

Robinson Reed Layton Charity Newsletter – Spring 2012



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Introduction

Welcome to our first charity newsletter for 2012.

This edition looks at the recent Budget and how the announcements are likely to affect charities. We also provide an update on accounting developments as well as other items currently affecting the sector which we hope will be of interest.

Mark Williams
Charity Manager

Accounting

New accounting rules in draft form have been issued by the Accounting Standards Board for consultation.

It is now intended that the charity accounting standard will be included within the general accounting standard rather than as a standalone document.

These are fairly radical proposals which comprise a single accounting standard based on international accounting standards (IFRS). These accounting standards would be for companies in the UK except those required or opting to report under EU adopted IFRS and small companies reporting under the financial reporting standard for smaller entities (FRSSE).

A new charity statement of recommended practice (SORP) will be released alongside the standard.

It is likely that there will also be a change which will affect small companies too however the future direction likely to be taken is currently unclear. It is thought that companies will only be required to file a simple profit and loss account, balance sheet and limited notes. Charities are likely to need to provide much more detailed information to comply with the SORP.

There is also no requirement to value donated goods when a charity receives them.

The consultation is open until the end of April.

The effective date for the new accounting standard is now 1 January 2015. We believe there are plans to issue a revised SORP for consultation towards the end of 2012.

Taxation and VAT

Tax exemption for charities sharing back office functions

It is likely that the government will introduce this exemption shortly. This will mean that VAT will not need to be charged when one charity bills another for using a shared office facility thus avoiding an irrecoverable VAT charge.

It is estimated that the value to the sector could be as much as £30m per year.

Draft legislation has recently been issued which clarifies some of the concerns that have been raised in the original consultation papers. There is no exclusion of back office supplies, however the services need to be provided at cost price, VAT relief must not distort competition and the services supplied must be 'directly necessary' to the activities. It is likely that another vehicle will be required to run this activity. This will again add to administration costs.

Further information on the scope of the exemption should be provided shortly.

Business rates relief

Full business rates are due on empty commercial properties that remain unoccupied after three months, including small shops. Charities occupying commercial property usually qualify for a mandatory 80% discount on business rates, provided the property is used wholly or mainly for charitable purposes.

Local authorities also have the discretion to award the remaining 20% as a further discount.

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It has been reported by the press recently that there are cases where charities have been approached by landlords who cannot let properties offering to let their properties at reduced rents. This can be beneficial for charities and landlords particularly where the landlord donates part of the business rates that they are saving back to the charity.

However care needs to be taken by a charity to ensure it does not become embroiled in business rates avoidance particularly when they are not occupying the building in question. The charity could then become liable for the business rates charge.

The Charity Commission has produced detailed guidance for trustees to consider before making a decision when approached by a landlord and this is available at:

www.charitycommission.gov.uk/Our_regulatory_activity/C_compliance_reports/Alerts/risk_rates.aspx.

Comprehensive Spending Review

PwC recently released a report (Spending Review: One Year On) which recognised that of all the regions affected by the cuts, the worst affected have been the north east and south west.

NCVO released a paper called Counting the Cuts: the impact of spending cuts on the UK voluntary and community sector. The report states that 7.7% of charity income will have been lost from the sector each year by 2015-16.

The response by charities has been to place an increased emphasis on diversifying its fundraising activities, but also reduce fixed costs in order to be more flexible.

Charities Act 2011

The Charities Act 2011 received Royal Assent in December 2011, and comes into force in March. The new act consolidates the Recreational Charities Act 1958, the Charities Act 1993 and much of the Charities Act 2006.

Any reference to the Charities Act in the accounts of a charity which signs off its accounts on or after 14 March 2012 should be referring to the Charities Act 2011 rather than the Charities Act 1993 regardless of the year end of the charity.

Payments to trustees

The Charities Act 2006 saw the introduction of measures to make it more straightforward to pay trustees for non-trustee duties.

Payments can be made to trustees for goods and services provided if the following key points are complied with:

- There needs to be a written agreement outlining the amount to be paid and to which trustee
- The amount needs to be reasonable (e.g. is this a market rate and value for money)
- The trustees need to be content that the payment is being made in the best interests of the charity, and that using the trustee in question rather than a third party will be beneficial to the charity in terms of their knowledge of the charity
- The number of trustees authorised to receive payment must be in the minority
- Trustees need to check that the governing document allows making a payment to a trustee. If not, then the document will need to be updated prior to making any payment.

Providing the above are adhered to then the trustees are proving that they are continuing to act in the best interests of the charity.

Public benefit

The Charity Commission will be rewriting guidance on public benefit for fee charging charities. The existing guidance does not have any legal status in the meantime and has been withdrawn from their website.

Public benefit guidance remains in place for other non fee-charging charities.

Newly registered charities

The Charity Commission has published its first registration bulletin which looked at information provided by new charities between April and September 2011.

The findings were as follows:

- 40% are not providing training to new trustees
- Over 2/3 had gross income of less than £100k
- Further information and assistance is required in the area of fundraising
- Governance issues resolved during registration included managing conflicts of interest and ensuring the independence of trustees

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- Nearly 4 in 10 charities were searching for new trustees

Industrial and provident societies

Currently charitable industrial and provident societies (IPS) are exempt from registering with the Charity Commission and instead are regulated by the Financial Services Authority. The Charity Commission has been in discussions with the FSA and HMRC concerning this, and it appears to have moved one step closer to IPS's being registered.

The main stumbling block has been that some IPS's have share capital which pay interest to the shareholder, which goes against the principle of not distributing profits.

However the Charity Commission is likely to allow such payments subject to the contents of the governing document, the interest rates paid and the ability to cease such payments in certain circumstances.

2012 Budget news

Although the Chancellor's Budget speech did not refer to the charity sector there were several references in the detail. However overall the Budget has not aided the charity sector significantly at a time when funding is being cut whilst organisations face increasing demand for the services they provide.

VAT and listed buildings

Charities that occupy listed buildings and are planning to carry out improvements to them will now have to suffer VAT on any such work. The withdrawal of the zero rating relief on approved alterations to listed buildings was not generally expected. The Department for Culture, Media and Sport will extend the "listed places of worship" grant scheme to mitigate this change.

Gift aid on donated goods

The Budget announced that there are plans to simplify the administration of Gift Aid in charity shops, which will be welcome for the many charities operating shops in the county. Firm details have not been put in place however the administration of the scheme can be costly in terms of staff time. Currently charities must write to each donor informing them of the sale of their donated item, and at the same time checking that they do not want to reclaim the income tax themselves.

Gift aid and small donations

The amount on which charities will no longer have to obtain signed gift aid declarations in order to obtain relief will increase from £10 to £20. The total amount that can be claimed remains £5,000 as announced in 2011. This comes into force from April 2013.

Slashing red tape

Health & Safety regulations are to be revised significantly. Employers will no longer be in breach of their duties if they have done everything that is "reasonably practicable and foreseeable to protect their employees".

The government also plans to launch a review of regulations to make sure these are enforced at the lowest possible cost to an organisation. One of the first areas to be looked into will be volunteer events.

Expected advice services

The Government has confirmed that it will provide £40m in total for civil society advice services for 2013/14 and 2014/15 as charities adapt to changes in the way they are funded.

Tax relief cap

Although full information is not available yet mention was made in the Budget of a new cap on income tax relief (£50,000 or 25% of total income whichever is the higher) for those who pay tax at the higher rate. Much of the sector's donations come from a small number of people who earn a high income and therefore these tax payers may no longer be able to donate in such a tax efficient manner.

Many charity sector organisations will be concerned that donations could drop as a result, but further discussions will be held with the government concerning this to ensure that there is no significant effect on charities that depend on significant donations.

Updated guidance on gift aid donations

Although not announced as part of the Budget, HMRC updated its gift aid guidance earlier this month. This includes new model declarations and a useful checklist detailing the minimum information that should be included if a charity uses its own declaration form. HMRC require this to be introduced as soon as possible, but no later than 31 December 2012.

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Round up

- The number of charity shops in the UK has increased by nearly 30% in the past three years according to the Local Data Company. National charities operate nearly 80% of charity shops with the remaining being run by smaller charities.
- A Third Sector investigation has found that a number of charities remain on the Charity Commission register when they have closed down. It is the responsibility of charity trustees to inform the Charity Commission when a charity had ceased, providing accounts to show how the assets of the organisation have been distributed.
- The Charities Act 2006 review will be carried out by Conservative Peer Lord Hodgson and the results should be published in the Summer. The review will include looking at the role of the Charity Commission and also the public benefit requirement following the recent judgement on private schools.
- Legacy Foresight has reported that legacy income fell by 1.6% in 2011 compared with the previous year.
- The Charity Commission's new approach to opening a statutory inquiry has been outlined in its recent Risk Framework. It will aim to prevent and manage risk rather than react to problems, and therefore statutory inquiries will be more of a last resort. It is unlikely that charities will be able to obtain one to one advice as often but more general advice will be available via the website. A sample of accounts will be checked for compliance purposes and will follow up on any issues identified.

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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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