



**SUBMISSION TO THE  
SENATE ECONOMICS LEGISLATION  
COMMITTEE INQUIRY INTO TAX  
LAWS AMENDMENT (2004 MEASURES  
NO 1) BILL 2004**

**ST VINCENT DE PAUL SOCIETY  
NATIONAL COUNCIL**

**April 2004**



## 1 BACKGROUND TO THE CURRENT INQUIRY

The St Vincent de Paul Society has expressed its position on the treatment of charities in previous inquiries.

In our submission to the Inquiry into the Definition of Charities and Related Organisations (2000) we emphasised that:

***“Any re-framing of the definition of a charity should be driven by a clear consideration of the consequences of this legislation on the charitable organisations currently in existence.”***

The financial, legal and administrative consequences for these organisations will be felt by those they serve: ***the marginalised members of Australian society.***

In our Submission to the Board of Taxation Consultation on the Definition of a Charity (2003) we noted that:

***“It is this net effect on the vulnerable that should act for the Treasury as the primary criterion for drafting workable legislation.”***

## 2 THE CURRENT INQUIRY

Schedule 10 of the Tax Laws Amendment (2004 Measures No 1) Bill requires charities, public benevolent institutions and health promotion charities to formally seek endorsement from the Australian Taxation Office for each tax concession.

The St Vincent de Paul Society does not dispute the need for administrative mechanisms to responsibly monitor the tax-concessional treatment of charities and related entities.

It is, however, of grave concern that this Bill should be under consideration without there having first been a clarification of the definition of charities and public benevolent institutions.

Despite the fundamental findings of the Report of the Inquiry into the Definition of Charities and Related Organisations (2001) the current Bill appears to erect a legislative framework without having first laid a definitional foundation.

We therefore call on the Senate Economics Committee to defer any further consideration of the endorsement process until findings of the 2001 Inquiry and the 2003 Board of Taxation Consultation are addressed. In the interests of responsible policy-making and in the interests of protecting the people who are assisted by the charitable sector, Schedule 10 of the current Bill should not be considered until a just definitional framework is developed.



From the perspective of the St Vincent de Paul Society, in common with organisations great and small in the charitable sector, the current Bill leaves our major concerns unaddressed and unresolved.

The St Vincent de Paul Society is unequivocally opposed to any legislative outcome which would see any of these organisations weakened or dissolved.

***We are opposed because it is the marginalised who will suffer the consequences of having no one to stand up for them or with them.***

The Board of Taxation Consultation (2003) caused us to voice serious concerns about the proposal that size be a criterion for disqualification from charitable status. As we stated in our Submission to that Consultation: “It doesn’t matter how small or large an organisation is. It is what they do that matters.”

Of enormous significance also was the ill-conceived proposal that advocacy should in some circumstances disqualify organisations from charitable status.

As we stated in our Submission (2003) to the Board of Taxation:

*“The St Vincent de Paul Society has never seen advocacy as anything but a means to achieving the end of serving the poor. As such we refuse to accept the false dichotomy between charitable work (“direct assistance”) and advocacy. Our advocacy is a charitable work. It is not incidental or ancillary. It is at the heart of our dominant purpose.*

*“In a democracy, the activity of speaking up in the interests of the marginalised should be encouraged rather than punished. It is an activity that is clearly for the common good and common weal. Australia is a better place because of this legitimate freedom.”*

### **3 RECOMMENDATIONS**

We therefore recommend that:

#### **Recommendation 1:**

**Consideration of Schedule 10 of the Bill be deferred until Parliament addresses the recommendations of the *Report of the Inquiry into the Definition of Charities and Related Organisations (2001)* and the Board of Taxation’s *Report on the Charities Definitions Bill (2003)*.**

#### **Recommendation 2**

**The Senate Economics Committee recommend to the ATO that audits of charitable organisations regarding their charitable status be deferred until a definitional framework for charitable organisations is adopted.**

