



15 October 2014

Ms Samantha Parsons
Committee Clerk
Standing Committee on Legislation
Legislative Council
Parliament House
PERTH WA 6000

Dear Ms Parsons

INQUIRY INTO THE TAXATION LEGISLATION AMENDMENT BILL 2014

The Law Society of Western Australia is grateful for the opportunity to comment on the Taxation Legislation Amendment Bill 2014 (the Bill).

The Society is concerned that the Bill may impose unintended consequences on legitimate fourth limb charities by virtue of the related party provisions in the proposed subsection 95(2) to be inserted in the *Duties Act 2008* (WA).

The proposed subsection provides a person is related to a relevant body, and therefore ineligible for the exemption under subsection 95(1), if the person liable for duty holds the dutiable property as trustee and the relevant body is a beneficiary; even if only a potential beneficiary under a discretionary trust.

As many discretionary trusts have very wide classes of beneficiaries it is possible that a relevant body could be a beneficiary of a discretionary trust despite there being no realistic possibility the relevant body could benefit under the trust.

The Law Society of Western Australia is trustee, pursuant to the Law Society Public Purposes Trust Act.

The Society submits that the Commissioner be given a power to determine the trustee is not related to the relevant body. A similar power exists under section 162 of the *Duties Act 2008* (WA).

The Society considers that it would be appropriate for Parliament to include, by way of regulation, guidelines to guide the exercise of the Minister's discretion and that the Society would be happy to comment on those draft regulations when they are developed.

Yours sincerely

A handwritten signature in dark ink, appearing to read 'Konrad de Kerloy'.

Konrad de Kerloy
President

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