



The Manager
Philanthropy and Exemptions Unit
Personal and Retirement Income Division
The Treasury
Langton Crescent
Parkes ACT 2600

By email: nfpreform@treasury.gov.au

8 December 2011

Dear Madam/Sir,

Definition of charity

Thank you for the opportunity to make a submission regarding the consultation paper on the statutory definition of charity to ensure the better targeting of not for profit tax concessions.

Reason Australia is a voice for reason in Australia, a national umbrella organisation representing 'free thought' groups (atheists, humanists, rationalists, secularists and skeptics) and individuals who care about evidence-based reasoning and good science in public debate. We aim to influence public policy and public opinion in favour of a secular society, freedom of inquiry and universal human values.

In summary, Reason Australia supports the introduction of a statutory definition of what constitutes a charity. The relief of poverty and the advancement of education should be included in that definition. However, the advancement of religion should not be.

To be clear, Reason Australia:

- supports people's right to practise their religion, provided only that this doesn't harm or restrict others; and
- agrees that religious charities can and do provide valuable social services to the community (for example, by relieving poverty).

Where the activities of religious and non-religious charities are directed exclusively towards the provision of valuable social services, Reason Australia agrees there should be tax concessions to support those objectives. But the advancement of religion (as an end in itself) should not be included as a charitable purpose. There are several reasons for this.



The ‘advancement of religion’ should not be automatically included as a ‘head of charity’ for historical reasons

Continuing to automatically include the advancement of religion as a charitable purpose would be an anachronism in modern, secular Australia. Its original appearance in the Preamble to the Statute of Charitable Uses (the Preamble) some 400 years ago, and subsequently developed common law, were based on a very different conception of the role of religion in society than is the case today.

In those times, it was widely believed that the structure of society, including the authority of the monarch and the community’s ethical norms, was actually derived from religion (through the existence of a “supernatural” being). It was therefore assumed to follow that the advancement of religion was inherently in society’s best interests.

In 21st century Australia, while there remain vestiges of this notion in our Constitutions and parliamentary practice, the idea that the advancement of religion necessarily leads to the betterment of society is no longer universally accepted. Indeed, whether interpreted widely or narrowly, section 116 of the Commonwealth Constitution makes explicit the idea that our form of government is not a natural concomitant of religion. Instead, the two spheres should remain distinct.

The 2001 *Report of the Inquiry into the Definition of Charities and Related Organisations* supports this view. The Committee makes it clear that a particular purpose should not be automatically included in a modern statutory definition of charity simply because it appeared in the Preamble:

Many of the purposes thought charitable 400 years ago are... irrelevant to today’s social needs... It seems to us that the Preamble, valuable though it has been, has outlived its usefulness. It is time to move on. We need to ensure that those things relevant and beneficial to today’s circumstances are retained, but they need to find their place in a more modern statute enacted for our time... [Emphasis added]¹

There is therefore no in-principle reason why the advancement of religion should be given automatic status.

It should not be included because doing so would be discriminatory

Broadly, the advancement of religion purportedly provides two benefits to the community, namely “spiritual fulfilment” and the inculcation of a set of ethical values.

It is important to note that, as Australian society has developed over time, it has become clear that both spirituality and ethics are not exclusively the province of religions and that valid non-religious approaches to both exist. For example, the New South Wales Government last year introduced secular ethics classes as an alternative to Special Religious Education in State schools.

¹ Report, pp 137-8.

Religion and spirituality

The modern concept of “spirituality” does not rely on the existence of supernatural “spirits” as understood in the religious sense. Rather, the term is increasingly used these days in a non-religious as a way of describing our feelings, as conscious and emotional beings, of connection with the wider, living world. This change is borne out in the results of the Census conducted by the Australian Bureau of Statistics².

Reason Australia therefore submits that it would be discriminatory to offer tax concessions for the advancement of religion in the definition of charity but not the advancement of spirituality. Why should an institution that advances (protects, maintains, supports, improves³) *religion* have the benefit of automatic tax concessions when the provision of spiritual materials (for example, the works of Kahlil Gibran) are taxed in the normal way?

However, while recognising that a proportion of the community, whether religious or not, take comfort from their spiritual practices, Reason Australia has significant doubts whether the advancement of religion *or* the advancement of spirituality is an appropriate use of taxpayer funds given that the scope of the relevant activities is difficult to define and the benefits hard to measure.

Religion and ethics

In relation to advancing a particular set of ethical values, there is no necessary connection between any religious faith and what modern Australian society would regard as acceptable moral standards. All that the High Court requires to constitute a religion is that there be “a belief in a supernatural Being, Thing or Principle” and “the acceptance of canons of conduct in order to give effect to that belief”⁴. Those canons of conduct need not bear any relationship to established social norms or laws.

There are currently major differences between religious beliefs and Australian laws on a wide range of issues including abortion, contraception, voluntary euthanasia and same-sex marriage. Indeed, it is partly because there are questions regarding the alignment of the canons of conduct advocated by organisations such as the Church of Scientology and publicly acceptable standards of behaviour that the current review into not-for-profit tax concessions is underway.

Religious people (indeed all citizens) are perfectly entitled to advocate their views on ethical matters in the public arena. However, this is different to subsidising the provision of a particular set of views on the basis that they are religiously-based and promoted through a charitable vehicle. There is no evidence that the effect of advancing religion necessarily leads to community benefits when religions themselves hold incompatible ethical standpoints.

² See also “Spirituality’s fine by us but there’s little faith in religion”, *The Age*, 22 November 2011 accessed at <http://www.theage.com.au/national/spiritualitys-fine-by-us-but-theres-little-faith-in-religion-20111121-1nr11.html>.

³ Explanation of definition of ‘advancement’ in Section 10 of Charities Bill 2003

⁴ *Church of the New Faith v Commissioner for Pay-Roll Tax (Vic)* 1983 CLR 120 at para 17.



Should you wish to discuss any aspect of this submission, please do not hesitate to contact Anthony Englund on (0412) 039 860 or anthony.englund@reasonaustralia.org.

Your sincerely

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