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Dear Madam,

Review of Philanthropy

The following submission is made on behalf of Humanists Victoria, a secular organization founded in 1961, which fosters an ethical and reasoned life-stance, and supports human rights, democratic processes, and just and inclusive governance. It is a registered charity which goes without deductible gift recipient status.

Humanists Victoria has written letters and made submissions about religious privilege over the past fifteen years and welcomes the opportunity to comment on the current Review of Philanthropy.

Our submission is limited to point 5 of the Scope of Inquiry – charities.

1. Lack of financial transparency

For an organization to be deemed charitable, by tradition it must be directed to the public benefit. This was codified in the Statute of Elizabeth, 1601.

Queen Victoria's Privy Council established the advancement of religion as one of the four so-called 'heads of charity' (Plemsel, 1891). This was inherited by the Australian Commonwealth and still informs the Tax Act, although it operates no longer in the UK. It is not consistent with the Statute of Elizabeth, unless the religious organization clearly demonstrates its public benefit.

There are two main ways the churches in Australia have not been held to the public benefit test. Historically, the first privilege granted by government was to church property, and the second, in modern times, was to church trade and investment. The question of rate exemption is within the discretion of local government authorities and need not concern us here. The question of income-tax exemption concerns the federal government and is the basis of the present submission.

The status of a church as a registered charity gives it exemption from income tax. It also permits commercial activity that directly or indirectly contributes towards or is merely incidental to its charitable purpose. [1]

As an example, Sanitarium Health Food Company is wholly owned by Seventh Day Adventist Church. It operates as a charity, exempt from company income tax, though paying other taxes as required. In 2016-17 the company's revenue amounted to \$410 million. All of its profits are transferred to Seventh Day Adventist Church in Australia. [2]

The tax exemption is often defended as compensation for doing good works. But whether church expenditure on social welfare offsets the tax forgone is a moot point – impossible to estimate, according to Max Wallace, in *The Purple Economy* (2007). At present, charities are not quizzed about how much of their revenue would be taxable if they were not exempt, and how much of their expenses contribute to their own charitable purpose. The charity regulator, ACNC, established in 2012, could require such accounting but does not.

Humanists Victoria (Humanist Society of Victoria Inc. Reg. No. A0020272M)

Humanists Victoria strive for a society in which all individuals can attain their full potential through promoting an ethical, reasoned and compassionate approach to life.



We agree with former Victorian MLC and leader of the Reason Party, Fiona Patten, who recently opined, [3]

“that in an increasingly secular society, the idea of all religions being tax-exempt should be questioned. ... I think we really have to question whether the advancement of religion should be considered a charitable act.”

Recommendation

Repeal of the advancement of religion as a sufficient charitable purpose.

2. Subsidy of religion unfair

There is also the possibility of unfair competition in the marketplace. In the High Court case of *Word Investments* (2008, 236 CLR 204), Justice Michael Kirby dissented from the Bench, as follows. [4]

“[T]o the extent that such institutions engage in investment and commercial business undertakings with a view to profit, they invite upon themselves a strict scrutiny. In such a case, they are in competition with others in the marketplace who do not enjoy any of the economic advantages that the exemption affords.”

Nowadays the proportion of society espousing no religion is approaching 40%, according to Census 2021. The income-tax exemption available to religious bodies is invidious to non-religious taxpayers and to those of secular conviction, whose benefit derived from government expenditure is less than that of the churchgoer. It is an example of discrimination without justification.

We contend, in the words of the late Nick Renton, [5]

“It is quite immoral for taxes to be extracted compulsorily from citizens to subsidise extensive concessions for religious bodies.”

A business associated with religion should be taxed on the same basis as any other business.

Recommendation

Withdrawal of income-tax exemption from commercial and investment businesses of religious organizations.

References

- [1] ACNC, ‘Charity money myths: the facts about operating as a not-for-profit’, read 9 May 2023.
- [2] Evans, ‘Energy costs drag on Sanitarium’, *Financial Review*, 1 Oct 2017.
- [3] Koob, Adams and Sparkes, ‘Nick was told to “cast demons out” because he was gay. Now he questions his old church’s charity status’, *The Age*, 25 Apr 2023.
- [4] McGregor-Lowndes, Turnour and Turnour, ‘Not for profit income tax exemption: Is there a hole in the bucket, dear Henry?’ *Australian Tax Forum* 26(4), 2011, pp. 601-631.
- [5] Renton, ‘Taxpayers’ sacrifice to the churches’, *Sydney Morning Herald*, 6 May 2008.

This concludes the submission.

Yours faithfully,

Stephen Stuart
Acting Secretary, Humanists Victoria

[HV PC]