

CHARITY NEWSLETTER

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Introduction

Welcome to our first newsletter for 2009. Not only has the weather been much worse recently but the world recession has continued to deepen. This has meant many charities have needed to review their budgets and operating arrangements to secure their ongoing activity and meet their charitable objectives.

This edition looks again at gift aid which still represents a very straightforward way of increasing donated income as well as some other recession related issues.

Charities will soon need to describe how they meet the public benefit requirements in their accounts; therefore we have reviewed the continuing stream of guidance on this subject from the Charity Commission.

I am delighted to report that my manager Mark Williams and I have both attained the Diploma in Charity Accounting issued by the Institute of Chartered Accountants in England and Wales. This award is held by less than 700 accountants in the UK and further serves to demonstrate the skills that Robinson Reed Layton is able to apply in dealing with its charity clients.

Finally, I have announced I am retiring as a partner from Robinson Reed Layton on 31 May 2009 after 41 years in the accountancy profession. I am delighted to say I will be leaving the firm's charity practice in good hands under the control of my partner Graham Boulton, who already acts for a number of charities with Mark Williams managing the firm's charity department. After 31 May my partners have invited me to remain as a consultant and I will still be available to provide guidance and assistance to clients on charity issues when required.

Richard Robinson
Charity Partner

Contents

Gift Aid	Page 2
Recession Update	Page 3
VAT Update	Page 4
Public Benefit Guidance	Page 5
News Roundup	Page 6

GIFT AID

Unclaimed tax relief

The Charities Aid Foundation (CAF) has reported that an estimated £200m tax relief on charity donations continues to go unclaimed every year.

The survey concluded that half of all higher rate tax payers surveyed were not aware that they could claim 20% personal tax relief through self assessment.

It is therefore important for all charities that rely upon voluntary donations from the public to promote the gift aid scheme on their documentation.

The online Gift aid forum at www.giftaidhelp.org can be a valuable resource for charities looking to maximise the uptake of gift aid wherever possible. The web site can help charities just starting up, those subject to an audit, and points out where improvements can be made, such as trustees' expenses being gift aided back as donations to a charity.

HM Revenue & Customs record keeping

HMR&C is considering how long charities need to keep Gift Aid declarations. Currently charities must retain declarations for as long as they remain part of an ongoing donation. This is currently being reviewed. Other financial records must be kept for at least 6 years.

Gift aid tool kit

HM Revenue & Customs has produced a new CD toolkit to aid charities looking to boost their gift aid receipts. The toolkit includes everything needed to get started and should benefit charities who are not making the most of gift aid opportunities. Further information can be found on the HMRC website: www.hmrc.gov.uk/charities/gift_aid/index.htm

Cross border donations

UK charities may soon be able to benefit from tax relief on donations from anywhere within the European Union, the European Court of Justice has ruled.

If a donor from the EU gives to a domestic UK charity then it should become eligible for tax relief according to the UK's domestic rules. Countries will have to give tax relief only to organisations recognised as charities according to their own law.

Opt out system for gift aid??

It is hoped that the Treasury will change gift-aid from an 'opt in' to an 'opt out' system, meaning that donors will no longer have to declare that they are taxpayers and give permission in order for charities to reclaim gift aid on donations.

Instead charities would need to write to the donor stating that they intended to reclaim gift aid on the donation unless they objected. More details will be provided in future newsletters if this goes ahead.

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RECESSION UPDATE

Managing in a downturn

A report was published in December 2008 concerning the impact of the recession on the charity sector. The document was prepared by the Charity Finance Directors' Group, PricewaterhouseCoopers LLP, and the Institute of Fundraising.

The key findings are as follows:

- Concern that sources of income will remain static, or in the case of corporate income, bequests and trust income (e.g. Big Lottery fund) will decrease.
- The impact of the recession and downturn is only being felt by a minority of charities currently.
- 71% of charities questioned have taken some action in response to the current economic climate, including carefully monitoring cash flow, treasury management, review of reserves policy, reviewing budgets and forecasts.
- A significant number of charities believe there are opportunities to be gained.
- Significant lead time between entering into a recession to falls in public spending, and again until the recovery in public spending.
- It is vital that charities assess their current position and emerge stronger rather than be left behind.

The document lists 10 priorities for charities when considering the economic climate:

1. Take a closer look – get to grips with how the charity is run
2. Act decisively – tough decisions may need to be made
3. Monitor cash – ensure working capital is carefully monitored
4. Focus on what matters – concentrate on activities that create value
5. Manage your cost base – look at making targeted cuts in costs, obtain better value
6. Reliable management information – produce good financial information
7. Plan for different scenarios – plan for flexibility
8. Recognise your people – communicate with your employees
9. Stakeholders – evaluate how the downturn will effect stakeholders
10. Take advantage of opportunities – look at growth areas

Further information concerning this survey can be found on the CFDG website, www.cfdg.org.uk

Icelandic banks

The Charity Commission has recently published guidance for charities that have invested in Icelandic banks. The Treasury states that arrangements are being put into place to ensure that retail depositors in the banks of Landsbanki, Heritable, Kaupthing Singer and Friedlander will receive their money in full.

Retail depositors will include charities that are:

A body corporate (which includes company, industrial and provident society) and have 2 or more of the following:

- £6.5m or less turnover
- £3.26m or less balance sheet total
- 50 or less employees.

An unincorporated association with assets of £1.4m or less.



Real help with finance

The government has launched a package of measures to help viable businesses. Charities can apply for this help too, and the schemes include:

- Government guaranteed lending – where viable businesses have temporary cash flow problems. Lenders should have details of the help available. This funding is through the Enterprise Funding Guarantee (EFG), and open to businesses with income of up to £25 million. Loans of between £1,000 and £1 million are available, subject to the discretion of the bank supplying the loan.
- Working capital scheme – the government is providing to banks guarantees of up to £10 billion, to support bank lending. This is open to businesses with turnover of up to £500m.
- Equity funding.

The Regional Loan Transition Fund is a £25m initiative running to the end of June 2009. These funds are available through the local RDA and provide loans where other forms of loans are not available.

Further information can be found at www.businesslink.gov.uk

HMRC business payment support service

Many charities may be concerned about their ability to pay their PAYE, NIC and VAT liabilities on time. HMRC has recently set up a new helpline to provide specific help where businesses may be worried about being able to pay on time. Arrangements can be made to pay over an extended period, however interest will be charged.

Help for charities in hard times

The Institute of Chartered Accountants in England and Wales has produced a help sheet, issued in January 2009, which details 'Tips for surviving the credit crunch'. This help sheet can be found at www.icaew.com/charities.

The Institute will be implementing further initiatives to help the not for profit sector during the current credit crunch.

VAT UPDATE

Local authority payments

A recent VAT tribunal case has resulted in a payment by a local authority to a charity being deemed a taxable supply. Historically this form of income is seen as a grant and therefore not VATable income.

HMRC refused to treat funds received by Bath Festivals Trust Ltd from the local Council as VATable and argued it was a grant, and therefore outside the scope of VAT. The tribunal concluded that if the Trust has not assumed a key role in delivering cultural strategy then the Council would have been forced to do so directly. Therefore the income was deemed to be inside the scope of VAT.

This is an important case for the charity sector – the case shows that a VATable supply can still occur where a charity receives income for a service, which a Council would need to carry out, if the charity ceased to do so. For many charities arguing this case would improve the recovery of input VAT on a partial exemption basis, as VAT can be charged to the local Council and recovered by them.

Therefore there are now 2 important issues to consider:

- Whether the Council benefits from making a payment
- Whether the payment is going to fund an activity that the Council may not directly benefit from but is empowered to undertake

Tax changes for agency staff

Those charities that use agency staff will be affected by changes to the VAT rules concerning agency staff. In the past it was possible to be charged VAT on the agency's fees only. From 1 April 2009 VAT will be charged on the fee plus salary and national insurance costs in full. Therefore charities will need to budget for this if they cannot recover the VAT in full, or consider using agency staff less. There will be a continuing concession for nursing staff because this is considered a supply of exempt healthcare.

PUBLIC BENEFIT GUIDANCE

Before Christmas the Charity Commission issued its sub sector guidance for the following:

- Charities for the prevention or relief of poverty
- Charities for the advancement of religion
- Charities for the advancement of education
- Fee-paying charities

Prevention or relief of poverty

- Recognises the breadth of poverty
- Further guidance for benevolent funds
- Restrictions on beneficiary class have to be justifiable and rational
- Need to link aims and beneficiary
- An asset rich person may be in poverty if they cannot afford to heat their home
- Activities can include financial assistance but also addressing the causes of poverty

Advancement of religion

- These charities may relieve poverty and provide education without necessarily having these activities in their objects
- There must be a link to the charity's objects
- The benefits of advancing religion must be demonstrable, but need not be quantifiable or physically experienced
- Seeking to convert someone to your religion can be a valid means of advancing belief in religion for public benefit
- The line between religious and secular work can be difficult to assess
- It is legitimate to restrict a class of beneficiaries to followers of one particular religion

Advancement of education

- Education is more than merely providing information
- The benefits of education must be recognised, identified, defined or described.
- The aims should set out exactly what the charity intends to do
- Ancillary activities only count towards public benefit of specific object and not towards education object
- It is dangerous to assume public benefit to be met solely through community use – this is a narrow view
- More involved in the community is encouraged

Fee paying charities

- It is only an issue where significant income arises through fee charging
- The emphasis is on people being able to benefit in a genuine and meaningful way
- Fee charging must be directly related to the aims of the charity
- It is unwise to rely on insurance schemes to demonstrate public benefit for those who cannot afford the fees

Charities must start reporting on public benefit for accounting period ending on or after 31 March 2009. The public benefit report on the initial 12 charities selected will be published in the Spring. One of these charities is a residential care home based in mid Cornwall.



NEWS ROUND UP

Defunct charities

With a significant number of charities filing their annual report and accounts and annual returns late, the Charity Commission will be seeking to remove defunct charities from the register.

If a charity fails to file its documents on time, the Commission will contact the organisation to notify them of this. Four months later a further default notice will be issued stating that they will treat this as an indication that the charity has ceased to operate. If no documents have been filed after a further 4 months then the charity will be informed of the Commission's intention to wind up the charity if the documents aren't filed within a further 4 months. If the documents are not filed a full month after the filing deadline then the Commission may strike off the charity, or seek to protect its assets.

Companies House filing deadlines

The filing deadlines for Limited company accounts have been shortened from 10 months to 9 months for accounting periods commencing on or after 6 April 2008.

Therefore the filing period for March 2010 year ends will shorten from January 2011 to December 2010.

Late filing penalties have also been increased from 1 February 2009:

<u>How late are accounts filed?</u>	<u>Penalty – private company</u>
Not more than 1 month	£150
More than 1 month but not more than 3 months	£375
More than 3 months but not more than 6 months	£750
More than 6 months	£1,500



Charity Contacts

If you would like further information regarding any of the issues raised in this newsletter please contact a member of our Charity Team:

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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.

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.