



PHILANTHROPY  
*Australia*

Philanthropy Australia  
Level 2  
55 Collins Street  
MELBOURNE VIC 3000

15 June 2010

The Secretary  
Senate Economics Legislation Committee  
PO Box 6100  
Parliament House  
CANBERRA ACT 2600

**Re: Inquiry into Tax Laws Amendment (Public Benefit Test) Bill 2010**

Dear Sir,

Thank you for the opportunity to comment on the abovementioned *Inquiry into Tax Laws Amendment (Public Benefit Test) Bill 2010*.

Philanthropy Australia is the national peak body for philanthropy and is a not-for-profit membership association. Our mission is to represent, grow and inspire an effective and robust philanthropic sector for the community.

In respect of the above Inquiry, Philanthropy Australia makes the following comments.

1. The definition of charitable purpose in Australia currently remains part of common law interpretations, and there already exists a strong public benefit in the current rules.
2. Redefining what constitutes charity, and how this definition fits with the overall not-for-profit sector, is a complex issue which over the past decade has been the subject of much debate and two lengthy and complex Government inquiries; the Inquiry into the Definition of Charities and Related Organisations (2001) and more recently the Productivity Commission Report into the Contribution of the Not-for-Profit Sector (2010). This is proof that the redefinition of charity is an issue which needs to be addressed as a whole, rather than piecemeal.
3. The provisions of this Bill have the potential for enormous "collateral damage" in the not-for-profit sector. This may include such issues as:
  - o Further administrative burden placed on an already financially strained sector to prove public benefit, potentially on an annual basis, in order to retain their tax concessions
  - o Administrative and resource cost to Australian Taxation Office
  - o Potential cost of appeal mechanism for disallowed charities which may pass to the Court system

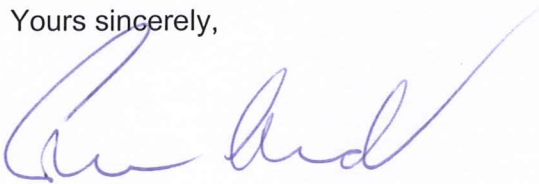
We would direct the Committee's attention to recommendation 7.1 of the Productivity Commission Report into the Contribution of the Not-for-Profit Sector as a more comprehensive and efficient way of ensuring clarity around the definition of charitable purposes.

*RECOMMENDATION 7.1*

*The Australian Government should adopt a statutory definition of charitable purposes in accordance with the recommendations of the 2001 Inquiry into the Definition of Charities and Related Organisations.*

Philanthropy Australia trusts that these comments on the proposed Bill are useful and would be happy to have further discussions with the Senate Economics Legislation Committee as appropriate.

Yours sincerely,



Gina Anderson  
Chief Executive Officer