

**Senate Standing Committee on Economics**

**ANSWERS TO QUESTIONS ON NOTICE**

**Treasury Portfolio**

Additional Estimates 2013

14 February 2013

**Question:**       **AET 68**

**Topic:**           **Charity Fraud**

**Hansard Page:**  **100-111**

**Senator ABETZ asked:**

**Senator ABETZ:** No, this is just a generic question. That is the allegation in this case. Let me put it to you, then: if somebody goes around fraudulently collecting for a charitable purpose but then uses it for their own personal use, does that require disclosure under the Australian tax regime?

**Mr Quigley:** I would certainly think that that would be income under ordinary concepts.

**Senator ABETZ:** Yes. So, without commenting on this particular case of the foundation, as a general concept you would agree with that?

**Mr Quigley:** From what you have said, I would think so, yes.

**Senator ABETZ:** Is it correct that the tax office can in fact reach back indefinitely if fraudulent activity is involved?

**Mr Quigley:** Certainly if there is fraud and evasion there is no time limit for amendment.

**Senator ABETZ:** So if somebody were involved in, for example—just picking a random example—the Australian Workers' Union reform association, which collected hundreds of thousands of dollars, and then used that for themselves personally but did not disclose it in their taxable income, that would be something that the Australian Taxation Office could pursue and prosecute if need be?

**Mr Quigley:** Again, Senator, I think you are trying to get me to give you an answer about a specific instance. I am not in a position to do that.

**Senator ABETZ:** Can I ask whether this matter, given all the public airing it has had, has at least excited the interest of the Australian Taxation Office?

**Mr Quigley:** All I will say is that we obviously follow all these things in the media, in the press and in the courts and we look to see what tax implications there might be.

**Senator ABETZ:** I think the Australian people would be most interested in whether or not this particular case of the Construction Industry Drug and Alcohol Foundation issue is being pursued and also the issues surrounding the Australian Workers' Union reform association. Are you able to take on notice for us whether these matters are under active consideration?

**Mr Quigley:** I will take on notice your question but with the caveat that I do not believe we will be able to provide you with information about specific instances.

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**Answer:**

The Australian Charities and Not-for-profits Commission (ACNC) has been responsible for determining charitable status for all Australian Government purposes and maintaining a charity register since 3 December 2012. Existing charities endorsed by the ATO as income tax exempt will be automatically registered with the ACNC.

It has been a long standing practice of the Commissioner of Taxation not to comment on the tax affairs of any entity or whether any investigation may be underway.