

## CHARITABLE STATUS UNDER THREAT

**In late July, the Federal Government released its draft legislation on the definition of a charity (the Charities Bill 2003) which could threaten the 'charitable status' of charities engaged in public advocacy.**

The Government has chosen to ignore the recommendations from its own Inquiry into the Definition of Charities, which found that it should not matter whether an organisation pursues charitable purposes by direct help, policy development, or advocacy. The MHCC submitted a submission in that first round of consultation, which supported the overall recommendation from the charitable sector that: "Charities should be permitted to engage in advocacy on behalf of those they represent."

The Government has asked the TaxBoard to consult on the workability of the definition of a charity proposed in the draft legislation and is to report back to the Government by the beginning of December 2003. The new legislation is expected to begin on 1 July 2004 when, charities, public benevolent institutions and health promotion charities will be required to be endorsed by the Australian Taxation Office in order to access all relevant taxation concessions. Depending on the particular charity, these concessions are the income tax exemption as a charity, refundable imputation credits, deductible gift recipient status, the FBT rebate, the \$30 000 capped FBT exemption and the GST concessions. Any organization endorsed to access these tax concessions will have its status attached to its ABN and be able to be publicly accessed through the Australian Business Register. The draft legislation to defining a charitable organisation lists "attempting to change the law or Government policy" as a "disqualifying purpose" if it is "more than ancillary to or incidental to the other purposes of the entity". The obvious difficulty in interpreting this proposed legislation could create a legal minefield and if passed in its draft form will deny charitable status to many existing charities, if they appear to do too much advocacy. Those that manage to hold onto their charitable status may be required to provide ongoing evidence that their advocacy work is merely "ancillary or incidental" to their other work.

Charities are set apart from other organisations because they are benevolent, non-profit bodies that work for the good of the community. Provided they do not act illegally or engage in party politics the Government should not unnecessarily stop them from advocating for those that they represent. For more information visit the Charities Definition Inquiry:

<http://www.cdi.gov.au/>