefit by legislation applying for that purpose; and
  - within the spirit and intendment of the Statute of Elizabeth, or deemed to be charitable by legislation applying for that purpose.

### **Essential characteristics of a charitable purpose**

32. The essential characteristic of a charitable purpose is that it is of recognised benefit to the community. This requirement – also called public benefit or social value – includes both that there is value or benefit and that the value or benefit is for the community. While the two requirements are not separate, they each have special features.

### **Charity groupings recognized by the Courts**

39. There are five main groupings of benefit or value that the courts have recognised as capable of being charitable. They are purposes for the relief of poverty, the relief of the needs of the aged, the relief of sickness or distress, the advancement of religion, and the advancement of education. There are also many other charitable purposes, commonly referred to as 'other purposes beneficial to the community'. Charitable purposes are commonly grouped as the 'four heads of charity':

- the relief of poverty
- the advancement of education
- the advancement of religion

- other purposes beneficial to the community.

Tax Laws Amendment (Public Benefits Test) 2010 Bill therefore duplicates existing law and serves no purpose.

## TAX LAWS AMENDMENT (PUBLIC BENEFITS TEST) 2010 BILL

On 13 May 2010 the Senate referred the Tax Laws Amendment (Public Benefit Test) Bill 2010 for inquiry and report.

The Tax Laws Amendment (Public Benefit Test) Bill 2010 amends the tax laws to require that religious and charitable institutions meet a public benefit test to justify their exemption from taxation.

The Terms of the Reference of the Inquiry is as follows:

***The Committee is seeking written submissions which address, and are relevant to, the introduction of a public benefits test, from interested stakeholders. Submissions that fall outside of these parameters may not be accepted.***

The Bill proposes:

- a public interest test be imposed on all Churches and charities in Australia, thereby challenging the taxation status and future treatment of all religions.
- require all religions to contribute to the benefit of the general public, including followers of separate religions or no religion.
- focuses the intent of the Bill upon the Church of Scientology.

The Church of Scientology has commissioned a leading legal opinion on the proposed legislation that is currently before the Senate.

The legal opinion prepared by Ms Louise McBride, Barrister-at-Law outlines the following points regarding the proposed legislation:

1. The Bill is a bill that imposes taxation and is therefore subject to the limits imposed by s.53 and 55 of *The Commonwealth of Australia Constitution Act 1900* ("The Constitution"). As a bill imposing taxation where none was imposed before the Bill is contrary to the initiation provisions of the first paragraph of s.53 of the Constitution. Only the House of Representative may initiate bills imposing taxation laws, as such, the Bill is in breach of the Constitution;
2. The Bill when read with the Explanatory Memorandum ("EM") accompanying the Bill, is in breach of s.116 of the Constitution as it interferes with the "fourfold guarantee of religious freedom";
3. The Bill is in breach of the rule of law as it is not a legitimate or desirable use of Parliament's power to delegate legislation, particularly as the body of the Bill is proposed to be contained in regulations;

4. As Regulations may not be amended by either House of Parliament but are required to be withdrawn in entirety the detail contained in the Regulations will be denied the normal process of Parliamentary debate and amendment;
5. The EM in the second paragraph, but for Parliamentary Privilege, amounts to group libel and false implication libel and should be referred to the Senate Privileges Committee under resolution 5 of the Privilege Resolutions of 1988.

A copy of the McBride Opinion is attached as Appendix 1 as part of this submission to the Senate Economic Legislation Committee.

As outlined above, the published Terms of Reference issued by the Economics Legislation Committee states:

***“The Committee is seeking written submissions which address, and are relevant to, the introduction of a public benefits test, from interested stakeholders. Submissions that fall outside of these parameters may not be accepted.”***

The Inquiry being undertaken by the Economics Legislation Committee is into a taxation bill, not into designated religions or charities. Indeed, no religious organisation or body has been nominated in the Terms of Reference.

It is evident from the abovementioned Terms of Reference, the Inquiry has also not been established to act as a channel for individuals or organisations who wish to discriminate against the Church of Scientology or any other nominated religion.

As the Bill does not make any direct reference to the Church of Scientology, we do not believe it is appropriate for the Committee to accept and publish submissions that directly target our institution.

In doing so, the Church believes it is contrary to the long held principle of freedom of religion which is enshrined in s.116 of the Australian Constitution.

In addition, the Standing Orders of the Senate specifically state the following:

- s.144 “a committee shall consider only the matters referred to it by the Senate’.
- s.25(a) “the legislation committees shall inquire into and report upon estimates of expenditure in accordance with standing order 26, bills or draft bills referred to them by the Senate, annual reports in accordance with paragraph (20), and the performance of departments and agencies allocated to them.”

Therefore, if the proposed Inquiry into the Tax Laws Amendment (Public Benefits) 2010 Bill is to be undertaken by the Senate Economics Legislation Committee, the Church submits



that the hearings and evidence should strictly relate to the taxation impacts of the Bill on all religions and charities in Australia as per the long held rules and traditions of the Senate. To accept evidence, submissions, witnesses, testimony and other materials outside the Terms of Reference of the Inquiry would undermine the integrity of the proposed Inquiry and stand in direct contradiction of the Standing Orders of the Australian Senate.

## IMPACT OF THE PROPOSED TAXATION MEASURE

One of the main principles of financial initiative of the Crown is that a proposal for the imposition or for the increase, or alleviation, of a tax or duty, or for the alteration of the incidence of such a charge, shall not be made except by a Minister in the House of Representatives<sup>2</sup> (the Senate can not originate or amend a taxation bill).

In other words there is a prohibition on private Members of the House introducing a bill which not only imposes tax but to any bill that would increase or alleviate the sum of tax payable. No member other than a Minister or Parliamentary Secretary may introduce a bill which effectively amounts to an increase or extends the incidence of tax but that is precisely what Senator Xenophon has done by introducing into the Senate Tax Laws Amendment (Public Benefit Test) Bill 2010.

The Bill is a tax bill, as that term is understood. As a former Chief Counsel of the Attorney Generals department has advised bills dealing with taxation include:

1. "Provisions imposing taxation;
2. Other provisions dealing with the imposition of taxation (e.g. provisions removing or adding exemptions or deductions, increasing or reducing rates or otherwise defining a taxable amount) and;
3. Provisions not dealing with the imposition of taxation (e.g. provisions for the assessment, collection and recovery of tax and provisions providing for penalties)".<sup>3</sup>

The constitutional validity of the bill should be referred to the Senate Standing Committee on Legal and Constitutional Affairs, as there is a real risk that the bill, if enacted, would be subject to a successful challenge in the High Court on the basis that it is a law imposing taxation within the meaning of s.53 of the Constitution.

In the event that the Senate Standing Committee on Legal and Constitutional Affairs reported that in its view there was not a significant risk that the Bill, if enacted, would not be successfully challenged in the High Court and allowed the Bill to proceed, the Bill as currently drafted lacks the appropriate detail required of taxation bills.

Tax bills are required to be considered in detail clause by clause for good reason, so that the Parliament can consider and debate the impact of the bill and reasoned amendments may be moved by a member.

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<sup>2</sup> Standing Order 293

<sup>3</sup> Barlin L.M. House of Representatives Third Edition at 398 fn 391 which quotes advice dated 30 August 1993 re Taxation (Deficit Reduction) Bill 1993

The Bill as currently drafted<sup>4</sup> makes it mandatory for regulations to establish when particular aims and beliefs of an individual religious or charitable entity are for the benefit of the public at large. It is doubtful that the power of the Parliament to delegate legislation extends to allowing the Minister to make mandatory regulations, which in essence will determine a religious or charitable entities ongoing entitlement to a tax concession<sup>5</sup>.

The *Charities Act 2006 (UK)*, which the EM cites as a model for the proposed Bill, does not impose a duty on the relevant authority (the Charity Commission of England and Wales) to make mandatory regulations. Rather the Charity Commission is required to issue guidance in pursuance of its public benefit objective and must carry out public and other consultation before giving or revising any guidance<sup>6</sup>.

By requiring mandatory regulations that formulate relevant criterion on which the “identifiable benefit “ can be weighed against any detriment or harm “caused” by a religious or charitable entity and making that the criterion upon which a taxation concession depends, the Bill is *ultra vires*. Parliament has done more than delegate a legislative function it has abdicate it<sup>7</sup>.

The Bill deals with issues of important principle and the Parliament needs to be fully informed of the detail as the Minister, while acting within the scope of the power delegated may include in the regulations provisions that detract from the basic right of religious freedom, which is guaranteed under s.116 of the Australian Constitution.

The proposed Bill and accompanying Explanatory Memorandum (“EM”) provide no detail as to the financial impact of the Bill.

Given that a tax concession has been available to religious and charitable institutions, among other bodies, in Australia in all Federal Government income tax statutes since 1915, without the requirement to demonstrate tangible benefits available to the public at large or “an appreciably important section of the public”, it is reasonable to assume the Bill will have the effect of raising significant amounts of revenue. Removing a long held widely available exemption from taxation amounts to no more than taxation by stealth and as such the Parliament is entitled to understand the amount of revenue expected to be raised by the proposed measures and the negative impact, if any, the measures may have on the Australian community in general. Detail normally contained in the EM accompanying Bills removing or limiting tax concessions or deductions.

Further the Bill is silent on the issue of administration. Unlike the *Charities Act 2006 (UK)*, Australia does not have a Charity Commission<sup>8</sup> and the Bill does not propose the establishment of such a Commission.

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<sup>4</sup> s.50-51(1) of the Bill

<sup>5</sup> *Giris Pty Ltd v Federal Commissioner of Taxation* (1969) 119 CLR 365

<sup>6</sup> Charities Act 2006 ss.3and 4

<sup>7</sup> *Giris Pty Ltd v Federal Commissioner of Taxation* (1969) 119 CLR 365 per Barwick C.J, at 373.

<sup>8</sup> Charities Act 2006 (UK) Part 2 Regulations of Charities chapter 1 s6(1) 1A

In the UK the functions of the Charity Commission are performed on behalf of the Crown, the Commission is not subject to the direction or control of any Minister or Government department. Given the Bill is silent on the issue it presupposed that the legislative discretion of Parliament under s.51 (ii) of the Constitution extends to authorising the Commissioner of Taxation (“the Commissioner”) to form the opinion, based on a test contained in regulations not before the Parliament, that each individual religion and charity has been able to demonstrate, as a matter of fact, that its particular aims are for the “public benefit” at large. Expert theological evidence would have difficulty demonstrating the intrinsic worth of religion in the physical as opposed to spiritual realm, to expect the Commissioner to do so without discernible criteria by reference to which the propriety of the exercise could be challenged is unreasonable.

Even a superficial analysis of the United Kingdom experience in administering the “public benefit” test found in the Charities Act demonstrates the high degree of complexity in establishing a workable benchmark against which all religions and charities are to be measured.

Essentially, in the UK the common law presumption that an entity that falls within the description of a religion or charity is for the public benefit has been removed. If the common law in relation to religious and charitable intuitions is to be codified in Australia and the presumption of benefits associated with religion and charities is to be removed much greater thought and Parliamentary debate is required. Given that regulations cannot be amended in the Senate but are required to be rejected in totality<sup>9</sup>, which in practice rarely occurs, it is not appropriate for such significant amendments to be delegated to regulations, as there are no procedural restraints on rushed regulations.

One only has to look at the degree of difficulty the Commissioner and ultimately the Australian courts have had in administering the general anti- avoidance provisions contained in Part VIA of the *Income Tax Assessment Act, 1936* to realise that even if regulations could establish a set of objective criteria against which the religious or charitable entities aims and actives could be measured to determine a “public benefit”, it will be very difficult to ensure the test is not applied subjectively. As the test in terms of proposed 50-51(2) requires:

1. an identifiable benefit;
2. that when balanced against any detriment or harm;
3. outweighs that detriment or harm, and;
4. is available to the public at large .

The implications arising from the administration of such a test are massive and can only result in disputes and litigation between religious and charitable bodies and the Commissioner. Again Part IVA provides a convenient and salient example of how difficult it

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<sup>9</sup> *Thomas Borthwick & sons (pacific) Ltd v Kerin and Others*(1989) 87 ALR 527

is to conclude, which is always subjective, what a taxpayers “dominate purpose” was, once the Commissioner has determined (again subjectively) that a “tax benefit” has been or would but for the act be obtained, by a taxpayer having regard to each of the objectively identified criteria contained in the legislation<sup>10</sup>. To attempt to impose similar objective tests upon highly subjective matters i.e. the benefits or detriments associated with religions and charities is a task the Commissioner could not hope to perform; as Latham CJ said<sup>11</sup>:

**“There is probably no subject in the world about which opinions differ so much as the nature of religion, and to frame a definition of it which would satisfy everyone must obviously be impossible”.**

The same is true in terms of framing a definition of an identifiable benefit and measuring that in any meaningful way against any detriment or harm associated with the religious or charitable institution. As Lord Hoffman pointed out in *Environmental Agency v Express Car Co Ltd*,<sup>12</sup> an answer to the question of whether A has caused B will differ according to the purpose for which the question is asked.

Any proposal to insert such significant policy changes into the *Income Tax Assessment Act 1997* deserves and requires the same level of scrutiny and debate afforded to all other Bills that seek to impose a tax by limiting or removing a tax concession.

The Bill also does not envisage the creation of a Charity Tribunal, which exists in the UK<sup>13</sup> and has jurisdiction to hear and determine appeals and applications in respect of decisions, orders or directions made by the Charities Commission. Presumably on the assumption that the current procedures contained in the Taxation Administration Act will sufficiently address such objections and applications. For the same reasons articulated above it is difficult to envisage the Australian Taxation Office and the Administrative Decisions Tribunal would have the necessary skill sets to make such determinations.

Given the purpose of the Bill is to amend the *Income Tax Assessment Act 2007* a great deal more detail and thought is required. The Bill is poorly conceived and inadequately addresses the numerous issues that will invariably result if a “public benefit” must demonstrated by means of evidence cognisable by the Commissioner.

It is worth bringing to the Senates attention that under the *Charities Act* in the UK the question of public benefit is decided by a Charities Commission on the basis of the organisation providing evidence on its impact on the public and that that impact is beneficial. The benefit must be proved at the time the decision is made. The fact that something was once considered beneficial is no longer determinative of the issue. Even if the element of public benefit is not disproved and is found to be incapable of proof one way

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<sup>10</sup> see the High Courts judgments in *Federal Commissioner of Taxation v Hart* (2004) 217 CLR 216; *Federal Commissioner of Taxation v Spotless Services Ltd* (1996) 186 CLR 404 ; *Federal Commissioner of Taxation v Peabody* (1994) 181 CLR 358

<sup>11</sup> *Adelaide Company of Jehovah's Witnesses Inc v The Commonwealth* (1943)67 CLR 116

<sup>12</sup> [1999] 2 AC 22 at 29

<sup>13</sup> Charities Act 2006 (UK) Chapter 2 Part 1A s. 2A,2B,2cC, 2D

or the other the onus of establishing “public benefit “ has not been discharged and the institution will not be registered. Finally the institution must demonstrate the benefits of the organisation are not limited to a private class of individual, not extending to the public generally e.g. bodies established for certain denominational institutions have been held in the UK not to benefit the public at large . If the intention of the legislature in Australia is to follow the UK example it is a matter for proper Parliamentary debate and scrutiny and is not suitable subject matter for delegated regulations.

## CHURCH OF SCIENTOLOGY BACKGROUND

The Church of Scientology is a worldwide religion comprising over 8,000 Churches, missions and affiliated groups, made up of millions of members in 165 countries of the world.

Scientology is a religion that offers a path to full self-realisation and spiritual awareness and ability.

The word Scientology means “the study of knowledge” or literally “knowing how to know”. Scientology follows the older Eastern traditions of religious philosophy dating back 10,000 years

The Church and its parishioners are globally recognised sponsors of successful humanitarian programs addressing societal ills such as drug abuse, illiteracy, human rights and intolerance.

Scientologists have had a presence in Australia since 1952.

The Hubbard Association of Scientologists International opened in April 1955 in Melbourne and was incorporated locally as a non-profit religious fellowship for the purpose of research into the spirit and human soul and the use and dissemination of these discoveries and subsequent tenets.

Today, Scientology is a strong and vibrant religion based in Sydney, Canberra, Melbourne, Adelaide, Perth and Brisbane.

Australia is also home to the regional headquarters Scientology in the Asian Pacific region, which is located in Sydney.

Critically, the mandate of every Church of Scientology is that each obeys the laws of the land, wherever individual churches are located.

It is important to note that Church policy is not senior to the law of the land. Scientology’s ministry is located in over 165 countries around the world, in which the Church adheres to the individual legal jurisdictions of each nation.

In Australia, all religions have to abide by considerable laws and regulations encompassing all areas of life and the Church of Scientology like all other organisations is bound to follow Australian laws, which have been set down by the three tiers of government.

The Church of Scientology policy states:

***“Nothing in this material shall ever or under any circumstances justify any violation of the laws of the land. Any such offense shall subject the offender to penalties described by law as well as to ethics and justice actions.” [Ethics and justice refers to ecclesiastical codes within the Church structure]***

Further, a central component of the Church's philosophy is that spiritual progress cannot be made in the presence of unethical conduct.

Scientologist's are exhorted to follow the law and failing to do so can disbar them from Church services until they clear their name with the legal authorities.

Within the Church, our ministers and employees must be of the highest ethical standing.

As leaders within our communities it is critical that ecclesiastical employees and clergy meet the demands of our teachings and that of our parishioners.

All members of our institution have a sincere and overriding commitment to do their best within the Church and the broader community. We acknowledge that any errors in the past have been the result of individuals. Like all organisations we look to accept those errors and as a result change and grow.

We have external monitoring and policing bodies that forensically audit and track Church practices. As mentioned previously in the document, we comply with all legal and regulatory frameworks in Australia and in all of the nations in which we operate.



## **CHURCH OF SCIENTOLOGY AUSTRALIAN COMMUNITY ACTIVITIES**

The Church of Scientology has a long established presence in Australia and is deeply seated within grassroots communities. Each Church in Australia undertakes its own local community activities of social support which is as varied as the parishioners and what skills they have to offer their local community.

A key component of the Church's work in Australia is to promote religious understanding and tolerance. The Church is activity involved in hosting and participating in interfaith events that foster and promote freedom of religion and multi-faith understanding.

The Church draws upon many faiths and religions, including Islam and Buddhism, with representatives of these religions participating in Church sponsored events that enable our congregation and the broader community to share and encourage tolerance and understanding.

Across Australia, our Churches and parishioners are activity involved in a range of community-based activities that are designed to improve the lives of countless Australians.

For example:

The Melbourne Church of Scientology has a long standing arrangement to provide a children's home with gifts and toys for Christmas. Our Church has supported other children in need critical financial support. Likewise, these activities are replicated in Sydney and Adelaide.

The Church has also undertaken a range of community activities supporting:

- Blood drives for the Red Cross – urging Australians to give blood in times of need to ensure that our nation can meet the demand for these vital supplies.
- Clean- Up Australia Day – active participation and involvement that results in the promotion of a cleaner, greener Australia.
- Earth Day – intensive involvement in the initiative to promote the importance of the environment.
- Nursing Homes and Aged Care facilities – provision of musicians and other entertainment to a range of community facilities around Australia, providing joy and interactivity for those Australians residing in these facilities.
- Youth Numeracy and Literacy – supporting young Australians at risk improving their levels of comprehension and understanding of the three R's. This program assisted young Australians from re-offending and lowered the rates of repeat offences.

In addition to these community-based initiatives, the Church has placed enormous efforts and resources into the following global programs, which have delivered significant lasting benefits for Australians and people around the world.

These initiatives include:

### **1. *Drug Education and Prevention***

The Church of Scientology in Australia and around the world also undertakes a range of drug education and prevention programs that have delivered significant and lasting benefits to communities.

The Church of Scientology has for many decades conducted drug education campaigns. Scientologists are drug-free and as such understand the vital importance of full education, in empowering youth to make fully informed choices to stay away from drugs.

The cost to the Australian community of drug and alcohol abuse is considerable – around 23.514 billion per year.

Rather than just saying no, our approach has been to educate on physical and mental effects of drugs.

From our experience with talking to literally several hundred thousand youth on the streets, it is clear that drug use does not equal knowledge about drugs and that education can make all the difference. This has been one of our most concerted campaigns of the last two decades.

These programs are run by our dedicated team of volunteers.

The Church's volunteer program has touched the lives of over 600 million people worldwide.

Activities have involved 79 countries, with over 22 million educational booklet and 30 million fliers distributed to promote the anti-drug message. This has also involved over 280,000 billboards and posters to reinforce this positive message.

The Church of Scientology raises donations and pays for all of the materials and also provides grants for other projects such as producing a 90 minute documentary featuring

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<sup>14</sup> [1] Collins T & Lapsley H (2008) The cost of tobacco, alcohol and illicit drug abuse to Australian Society in 2004-2005 Summary Version, National Drug Strategy Monograph Series No. 66. Canberra: Commonwealth Department of Health & Ageing

former drug users, telling their stories of using drugs called The Truth About Drugs real People Real stories.

This is also provided free of charge to anyone who requests it on-line.

In Australia, we have also established a Drug Free Ambassadors program, which provides free materials about the dangers of drugs to individuals and within communities.

Other Australian-based anti-drug activities organised by the Church include:

- 2.5 million anti-drug education fliers and booklets distributed at markets, fairs and street drug education events covering marijuana, ecstasy, ice and painkillers.
- 300,000 Australian youths have taken a drug-free pledge to dedicate them to help themselves and others to remain or become drug free.
- Translation of anti- drug education materials in Japanese, Chinese and Indonesian to enable the drug education information to be distributed to Australians of non-English speaking backgrounds.
- 20 languages serviced by the Church in distribution of anti-drug materials, including new languages now being translated of Samoan, Thai, Tagalog and Malaysian. This assists in enhancing Australia's bonds of friendship with its neighbours in Asia Pacific.

Working with the Foundation for a Drug Free World in the United States, the Church has disseminated free anti-drug educational material to over 5,000 additional people in the community – teachers, police, government staff, principals, alcohol and other drug workers, psychologists, social workers and front line people helping youth with drug problems in Australian and the Asia-Pacific region.

## **2. Volunteer Ministry**

Scientists volunteer their help, both in times of major disasters and in times of more personal disasters that befall all individuals, organisations and country around the globe.

In 1973 the Scientology Volunteer Minister program commenced, with volunteer clergy trained in exact tools and techniques in order to apply them to help others in the community in need, including the fundamentals of interpersonal relations, solving drug abuse, resolving educational and study difficulties through to resolving marital problems and conflicts.

The Church's more than 200,000 Volunteer Ministers are an active force in disaster relief efforts worldwide.

In all, the Volunteer Ministers have helped more than 10.8 million people in the past seven years.

The Church of Scientology funds all projects directly from within our organisation and from the generous support and involvement of our parishioners. The Church has not requested government funding for any of our social betterment and community programs.

As part of this program, the Church has developed a disaster response team which specialises helping in times of international upheaval and catastrophic events.

The volunteers provide a willing and highly organised team to support existing services and do undertake any actions needed requested by governments or other community organisations.

Australian Scientologists have organised and participated in disaster response actions at home, in Asia Pacific and the United States.

Initiatives include:

- 1995 Kobe, Japan earthquake
- 1995 Jakarta, Indonesian earthquake
- 1998 Papua New Guinea tsunami
- 1999 Taiwan earthquake
- 2001 Indian earthquake
- 2001 World Trade Center terrorist attack
- 2002 NSW bushfires
- 2004 Niigata, Japan earthquake
- 2004 Southeast Asia tsunami in Indonesia, Thailand, India, Malaysia and Sri Lanka
- 2005 New Zealand floods
- 2005 Hurricane Katrina
- 2006 Cyclone Larry in Innisfail
- 2006 Yogyakarta, Indonesian earthquake
- 2006 Cilacap Indonesia earthquake
- 2007 Aceh Indonesia floods, Jakarta and Yogyakarta Indonesia floods and tornado
- 2007 Solomon Islands tsunami
- 2007 Philippines Typhoon Mina
- 2008 Cyclone Nargis Myanmar
- 2008 Philippines Typhoon Frank
- 2008 Northeastern Japan earthquake
- 2009 Victorian bushfires
- 2009 Typhoon Ketsana (Philippines)

In September 2009, Scientology Volunteer Ministers from Australia and New Zealand flew to Samoa after a tsunami impacted on the local communities.

Our volunteer representatives worked in cooperation with the Samoan Fire and Emergency Services Authority to assist in the cleanup and recovery operation.

The Volunteer Ministers were on the ground in Samoa for over six weeks providing essential aid to survivors of the natural disaster. Over 7,000 victims of the tsunami received individualised care and support from the Church's representatives.

In Australia, New Zealand and the South Pacific in the last year, a total of 17,258 people have been introduced to the Volunteer Minister's techniques.

### ***3. Defending Human Rights***

The Church of Scientology has a long and proud tradition of supporting and defending human rights around the world.

In 1969 the Citizens Commission on Human Rights (CCHR) was established by the Church of Scientology in partnership with Dr Thomas Szasz, a renowned professor of psychiatry concerned about coercive practices in his profession.

The first CCHR activities started in Melbourne in 1969 and set about championing the rights of the Australians with mental illness and those experiencing poor treatment as a result of the criminally insanity.

CCHR is sponsored by the Church of Scientology in Australia and internationally as well as by other organisations and individuals.

The organisation brings together a dedicated team of professionals, including psychologists, psychiatrists, doctors, lawyers, educators and others who share a common concern about the human rights abuses and stigmatization inherent in the mental health system.

Indeed, it was due to CCHR's efforts that mental health laws enacted legal rights for patients and their informed consent for treatment rights that until then psychiatrists had denied them.

In 1977 CCHR obtained its first Australian inquiry into psychiatric abuses. The Inquiry into Psychosurgery, revealed how Australians had been subjected to damaging brain operations without their consent.

In the 1980s Sydney Scientologists played a key role in exposing the fatal risks and other dangers of deep sleep treatment, with over 1,100 patients being exposed to this treatment in Australia. This resulted in the establishment of the NSW Royal Commission into Chelmsford Hospital.

CCHR was officially recognized for its work in the NSW Report of the Royal Commission into Deep Sleep Treatment and a prominent psychiatrist stated that the Church of Scientology was an important player into obtaining government inquiries into these abuses.

CCHR has been recognised in Australia and internationally for its fight against inequality, injustice and coercion in the mental health system, including by Erica-Irene Daes, Special Rapporteur's Report to the UN Human Rights Commission in 1986.

The report states:

**The main task of CCHR has been to achieve reform in the field of mental health and the preservation of the rights of individuals under the Universal Declaration of Human Rights. . CCHR has been responsible for many great reforms. At least 30 bills [now more than 120] throughout the world, which would otherwise have inhibited even more the rights of patients, or would have given psychiatry the power to commit minority groups and individuals against their will, have been defeated by CCHR actions.”**

Overall, both adults and children lives have been saved by the dedicated work of Scientologists and many other concerned charities and individuals working together for mental health reform and access to proper medical treatment.

#### ***4. Promotion of the Universal Declaration of Human Rights:***

The Church of Scientology’s Human Rights Department has been working with Youth for Human Rights International.

To date, the campaign has reached 900 million people in 84 countries.

In the last two years, the Church has distributed more than 15,000 human rights booklets and DVDs to teachers, students, lawyers and the general public through events and websites throughout Australia.

Youth for Human Rights groups have promoted the Universal Declaration of Human Rights and have been running an event each month across four Australian States with free booklets and pamphlets given away promoting the articles of surrounding the Declaration. Human Rights Public Service Announcements showing the 30 Human Rights of the Universal Declaration of Human Rights have been aired on TV channels across Australia.

## **SUBMISSION CONCLUSION**

The Tax Laws Amendment (Public Benefits Test) 2010 Bill is inherently flawed as outlined in this submission and the attached legal opinion in Appendix 1.

Australia has a long and proud tradition of supporting the great work undertaken within communities across the nation by religious organisations and the plethora of charitable bodies that assist hundreds of thousands of our fellow Australians every day.

The proposed Bill currently under consideration by the Senate Economics Legislation Committee potentially places much of the community work undertaken by religions and charities at risk.

The proposed Bill imposes legislation that negative impacts on individual rights, liberties and obligations, and on parliamentary propriety.

The Bill trespasses unduly on personal rights and liberties as well as make rights, liberties or obligations unduly dependent upon insufficiently defined administrative powers.

In conclusion given the inherent flaws of the Tax Laws Amendment (Public Benefits Test) 2010 Bill should not proceed before the Senate.

## **APPENDIX 1 – LEGAL OPINION**