

VISION AUSTRALIA

TAX LAWS AMENDMENT (PUBLIC BENEFIT TEST) BILL 2010

Submission to the Department of the Senate - Economics Senate Committee – By email to economics.sen@aph.gov.au

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ABOUT VISION AUSTRALIA

Vision Australia is Australia's largest provider of services to people who are blind, have low vision, are deafblind or have a print disability. It has been formed over the past six years through the merger of several of Australia's oldest, most respected and experienced blindness and low vision agencies. These include Royal Blind Society (NSW), the Royal Victorian Institute for the Blind, Vision Australia Foundation and Seeing Eye Dogs Australia.

Our vision is that people who are blind or have low vision will increasingly be able to choose to participate fully in every facet of community life. To help realise this goal, we provide high-quality services to the community of people who are blind, have low vision, are deafblind or have a print disability, and their families. The service delivery areas include:

- early childhood
- orientation and mobility
- employment
- accessible information
- recreation
- independent living, and

- working collaboratively with Government, business and the community to eliminate the barriers our clients face in making life choices and fully exercising rights as Australian citizens.

Our knowledge and experience gained through interaction with clients and their families, and also by the involvement of people who are blind or have low vision at all levels of the Organisation, means that Vision Australia is well placed to provide advice to governments, business and the community on the challenges faced by people who are blind or have low vision fully participating in community life. Vision Australia is also a significant employer of people who are blind or have low vision. We employ 192 people with vision impairment, or more than 18% of our total staff.

Given that Vision Australia relies significantly on funds generated through community fundraising, grants from trusts and foundations, managing investments and generating income from some minor commercial activity, we understand the importance of having tax exempt status as a public benevolent institution. We also acknowledge the responsibility and obligations that such exempt organisations have to the Australian community and to legislative bodies.

Vision Australia believes that it is important for us, as an organisation in the Not For Profit (NFP) sector to submit comment on the proposed introduction of a “Public Benefit Test” for organisations with tax exempt status.

VISION AUSTRALIA’S VIEW

Vision Australia is of the view that there is merit in strengthening relevant tax law relating to tax exemption approval and the definition of charitable purpose. In our submission to the Productivity Commission’s inquiry into the Not For Profit (NFP) sector, in November 2009, we put the view that the current definition of “charitable purpose” is out of date, and that, given an agreed framework, the process of tax endorsement could be improved.

Our submissions, in response to the Productivity Commission's question around simplifying processes for, and improving effectiveness of tax endorsement, stated:

"Vision Australia agrees that currently there is unnecessary complexity and inconsistency in handling applications for tax concessions and that charitable purpose definitions are out of date.

We believe that, given an agreed framework, that a Registrar could endorse Commonwealth tax concession status for NFPs based on specified criteria and a statutory definition of charitable purpose. We are strongly of the view that the definition of NFP charitable purpose in the disability sector should include advocacy linked to social inclusion and eliminating discrimination as well as direct service delivery to alleviate the impact of disability.

We also believe that if State and Territory governments recognised Federal tax concession status and adopted an agreed single national application process, it would simplify the process for NFPs."

As noted in the above, we are strongly of the view that the definition of "charitable purpose" for organisations with a primary focus on disability should include advocacy linked to social inclusion and eliminating discrimination as well as provision of services. It is for this reason that in bringing together several of Australia's largest most respected blindness organisations, the revised Constitution included a Purpose clause that was broader than direct service delivery to clients and their families. The extract below, from Vision Australia's Constitution describes the Purpose.

Extract from Vision Australia's Constitution -

"The Company's predominant purpose is to provide assistance to people who are Blind or Vision Impaired to access, and fully participate in, all facets of life and to remove barriers that prevent those who are Blind or Vision Impaired from enjoying equal access, opportunities and participation within the community. The Company may pursue commercial ventures in order to support its purpose."

We are strongly of the view that, in the disability sector, organisations which have advocacy as one aspect of their work in order to maximise the benefit of direct service delivery, as well as organisations that have advocacy as their primary purpose should be seen as meeting the “public benefit test”. Advocacy to government, business and the community to assist people with a disability to address discrimination, eliminate the physical, attitudinal and policy barriers, and to exercise their rights as citizens is, in our view, of benefit to the community.

Vision Australia is of the view that both the intended purpose of NFPs, as stated in their formal Constitution or incorporating documents, and the actual activity of the organisation are relevant to determining whether or not the organisation would meet the proposed “public benefit test”. The Board and Management of Vision Australia is proud that this Organisation is focused on its intended purpose so we have no concern with a “public benefit test” being applied to NFPs seeking tax exempt status or to organisations which are currently tax exempt. We believe that organisations are accountable to the community and Government so we are supportive of any measure that would give the community improved trust and confidence in the Not for Profit sector.

We support the principles of the proposed public benefit test, as expressed in the Explanatory Memorandum. These principles of:

- There must be an identifiable benefit arising from the aims and activities of an entity;
- The benefit must be balanced against any detriment or harm; and,
- The benefit must be to the public or a significant section of the public, and not merely to individuals with a material connection to the entity.

applied within, or alongside, a statutory definition of “charitable purpose” would serve to improve community confidence in the NFP sector as well as provide a tighter guide to determining eligibility for tax exemption status.

Vision Australia is also keen to ensure that in applying a “public benefit test” and in developing a revised statutory definition of “charitable purpose”, that it does not preclude organisations that derive some income from commercial enterprises from public benevolent institution status for tax exemption purposes. While our view is that any such commercial enterprise should be incidental to the main purpose of the organisation, and that the funds derived from such commercial enterprises “must” be applied to the intended purpose of the organisation, some commercial activity should be considered as a legitimate means of generating income.

CONCLUSION

While Vision Australia is generally in support of a proposed “public benefit test” we seek assurance that such a test would be applied along the principles as outlined in the Explanatory Memorandum. We would also be seeking an assurance that the NFP sector would be consulted around any revision leading to a new statutory definition of “charitable purpose”.

Vision Australia, as one of Australia’s largest and most respected disability organisations, would be pleased to contribute further to assist Government to determine a set of agreed principles and to re-define the statutory definition of charitable purpose.