



9 May 2012

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

**Restating and standardising the special conditions for tax concession entities  
(including the 'in Australia' conditions)**

Dear Chris,

I write on behalf of The Salvation Army Australia Eastern and Australia Southern Territories, with reference to the revised Exposure Draft and Explanatory Material for the above consultation.

The Salvation Army acknowledges the significant changes in the revised documents from the original versions released in 2011.

In reviewing the current versions The Salvation Army wishes to make the following comments:

**Tracing of funds**

The Salvation Army is concerned with the practicalities and administrative cost of being able to comply with a requirement to track and trace the ultimate use of funds by a third party. The concern is also extended to the potential compliance burden that will be imposed by the Australian Taxation Office as it enforces the law in the future.

The Salvation Army recommends consideration is given to limiting the exposure and obligations of the 'first' entity in its requirements to satisfy itself the funds are used in Australia.

**Governing rules requirement**

The proposed section 50-50(3)(a) contains a requirement that the not-for-profit entity must 'comply with all the substantive requirements in its governing rules'.

The Salvation Army is concerned with the duplication of regulation for a 'governance' matter in light of the prospective role of the Australian Charities and Not-for-Profit Commission (ACNC) as the regulator of not-for-profit entities and more specifically in respect of the governance of these entities.

The Salvation Army recommends this subjective requirement is removed from this Exposure Draft and any governance regulation of not-for-profits is included in the remit of the ACNC.

### **Sole purpose test**

The proposed section 50-50(3)(b) states that the income and assets of a not-for-profit entity are to be used 'solely for the purposes for which the entity is established and operated and for which it is entitled to be exempt from tax'.

Again, The Salvation Army is concerned with the duplication of regulation of not-for-profit entities whereby both the ATO and the ACNC will have the authority to make separate determinations and decisions about the status of a not-for-profit organisation. This will lead to increased compliance obligations and the potential for two regulating authorities to achieve opposing views on the same organisation.

The Salvation Army recommends this section is removed to ensure organisations can be assured there is only one regulating body that will have the authority to make important determinations relating to organisation purpose and for not-for-profit entities this will be the ACNC.

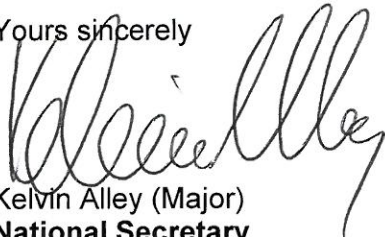
### **Incidental activities**

The Salvation Army observes there are two very similar examples provided (Example 1.15 and 1.18) in respect of the incidental activities with drastically opposing outcomes.

It is recommended these examples are reviewed as the activities involved in each example are not materially different in purpose for each organisation and as such both examples should result in the activity being incidental. Specifically, in respect of Example 1.18, if it is Treasury's view the trip is not incidental, then further explanation must be provided clearly outlining on what basis the overseas trip is somehow not 'incidental' but yet the use of an instrument on the same trip is.

If you have any questions or would like further clarification please do not hesitate to contact me.

Yours sincerely



Kelvin Alley (Major)  
**National Secretary**

Email: [kelvin.alley@ae.salvationarmy.org](mailto:kelvin.alley@ae.salvationarmy.org)

Mobile: 0437 358 663