

26 August, 2011

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

BY EMAIL: [NFPReform@treasury.gov.au](mailto:NFPReform@treasury.gov.au)

Dear Sir / Madam

**Re: *Exposure Draft of the Tax Law Amendments (2011 Miscellaneous Measures) Bill (No. 1) 2011: tax exempt body "in Australia" requirements***

The Association of Australian Medical Research Institutes (AAMRI) appreciates the opportunity to provide Treasury with comments on the *Exposure Draft of the Tax Law Amendments (2011 Miscellaneous Measures) Bill (No. 1) 2011: tax exempt body "in Australia" requirements*.

AAMRI is the peak body that represents the interests of Australia's leading medical research institutes. AAMRI contends that the amendment as drafted may have unintended impacts on the deductible gift recipient (DGR) and income tax exempt status of Australian medical research institutes. Many of our member institutes conduct research and health promotion activities outside of Australia. The proposed legislative changes that relate to the 'in Australia' conditions for tax exempt entities are ambiguous and open to interpretation.

Of principal concern to AAMRI and its members are the proposed changes to the DGR endorsement. Many of our member institutes conduct overseas programs and thus do not meet the new DGR requirement for an institution to operate and pursue its purposes solely in Australia at all times. Under the proposed legislation, our members will have to try and maintain their DGR endorsement through demonstrating that their overseas activities are 'merely incidental' and 'minor in extent and importance' to their Australian activities.

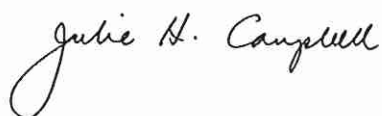
The application of such a simple activity based test for determining DGR status is not appropriate for MRIs. This is particularly the case for institutes that undertake research on diseases that are not endemic to Australia or are of international significance. For example, the Burnet Institute is an international leader in infectious diseases and conducts extensive research into HIV and other diseases outside of Australia. As such, they undertake considerable research activities overseas, yet these offshore activities underlie their core purposes within Australia and the purposes for which the institution was established. This is but one example of many where MRIs are contributing research expertise to international programs and objectives.

AAMRI members are reliant on revenue secured through philanthropic and fundraising activities. DGR endorsement is a key tax incentive for the public to donate to medical research. The proposed legislation if tabled would impose great uncertainty on our member's ability to gain DGR endorsement and thus their financial security. In addition, the proposed changes may also deter MRIs from pursuing current and future opportunities to contribute to international research programs.

The Exposure Draft also details changes to the requirements for income tax exempt status and subsequent amendments to the *Fringe Benefits Tax Assessment Act 1986*. Under the proposed legislation the income tax exempt status for MRIs that undertake overseas activities would seem to be dependent on DGR endorsement. That is, MRIs that undertake considerable overseas activities and thus do not obtain DGR endorsement would not be able to be income tax exempt entities. Further, AAMRI is concerned that these MRIs would also not be eligible to be fringe benefit tax (FBT) rebatable employers under this proposed legislation. The loss of the FBT concessions would negatively impact on our members' ability to attract and retain high quality staff.

AAMRI would recommend that the Exposure Draft be withdrawn and the current process of review be suspended until after the National Charities and Not-for-Profit Commission is established. The Commission could oversee future legislative reform processes and ensure that such processes include a comprehensive consultation with the all segments of the charity sector.

Yours sincerely

A handwritten signature in black ink that reads "Julie H. Campbell". The signature is written in a cursive, flowing style.

Professor Julie Campbell AO FAA  
President

CC: The Hon. Bill Shorten MP, Assistant Treasurer and Minister for Financial Services and Superannuation, The Hon. Mark Butler MP, Minister for Mental Health and Ageing, Senator the Hon. Kim Carr, Minister for Innovation, Industry, Science and Research