

Charity Newsletter

-Winter 2005-

Introduction

Welcome to our winter newsletter. I hope those who attended the SORP seminar on that very hot day last June, found this to be useful. Whilst we are still waiting for the long anticipated Charities Act, SORP 2005 is definitely now with us and charity trustees and finance staff as well as their accountants/auditors will be considering how to incorporate the changes in their next set of accounts. This newsletter includes an article on the treatment of incoming resources and we will look at other areas in future issues.

We have provided details of a change to the gift aid rules and a reminder of the general principles which are still important, especially if you are faced with one of the Revenue audits which are now starting to take place. The newsletter also looks at the trustees' role and distinguishes between that and being a member of the charity which is often an area for confusion.

Finally, I and my staff take this opportunity to wish our readers a happy, peaceful and rewarding Christmas and hope 2006 brings you and your charity the wisdom, strength and guidance required to meet the many demands that will no doubt arise.

Richard Robinson
Partner



ROBINSON
— REED —
LAYTON
—
CHARTERED
ACCOUNTANTS

Peat House
Newham Road
Truro
Cornwall
TR1 2DP
Tel: 01872 276116
Fax: 01872 222172

post@rrl-truro.co.uk
www.rrl-truro.co.uk

Contents

Page 2
SORP 2005 topic talk

Charities Bill update

Sage Update

Stop Press

Page 3
Accounts online

Income Tax & Gift Aid

Page 4
Trustees job description

Members v Trustees

Disclaimer

Charity Team

Richard Robinson Partner
Graham Boulton Partner
Mark Williams Team Leader
Deborah Rickard Senior
Susie Viles Sage-software
 Specialist

SORP 2005 topic talk

Incoming resources

Income is received from many different sources and often contains conditions on which the money can be spent. It is therefore not uncommon for there to be confusion as to how to account for various incoming resources. The value of all resources accruing to the charity should be recorded in the SOFA as soon as it is prudent and practicable to do so. Incoming resources should not be recognised until the conditions for receipt have been met and there is reasonable assurance of receipt.

Income can only be deferred where time constraints are part of the condition of the donation/grant and are not co-terminus with the charity's year end. Income may be received prior to the year end however the charity may not be entitled to spend it until the next financial year. Incoming resources cannot be deferred simply because the related expenditure has not been incurred.

Where no time constraints exist the total amount of income should be recognised when it is received, regardless of whether it is restricted or unrestricted, including amounts unspent at the year end.

Sometimes a grant agreement will state certain conditions which must be fulfilled prior to receipt of the grant. Where this occurs, the grant should be completely excluded from the accounts until the conditions have been met. It should not be included in incoming resources on the SOFA or on the Balance Sheet.

Grants and donations are often received for the purchase of fixed assets. The total income must be included in the SOFA and not treated as deferred income over the life of the assets. Once the asset is acquired it will be treated as a restricted or unrestricted asset.

If the only restriction placed on the income is that the assets must be purchased then a transfer can be made from restricted funds into unrestricted funds to reflect that the restrictions have been fulfilled (i.e. the asset has been purchased). The trustees should consider creating a designated fund reflecting the book value of the asset. The relevant fund will then be reduced over the useful economic life of the asset in line with its depreciation. If the conditions under which the income is received specify that the charity has to use the asset for certain charitable purposes then the restricted fund would continue and represent the net book value of the asset, and then be dealt with as above.

Charities Bill update

The Draft Bill did not receive Royal Assent prior to the general election in May 2005 and therefore had to be re-introduced. The Bill has been through the House of Lords and it will now pass to the House of Commons. If both Houses agree the Bill it will be given Royal Assent and become an Act early in the new year. We will report on the final version in our next Newsletter.

Sage update

The 12th version of Line 50 contains charity specific features. Previously Sage had two dimensions of analysis being the nominal code and department code. The new charity option has a third dimension, that of funds analysis. Each fund can be identified as restricted, unrestricted or endowment and is attached to a reserves nominal ledger account. Nominal accounts can be assigned to a SOFA category and thus a SOFA report can be produced in the correct SORP format. The upgraded software also includes a feature for recording and reporting on donations eligible for gift aid. Sage Line 50 now offers much improved reporting for charities and is promising to introduce further enhancements in version 13. If you would like further details, please contact a member of our sage team.

Stop press

One of the technical proposals tucked away in the papers issued with the Chancellor's pre-Budget Statement is the intention in the 2006 Budget to allow trading companies which are jointly owned by one or more charities to pass up their profits by way of gift aid in proportion to the relative shareholdings. Up to the present these payments would be treated as a distribution of profits and there has been very little to encourage joint ventures between charities. Hopefully now this will change, one suggestion is that charities will work together to run high street charity shops, sharing the high costs of rent and services and easing the pressure on finding sufficient volunteers. Alternatively a jointly owned company could be used to organise major fund raising events.

Accounts online – Charity Commission Website

Until recently the Charity Commission stored submitted accounts in paper format and to obtain a set an order had to be placed with the Commission and a fee was charged. 35,000 sets of accounts are now scanned and reproduced in PDF format on the Charity Commission website and are therefore publicly available and free of charge. The view is that this procedure should help to promote greater transparency and accountability within the charity sector.

Income Tax and Gift Aid

The government has recently announced changes to the gift aid scheme which came into force on 1 November 2005. This change was made in response to practical concerns raised by charities collecting donations by telephone and the internet following the Tsunami and the Pakistan earthquake.

Previously every verbal donation had to be acknowledged in writing with details of the donor, the scope of the declaration and a statement relating to the right to cancel and the tax rules that apply. Now, this is no longer necessary provided the charity retains a detailed record of each donation in either paper, computerised or microfiche form for at least six years. It is not yet clear how charities will be able to meet the continuing commitment to advise the donor of their right to cancel and the income tax rules however it may be necessary to read out these statements to the caller at the time of the verbal donation.

Obviously this change will not affect every charity that claims gift aid however it is worthwhile giving everyone a reminder that all gift aid claims must meet the following general principles:

The donor must pay enough income tax or capital gains tax to cover the amount of tax the charity will reclaim.

- a) The donor must give the charity a gift aid declaration which includes:
- > Name
 - > Home address
 - > The charity's name
 - > Statement that the donation is made under gift aid
 - > Confirmation that the donor is a taxpayer
- b) The declaration can cover an individual donation, a series of donations, donations during a specified period or all donations to that charity from any date since 6 April 2000 together with all future donations.
- c) Donations do not qualify for gift aid if the donor receives a benefit with a value of more than the following amounts:
- | | | | | | |
|--------------------------|----------------|--------------------------|--------------------------|--------------------------|------------------|
| <input type="checkbox"/> | Donation | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | Maximum Benefit |
| <input type="checkbox"/> | £0-100 | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | 25% of donation |
| <input type="checkbox"/> | £101-1,000 | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | £25 |
| <input type="checkbox"/> | £1,001-£10,000 | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | 2.5% of donation |
| <input type="checkbox"/> | Over £10,000 | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | £250 |

Where the donor receives free or reduced entry to certain properties these benefits can be ignored.

- d) Although there is no legal requirement many charities request that the donor signs the declaration. This at least provides strong evidence that the donor intended gift aid to apply when providing the other details.

Revenue & Customs (HMRC) are starting to carry out compliance visits to local charities in order to check the accuracy of gift aid claims being made. Where there is a fairly high value of claims the Inspector will select a statistical sample and then apply the percentage error rate found in this to all claims made by the charity. Any income tax deemed to be over claimed will then need to be repaid with interest. Accurate recording of the name of the donor and their full address is therefore essential at the time the form is completed, as lack of attention to detail could result in an unexpected and certainly unwelcome expense. There is detailed guidance on the operation of gift aid on the HMRC website.

Trustees job description

It is the responsibility of trustees to hold the charity 'in trust' for current and future beneficiaries. They must therefore take the following into account:

- > The charity must have a clear vision, mission and strategic direction and be focused in achieving these – both trustees and staff must have a common understanding of these in order for the charity to accomplish its goals. The view of both current and future beneficiaries must be taken into account together with the effect of the changing external environment.
- > The trustees are responsible for the performance of the charity and for its 'corporate' behaviour – this can be achieved by the trustees receiving regular financial reports and providing feedback to the charity officers to help progress towards agreed strategies.
- > The charity must comply with all legal and regulatory requirements – the trustees must therefore be familiar with the rules and constitution governing the charity.
- > The trustees' act as guardians of the charity's assets – it is essential that the charity has a satisfactory system of controls in place to ensure assets are held in trust for the beneficiaries and monies are invested to obtain maximum benefit for the charity. Any risks to which the charity is exposed must be reviewed annually with adequate systems and controls put in place to mitigate such risks.
- > The charity's governance must be of the highest possible standard – the trustees must ensure that the governance structure is suitable to the size and complexity of the charity. The board of trustees must have the relevant skills required to effectively govern the charity and have access to relevant professional advice and expertise.

Members v Trustees

Many unincorporated charities become companies limited by guarantee in order to have limited liability protection. The Companies Act clearly differentiates between members and directors, referred to as trustees in unincorporated charities. Members of a company have limited powers and normally only meet at the Annual General Meeting (AGM). The formal role of members is as follows:

- > Elect trustees
- > Appoint the auditors
- > Adopt the audited accounts laid before them

It is essential that an accurate register of members is maintained. The register must record when members are appointed together with retirement dates.

This may seem like an unnecessary administration exercise however failure to maintain such vital details can have a detrimental effect on a charity. In a recent case a register of members had not been maintained and therefore not all members were invited to the AGM. As these AGM's were not valid any trustees elected at these meetings were not legitimately appointed.

In the case of some charities the members and trustees are often the same individuals. It is important however that the distinction between these roles is maintained. Unless members are required to resign after they cease to be a trustee their position as a member continues, therefore over a number of years the size of the membership will grow and this group could potentially exercise a majority control over the charity.

Whilst the proper governance of charities is important, trustees must avoid creating an unintentional power base amongst its members. A clear understanding of the role and identity of members is therefore essential.

Whilst every effort is made to ensure the accuracy of any information herein, this firm cannot accept responsibility for any inaccuracies. Professional advice should be sought before action is taken or refrained from in specific circumstances.