



HIGH COURT OF AUSTRALIA

Public Information Officer

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CENTRAL BAYSIDE GENERAL PRACTICE ASSOCIATION LIMITED v COMMISSIONER OF STATE REVENUE

Central Bayside General Practice is entitled to a payroll tax exemption because it met the definition of a charity, the High Court of Australia held today.

Central Bayside was registered as a company limited by guarantee in 1994. Its constitution provided that the company must not distribute any of its profit, income or assets directly or indirectly to its members and its income, assets and profit could only be used for the objective of improving patient care and health in Melbourne's bayside area. In 2002 Central Bayside had 180 local GPs as primary members and 70 GPs from outside the area as associate members. In the 2001-02 financial year, Central Bayside had total revenue of \$1,048,979, of which \$1,006,997 came from the Commonwealth. Of the Commonwealth funding, 45 per cent was an outcomes-based funding (OBF) grant while the rest was as grants for particular projects. Central Bayside was required to devise a strategic plan and business plans identifying relevant outcomes for the OBF Agreement.

In December 2001, the State Revenue Office refused Central Bayside a payroll tax exemption under section 10(1)(bb) of Victoria's *Pay-roll Tax Act*, because Central Bayside was predominantly a professional body promoting the interests of its members. A delegate for the Commissioner, the Victorian Civil and Administrative Tribunal, the Victorian Supreme Court and, by majority, the Court of Appeal upheld that refusal because Central Bayside was not accepted to be a charitable body. The Tribunal accepted that Central Bayside existed for purposes beneficial to the community but held that its services were not charitable as it was an arm of government or the bureaucracy. Central Bayside appealed to the High Court.

The Court unanimously allowed the appeal. It held that Central Bayside's constitution and purposes brought it within the legal definition of a charity. The Commissioner contended that Central Bayside acted so much under the control and influence of government that it could be seen to be furthering government objectives rather than performing its own. The Court held that Central Bayside, like many charities, has a purpose shared by the Commonwealth, in this case to improve patient care and health. This did not alter its essential character as a charity. The Court held that Central Bayside's purpose is charitable, within the legal meaning of that term, even though the government is the source of its funds and even though Central Bayside consents to conditions being attached to those funds.

- *This statement is not intended to be a substitute for the reasons of the High Court or to be used in any later consideration of the Court's reasons.*