

9 December, 2011

Manager
Philanthropy and Exemptions Unit
The Treasury
Langton Crescent
PARKES ACT 2600

Dear Sir/Madam,

I am pleased to submit the following statement on behalf of the Queensland Institute of Medical Research (QIMR) in response to the release of the consultation paper on a definition of charity for the purposes of Commonwealth law.

The capacity of QIMR to conduct its research programs and develop its reputation as a world-leading medical research institute is very dependent on its charitable status by virtue of the vital contribution the organisation's fundraising activities make in providing much-needed funding.

BACKGROUND

Role and function

QIMR is a statutory body established under the *Queensland Institute of Medical Research Act 1945* for the purpose of research into any branch or branches of medical science. QIMR is governed by the QIMR Council the functions of which include controlling and managing the Institute and raising, accepting and investing moneys for the purposes of the Institute.

QIMR's research focuses on three areas: cancer; infectious diseases; mental health and a range of complex disorders. Working closely with clinicians and other research institutes, the Institute's aim is to improve health by developing prevention strategies, new diagnostics and better treatments for the public benefit.

Funding sources

QIMR's research funding is generated from competitive, peer-reviewed research grants and fundraising activities. QIMR also currently receives an annual operational grant from Queensland Health. In 2010-2011, the State Government funding through Queensland Health accounted for 19% of the organisation's total operating revenue.



Charitable status

As a non-profit charitable institution whose main activity is researching the detection, prevention and treatment of diseases, for taxation purposes QIMR is categorised as a health promotion charity (HPC). The Institute is endorsed to access tax concessions including income tax exemption, fringe benefits tax (FBT) exemption and receives a GST concession.

DEFINITION OF A CHARITY

Comments

QIMR offers the following comments in relation to *A Definition of Charity Consultation Paper* Questions 14 and 15:

- *Is further clarification required in the definition on the types of legal entity which can be used to operate a charity?*
- *In light of the Central Bayside is the existing definition of 'government body' in the Charities Bill 2003 adequate?*

QIMR submits that further clarification is required on the definition of types of legal entity which can be used to operate a charity, specifically that the proposed definition of a government body 'to include a body controlled by the Commonwealth, State or a territory' may not be adequate for the purposes of distinguishing a statutory body such as QIMR with a charitable purpose, from other government bodies with a non-charitable purpose.

The main concern is that QIMR is constituted by statute which, under the proposed definition, may disqualify the Institute from charitable status. Firstly, this has the potential to impact QIMR's capacity to raise donations and bequests which are essential and ensure ongoing operations and research.

Secondly, the loss of the FBT exempt status as a HPC would have a major impact on the organisation's ability to attract and retain employees through the benefit of salary sacrifice. The FBT exemption allows QIMR to provide some employment benefits in a highly competitive and low paying industry sector.

It should be noted that in its 2002 assessment of QIMR's FBT status, the Australian Taxation Office (ATO) concluded that 'the government role seems incidental to the charitable purpose'. The following factors were the basis of the ATO's decision:

- QIMR is administered by the Council of the Queensland Institute of Medical Research, rather than government directly.
- The Institute's operations are not used or directed for government purposes.
- Members of the Council are not removable at will by the government. They can only be replaced under very limited circumstances (Section 6, *Queensland Institute of Medical Research Act 1945*)

- Employees are not public servants.
- The substantial funding is from non-governmental sources.
- The various powers provided by the QIMR Act can only be used for the purpose set in the legislation.

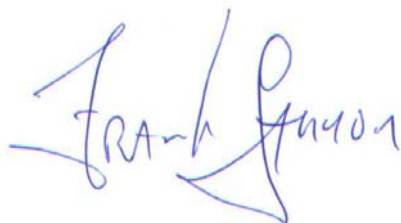
Recommendation

With respect to Questions 14 and 15, QIMR recommends that:

1. Further clarification is required in the definition in the types of legal entity which can be used to operate a charity.
2. The existing definition of 'government body' in the Charities Bill 2003 is not adequate.
3. State Government statutory bodies such as QIMR which are currently characterised as a Health Promotion Charity should be included in the definition of a charity under the proposed changes.

Thank you for the opportunity to comment.

Yours sincerely,



Professor Frank Gannon

Director