# The Uniting Church in Australia - NSW Synod

## BOARD OF FINANCE & PROPERTY

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The Secretary
Senate Economics Legislation Committee
Room SG.64
PARLIAMENT HOUSE
CANBERRA ACT 2600

Dear Sir/Madam,

**INQUIRY INTO TAXATION LAWS AMENDMENT (2004 MEASURES NO.1) BILL 2004**

The Uniting Church wishes to record its concerns in two primary areas, firstly Schedule 7 which provides for a new deduction for contributions relating to fundraising events and secondly a minor concern dealing with Schedule 10 in connection with the endorsement procedures.

**Schedule 7 – Deductions for Contributions relating to Fundraising Events**

Schedule 7 provides a new income tax deduction to individuals who make contributions to Deductible Gift Recipients ("DGR") for fundraising events[1] and in return receive a minor benefit. Schedule 7 prescribes that a deduction will only be allowed in circumstances whereby the contribution to the DGR is for a value in excess of $250 and the minor benefit received from the contribution is the lesser of 10% of the contribution or $100.

The purpose of the proposed set of Amendments is to allow individuals who attend functions such as "charity dinners" the opportunity to claim an income tax deduction for contributions which otherwise they would not be entitled to due to the mere fact a meal is received during the course of the event.

Effectively this amendment allows the contributing individuals a tax deduction for the difference between the contributions made to the DGR and the market value of the minor benefit received (provided the market value of the minor benefit is less than the lesser of 10% of the contribution or $100).

We understand that the amendment is intended to increase the ability of charities to use special fundraising events to attract donations but our concerns are twofold, namely:-

[1] As defined in section 40-165 *A New tax System (Goods and Services Tax) Act 1999* (with the noted exclusion of section 40-165 (1)(b)(i).

1. The 10% threshold limit of the amount of the contribution to the fundraising event or $100 whichever is the lesser is impractical. It would be more appropriate, acceptable and useful to charities to make the limit of the minor benefit the higher of either 10% of the contribution or $100, rather than the lesser of these two limits.

   To highlight the impracticable nature of the proposed amendments, take for example, the scenario of a fundraising event being held as a "charity dinner". If a contribution is made of $250 for the evening by an individual, the individual could only receive a meal up to the value of $25 to be entitled to claim an income tax deduction of $225. It should be noted that $25 in a reasonable class restaurant is about the price of the main meal. It is clearly evident that the Government's proposal is out of kilter with a reasonable price for a fundraising meal which is almost always going to be nearer to $100 when you include the value of a standard three course meal and beverages. Furthermore, the limit of a $25 minor benefit value for a $250 contribution (which is not an insubstantial contribution to a charity) could be colloquially described as trying to organize a sausage sizzle to raise $250.

   The amendments contained in Schedule 7 shows the Government's lack of awareness and understanding of fundraising activities for the not-for-profit sector. It is clear that the Government is not aware of what is required to attract good sponsorship, and that charities require significant packages to be created and internal resources to be expended to raise these important funds for the greater well being of the community.

   Furthermore the examples the Government provided in the Explanatory Memorandum to the amendments to highlight the operation of the amendments, such as a golfing tournament whereby a round of golf might be under the value of $25 for a $250 contribution, are unrealistic. Notwithstanding this example is simplistic in its nature, it is not likely a charity could even find a golf course in Sydney with green fees of less than $25 for eighteen holes of golf and then, should this be possible, as soon as a refreshment (or a winners' trophy) is provided by the charity to the participants the market value of the minor benefit to the donor surely will exceed 10% of the contribution (based on a contribution of $250). This therefore would mean that no income tax deduction is allowable to these generous individuals. Clearly this situation is ridiculous.

   Accordingly the Uniting Church submits to the Senate Economics Legislation Committee that the limits of minor benefits provided to individual contributors to DGRs to enable an income tax deduction to be obtained be revised, and at a minimum, the limit be amended to ensure that the minor benefit to a contributor is the **greater** of 10% of the contribution or $100.

2. From an administration perspective of implementing and complying with the amendments, the Uniting Church is concerned that the burden of compliance associated with these amendments will outweigh the intended benefits of the amendments.

The Uniting Church notes that charities will be required to undertake significant record keeping to ensure that any minor benefit received by an individual in association with a fundraising event is calculated. Charities will more often than not be unclear on what is a minor benefit, what is the market value of the minor benefit and how do the two relate in determining the matter of the contribution. The Uniting Church is not sure whether the Government really has considered the administrative costs of these amendments.

**Schedule 10 – Endorsement of Charities etc.**

The main concern for the Uniting Church in respect of Schedule 10 is the failure of the Government to identify childcare activities as being capable of being endorsed as charities.

The Uniting Church, NSW Synod has had two endorsements cancelled for two of its 74 child care activities and the Government did acknowledge in its Charities Bill Exposure Draft that it would recognize childcare as a charitable activity. The Australian Taxation Office currently has a different point of view on the matter, hence its cancellation of the two endorsements.

We believe that it is untimely to pass these endorsement amendments without the Charities Bill being presented to Parliament for discussion.

The Charities Bill Exposure Draft has been widely circulated and as far as the Uniting Church is aware, there have been no objections to the specific inclusion of childcare as a charitable activity.

Furthermore we understand that the inclusion (or lack thereof) of childcare presents problems to the Australian Taxation Office as it has already prepared Draft Application Forms for Endorsement as a Charitable Institution including childcare as an acceptable charitable activity.

It is interesting to note that the Government at this stage has not yet released the Board of Taxation's report on its consultation on the Charities Bill Exposure Draft, let alone what it, the Government, plans to do in respect of the proposed definition of a charity, and yet the Government wishes for the endorsement procedures of charitable organisations to apply from the 1st July 2004.

The Uniting Church is extremely concerned that if the endorsement legislation is passed and assented to by Parliament with out the Charities Definition Bill being concurrently debated in Parliament, then the issue of confirming that childcare is a charitable activity will be neglected. The effect of this process will be to cause extreme and needless administrative burdens on charitable organisations such as the churches, all of whom are concerned with the ongoing and wider implications of this decision on their own organisations.

The Uniting Church submit to the Senate Economics Legislation Committee that a simple resolution to this matter would be to include additional clauses in Schedule 10 that reflect that a charitable organisation can be endorsed for the operation of child care activities (note this can replicate the new endorsement procedure offered to charitable organisations operating public benevolent institutions). This proposed endorsement for child care activities would reflect the concession granted to public benevolent institutions in the proposed section 123C (5) which states:

> *"If an entity is endorsed under subsection (3) for the operation of a public benevolent institution, the public benevolent institution is taken to be endorsed under this subsection as a public benevolent institution."*

Accordingly, if the endorsement legislation offered the same endorsement procedure to charities and child care activities, the child care activities would therefore become entitled to all the relevant taxation concessions properly attributed to charitable organisations as they would be endorsed as "charitable institutions".

The Uniting Church recommends this endorsement mechanism is further investigated and advises the Senate Economics Legislation Committee that it would be willing to be involved in further discussion of such procedures.

Jim Mein
On Behalf of the Uniting Church in Australia