

Charity Newsletter – November 2009

Issue 15



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Introduction

Welcome to our latest newsletter.

This contains the usual information updates regarding taxation and VAT, the Charities Act, in particular the public benefit assessments recently held by the Charity Commission and also a section on how the recession is affecting charities.

Graham Boulton
Charity Partner

Tax News



Accommodation concession for animal charities

An animal welfare charity has recently agreed with HM Revenue & Customs that staff who need to be resident overnight to care for animals are eligible for tax exemption if provided with living accommodation. No benefit will arise for income tax and Class 1A national insurance contributions. This has significant implications for all animal welfare charities.

Gift aid – HMRC

HM Revenue & Customs have launched a CD-based toolkit containing advice and guidance to help charities get started with gift aid. E-mail charities@hmrc.gov.uk for more information.

Gift aid declarations

HMRC has published revised wording for gift aid declarations. This includes changes to the donor's statement and also mentions the dates of the tax year to which the declaration relates. For more information, see www.hmrc.gov.uk/charities/gift_aid/declarations.htm.

Rates relief

Charities are entitled to 80% relief on their rates bill, and many other authorities grant a further 20% relief depending on a charity's financial circumstances and other factors.

From 1 April 2008 charities who vacate premises are also entitled to 100% exemption from void rates, provided the next user of the premises is also likely to be a charity.

Time limits for Charitable Gift Aid Claims

HMRC has indicated that gift aid claims can be made up to six years after the gift. However, HMRC will only make the gift aid transitional relief payment if claimed within two years of the end of the charity's accounting period/tax year. Claims made outside this period will simply attract the 25% gift aid with no uplift for transitional relief.

It has also been rumoured that the six year time limit will be reduced to four years from April 2010. Therefore, we would recommend to all charities that their gift aid claims are kept up to date.

Call for reform on gift aid

The Institute of Fundraising has urged the government to reform Gift Aid to allow charities to reclaim the full amount of tax on donations from higher rate taxpayers. At present this is limited to the basic rate, regardless of the taxpayer's position. Under the new proposals, donors could tick a box to say they were higher rate taxpayers and surrender the right to reclaim any of the tax on their donation.

Substantial donor rules set to change?

HMRC is to propose a series of reforms to substantial donor legislation shortly. The current rules may penalise charities if they provide benefits to anyone who has donated in excess of £25,000 to the charity in a single calendar year. Many charities have been

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caught by these rules, and feel that they are being penalised for entering into transactions in good faith in accordance with the objects of the charity.

VAT news

VAT victory for opera charity

A recent tax tribunal has ruled that charities can recover some input VAT incurred on expenses if the charity operates attractions such as zoos, museums and theatres. HMRC had argued that as ticket sales were exempt from VAT, so too were the 'incidental' sales, such as programmes, drinks and merchandise.

The tribunal ruled that Garsington Opera could reclaim some of the VAT it paid suppliers because it had substantial income from items such as programmes and CD sales. This presents an opportunity for charities to review their VAT position, and if the additional income generated proves essential for the charity to continue in operation then there may be scope for improved VAT recovery.

VAT on construction of new buildings

HM Revenue & Customs have recently reduced a concession allowing charities to use up to 10% of new buildings for business purposes and still be zero rated for VAT. The new rules reduce the figure to just 5%. However, HMRC has confirmed that it will accept any reasonable method of calculating how much of a building is used for business use (beforehand the method was more prescriptive). This new rule comes into force on 1 July 2010.

Charities Act update

Exempt charities

Soon some charities exempt from Charity Commission registration will lose that exemption and if they have an income of over £100,000 will need to register. Charities that will lose their exemption in late 2009 are as follows:

- Universities and educational institutions in Wales
- The colleges and halls of the University of Oxford, Cambridge and Durham
- University student unions in England and Wales
- The Museum of London

Charities that are expected to lose their exemption next year include:

- Further education corporations in Wales
- Student unions of further education corporations in England and Wales
- Charitable industrial and provident societies that are not registered housing providers in England or registered social landlords in Wales

The Charity Commission should contact each organisation regarding registration. Earlier this year excepted charities which include religious organisations underwent a similar registration process.



Charities and public benefit

The Charity Commission has announced that three out of the twelve charities selected failed the initial assessment regarding public benefit. Two independent schools and one fee charging care home have been given 12 months to produce an action plan to remedy the conclusion that they do not provide enough opportunity for those who cannot afford to pay their fees.

The Charity Commission have recently recognised that it may take several years for some charities to meet the public benefit requirement.

Many trustees have already considered public benefit when writing their trustees report in respect of the year ended 31 March 2009. Considering these issues now should ensure few problems arise in the future.

Recession issues

Donations to charities

It is reported that donations to UK charities have fallen by 11 per cent in the past year. The Charities Aid Foundation and the National Council for Voluntary Organisations carried out the UK Giving 2009 survey. It found that people were generally giving less, and that less than 2 in 5 gift aid their donation. This shows there is still potential scope for increasing the take up of gift aid.

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The economic downturn

The Charity Commission has published guidance on the economic downturn in the form of a checklist listing the questions trustees need to ask in difficult times. This can be found on their website www.charitycommission.gov.uk.

Hardship Fund

Following the announcement in the Budget in April, the Hardship Fund is now open. Grants are available of between £50,000 and £250,000 to support charities which deliver front line services to the vulnerable and disadvantaged in society. It is available to those organisations in financial hardship, where this hardship is affecting the services they are able to deliver. Charities need to have an income of at least £200,000 to be eligible for funding. Funding is available for charities that operate in the following areas:

- health and social care
- housing support
- education and training
- information, advice and guidance.

Further information can be obtained from the web site www.cdf.org.uk/web/guest/hardship-fund.

Charity shops

The BDO charity shops survey 2009 shows that charity shops have defied the current recession to increase their profits by 4.1%.

Insolvency and charities

The current recession has affected all sectors, including the not for profit sector. Many charities are feeling the effects of lower levels of giving, lower investment income, lower property values (with the knock on effect of legacies) and potentially lower levels of grant income from government and other bodies.

All of the above factors mean that charity trustees and staff need to monitor management accounts, budgets and projections carefully.

Real help for communities

The government has set up a 'Real help for communities modernisation fund'. The fund will provide grants of up to £10,000 to those organisations

seeking to collaborate or merge with other charities. Loans are also available of between £30,000 and £500,000 to charities with existing plans to work together or merge.

Other news

Charitable Incorporated Organisation

The government and Charity Commission will shortly be amending the legislation in relation to the new 'Charitable Incorporated Organisation' (CIO). It will then be approved by parliament with the aim of being implemented in Spring 2010. The main advantage of this type of organisation will be that there is only one regulator to report to (the Charity Commission).

The Charities Act 2006 contains provisions to enable existing charities and friendly and provident societies to convert to a CIO. This should be relatively straightforward.

Heritage assets

The Accounting Standards Board following consultation with charities and auditors has dropped the requirement for all heritage assets to be included on the balance sheets of museums and charitable trusts. The new 'Financial Reporting Standard 30: Heritage Assets' instead requires charities to account only for assets bought or donated after 2001, and to include a note in the accounts explaining the nature of the assets not included on the balance sheet.

Advisers and charities had previously argued that obtaining valuations for such assets would have been very difficult and costly.

Legacies to charities

Many charities throughout the county that receive significant legacy income will have been interested in the recent case at which a significant legacy (some £2 million of land) left to the RSPCA was overturned following action being taken by the daughter of the donor, who claimed that her mother had been forced into signing a will by her father some years earlier.

The RSPCA plans to appeal against the High Court's decision. In cases such as this trustees' need to balance their duties under charitable law, with the potential costs it could be liable for and also the criticism that may be generated by the press.

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If you do not have internet access but would like a copy of any documents referred to in this newsletter please contact one of the charity team

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