



# Estate Planning Tasmania News

Issue 39 November 2013 - Special Edition: Changes to Charity Law

## Tax Institute Seminar for Charities

**Worrall Lawyers encourages our contacts in the charities and not - for - profit sector, and there advisers, to attend a valuable session being provided by the Tax Institute of Australia on 27 November 2013.**

The details for the seminar provided by the Tax Institute are:

### Charities and Not - For - Profits Tax, Regulation and Governance Issues

**Date:** Wednesday, 27 November 2013

**Time:** 10.00am—1.20pm (Registration from 9.45am)

**Venue:** Hotel Grand Chancellor, 1 Davey Street, Hobart

#### Outline:

There have been significant changes in the tax and regulatory landscape for the charity and not-for-profit (NFP) sector in recent times. How will the changes impact you, your organisation or your clients?

The objective of this session is to update your knowledge about:

- Not - for - profit regulation and in particular, working with the new Australian Charities and Not - For - Profit Commission and the Australian Taxation Office
- Ring to your attention key changes in the privacy principles regulations currently applied to Australian Government agencies and businesses operating in Australia
- Provide a greater understanding of the characteristics of good not - for - profit governance

#### Presenters:

- John Emerson, CTA
- Susan Larsen - Scott
- Phil Butler, Manger NFP

#### Cost:

Member - \$275.00	Group Discount member - \$220.00	Regional member - \$220.00 (if travelling > 150kms)
Non member - \$310.00	Group Discount non member - \$265.00	Regional non member - \$265.00 (if travelling > 150kms)

A Registration form is attached.

Worrall Lawyers has a strong and continuing association with the Tax Institute, with Sam McCullough, Director, and Alex Bobbi, Associate, being current members. Kate Hanslow, Senior Associate, will present to their National Convention in 2014 on Powers of Attorney and Enduring Guardianship. Their seminars are usually of the highest quality.

Expertise in the Charity Law area is held within Worrall Lawyers. If you need advice about charities then please contact us.



**Peter Worrall**

## Changes to Charity Law

**The legal definition of "charity" will change from 1 January 2014, with that definition now being included in Commonwealth legislation.**

Before this legislation, the meaning of "charity" and "charitable purpose" had not been fully defined by legislation in Australia, having had their source in English legislation from the 1600s, and case law in the United Kingdom and Australia dealing with whether or not particular organisations or purposes were charitable. The common law recognised entities having charitable purposes, being essentially purposes beneficial to the community at large. Those purposes were broadly grouped into the following categories:

1. the relief of the poor or aged;
2. the advancement of education;
3. the advancement of religion; and
4. other purposes beneficial to the community of certain types.



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## Changes to Charity Law - Continued

This list was extended by legislation in 2004 in Australia, which until the current legislation was the only legislation in Australia seeking to define the meaning of Charity.

The explanatory memorandum to the *Charities Bill* 2013 (Cth) and related legislation states that the new definitions are generally based on the existing common law, with "minor modifications to modernise and clarify the common law". The requirement that to be a charity an organisation must be "not for profit", and have only charitable purposes for the benefit of the public, remain. The legislation now defines fourteen (14) categories of charitable purpose, providing more specific categories than the previous four (4) common law categories. The new categories include: advancing health, advancing education, social and public welfare, religion, and culture. Other purposes long regarded as charitable are also expressly stated, including preventing or relieving the suffering of animals, and promoting or protecting human rights.

The law remains that to be a charity all of the purposes of an organisation must either be charitable, or be for the purposes of assisting charitable purposes. The organisation is not able to have other non-charitable purposes.

The new legislation also deals with other important matters for charities, including rules that apply when an organisation has a commercial purpose, and how that commercial purpose relates to the requirements for a charitable purpose, and operating "not for profit".

Existing charities should take the opportunity to review their constitutions or other constituent documents to ensure that their objects, and how they are expressed, fit clearly within the new categories of charity and charitable purpose. Consideration should be given to amending those documents where there are any areas of doubt. For those establishing a new charity or charitable structure, correctly identifying the category (or categories) of charitable purpose that apply, and drafting constituent documents to accurately express that purpose, and to avoid anything that may be outside the definition of charity, is likely to be of critical importance.

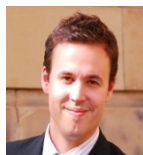


**Sam McCullough**

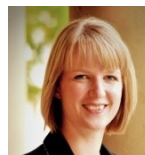
## Our Lawyers



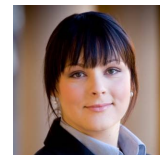
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## Further Information

**Our Website:** A wealth of information in relation to estate and commercial matters can be found at our website [www.pwl.com.au](http://www.pwl.com.au)

**Contributions:** Contributions and suggestions from Estate Planning News readers are always appreciated. Email us at [sam.mccullough@pwl.com.au](mailto:sam.mccullough@pwl.com.au)

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