Robinson Reed Layton
Charity Newsletter – Autumn 2013

Introduction

Welcome to our Autumn 2013 Charity Newsletter. Over the past few months much has been announced concerning accountancy and taxation matters that will affect the sector and we have summarised some of these topics here.

As always if you would like any further information then please contact one of the charities team listed on page 4.

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CHARTERED ACCOUNTANTS and CHARTERED TAX ADVISERS

Accountancy

Late filing of accounts

Charities are required to submit their accounts to the Charity Commission within 10 months of their year end. Currently approximately 15% of charities file their accounts late. The Directory of Social Change has recently conducted research which indicates that over half of grant making charities will check a charity's filing history as part of their grant making procedures before grants are awarded.

The Charity Commission is currently investigating 12 charities that have not filed their accounts or returns for 2 or more years. Each of the charities reported income of over £500,000 when they last provided financial information.

Charity accounts – all change

The UK faces a significant change in the way it prepares its accounts following the issue of FRS 102 which contains comprehensive guidance in one accounting standard.

As a result changes to charity accounting will be required. The new rules will come into force for accounting periods commencing 1 January 2015, therefore the first accounting periods to be affected will be the year to 31 December 2015.

The charity Statement of Recommended Practice (SORP) is being updated to reflect the new accounting rules, and a consultation draft of the SORP was issued in the Summer. Therefore we can expect a new SORP to be issued some time in 2014.

Some of the changes in the SORP exposure draft will be as follows:

- The SORP is now in a modular format where certain core modules are mandatory and other modules only mandatory if relevant to the circumstances of the charity. It is therefore possible to produce a SORP for your own charity, removing irrelevant sections.
- The SORP is written with the smaller charity in mind. It includes the requirements for a smaller charity with the additional information required if the charity is following FRS 102 in full rather than the FRSSE. This is a change from the current SORP which focuses on larger charities.
- The Statement of Financial Activities (SOFA) is simplified in terms of headings, however the columnar structure remains (separate columns for endowment, restricted and unrestricted funds).
- The layout of the cash flow statement will be modified to be consistent with International Financial Reporting Standards. There will be three main categories within the statement rather than the current seven under UK GAAP.
- Income will need to be recognised when the likelihood of receipt is 'probable' not 'virtually certain'. This could mean that donated income and legacies need to be recognised earlier than under the current SORP. Charities will need to consider how this will affect them given their income streams.
- Governance costs will be included within support costs rather than included as a separate category on the face of the SOFA and therefore need to be allocated against charitable activities and cost of generating funds.
- Gains and losses on investment assets will be included within net income (currently this is

currently included towards the bottom of the SOFA after disclosing incoming resources).

- Donated items will need to be recognised on receipt at fair value wherever possible.
- There is no significant change in the recognition of expenditure.
- There will be increased disclosure of potential commitments.
- Charities following FRS 102 will need to disclose employee costs for key management personnel (trustees and senior management).
- The balance sheet will remain relatively unchanged.
- Consideration is given to the interpretation of FRS 102 for charities. This includes dealing with pension scheme assets/liabilities, related party transactions and trustees' remuneration.
- There is increased clarity on charity specific issues covered in the previous SORP.
- The trustees' report will not change significantly in terms of layout however there is an increased emphasis on the report giving a fair and balanced review of activities. Therefore acknowledging successes and failures will be important. There are also stricter requirements in respect of the disclosure of the reserves policy.
- The public benefit requirements have been incorporated into the SORP whereby all charities will need to explain the activities undertaken to further the charity's purposes for the public benefit. The key will be to demonstrate how the charity has operated for the benefit of its beneficiaries and of the wider benefits to society.

When the finalised SORP has been issued we will be providing further information to our charity clients and how the changes may affect them.

Taxation

Charities Online

HMRC has introduced Charities Online which will speed up tax repayment claims. The new system, which was introduced on 22 April 2013, covers:

- Gift aid
- Tax repayments
- Gift Aid Small Donations Scheme

It was still possible for charities to use the old forms R68(i) until 30 September 2013, and those who prefer to use paper forms will still be able to do so using the new form ChR1. HMRC recognises that some smaller charities do not have access to the internet, and there will be no limit to the number of forms ChR1 which a charity can submit. However, the limit for the number of donors per paper claim is 90, and therefore won't be suitable for larger charities.

Paper forms can be ordered by telephoning the HMRC Charities Helpline on 0845 302 0203 or by post from **HM Revenue & Customs, Charities Correspondence S0708, PO Box 205, Bootle, L69 9AZ.**

Retail gift aid changes

From 6 April 2013 two new methods of operating the retail gift aid scheme came into operation in addition to the current rules.

The first relates to charities operating the scheme through a charity. The charity will not have to notify the owner of the donated goods until the net proceeds in any one tax year exceeds an agreed amount which must be at most £100.

The second relates to when charity trading subsidiaries act as the selling agent. Here the company will not need to notify the seller until net sales proceeds exceed an agreed amount which must be £1,000 at most.

Further guidance on transition and other issues can be found on the HMRC website.

Other news

Public benefit guidance

The Charity Commission recently published its revised public benefit guidance. The Commission initially produced guidance in 2008, but the parts relating to fee-charging charities were withdrawn in 2011 after a legal challenge. The key point in the new guidance is that there is greater freedom for fee charging charities on how they provide public benefit where "*the level of provision that trustees make for the poor must be more than minimal or token*".

Charities Act review response

The government recently published its response to the reviews of the Charities Act 2006 by Lord Hodgson and the Public Administration Select Committee.

The main points are as follows:

- Consideration will be given to imposing fines for charities that are late in submitting their accounts.
- Increased scrutiny of charities involved in campaigning and relationships with the state.
- The government backs the recommendation that Housing Associations should be governed by the Homes and Communities Agency rather than the Charity Commission.
- The audit threshold may increase from £500,000 to £1,000,000 income.
- The government supports a joint registration system for charities that covers both the Charity Commission and HM Revenue & Customs.
- There will be no statutory definition of public benefit.
- Rules will not be amended to make it easier for a charity to pay trustees.
- The registration threshold for registering with the Charity Commission will not rise from £10,000 to £25,000 as previously considered.

Guidance for trustees

The Charity Commission has issued guidance "It's your decision" which covers decision-making principles and includes practical examples such as the proper conduct of charity meetings and recording important decisions correctly. Further information can be found from the Charity Commission website.

Pensions

Some recent well publicised cases have emphasised how important it is for charities to understand their pension schemes, in particular when they take responsibility for schemes previously operated by the public sector.

Where charities merge and one of the charities has a multi-employer scheme then it can often result in a liability being triggered as such a merger may be treated as a withdrawal from the scheme, triggering a liability for a share of any deficit.

Following the Pensions Act 2011 proposals the Pension Trusts Growth Plan 3 will become a defined benefit scheme. If this proposal goes ahead around 600 charities will have to help fund the deficits in Growth Plans 1 and 2, which are currently heavily in deficit.

Additionally under FRS102 will lead to some changes in how charities report deficits on pension scheme liabilities from 2015.

FRS102 will require charities to disclose pension liabilities on the balance sheet or disclose the net present value of their deficit contributions.

This could in worse case scenarios lead to negative balance sheets.

Charities and fraud

The National Fraud Authority released the Annual Fraud Indicator 2013 in the Summer, the report shows that 1 in 10 charities with incomes over £100,000 have detected fraud in the last financial year.

It is therefore vital that charities have controls and policies in place to detect and prevent fraud. The full report can be found on the National Fraud Authority website.

Business rates relief

There continues to be a great deal of discussion about business rates relief and the risks when getting involved in arrangements to enter tenancy agreements to take advantage of this relief. Charities occupying commercial property qualify for a mandatory 80% discount on business rates, provided the property is used wholly or mainly for charitable purposes. The local authority also has the discretion to grant the remaining 20% as a further discount.

Before entering into any tenancy agreements to occupy empty properties, charity trustees must:

- Be assured that the tenancy agreement is for the exclusive benefit of the charity, will further the charity's purposes and is in its best interests
- Ensure the property is genuinely required and is fit for purpose
- Consider the potential liability of the charity to pay outstanding rates if the local authority disputes use of the premises and refuses rates relief
- Very carefully safeguard the charity's independence and ensure the charity is not being abused for the benefit of a commercial company
- Where appropriate, take suitable professional advice prior to signing tenancy agreements.

Round up

- The Charity Commission's budget is to be cut by £1m in 2015/16 to £20.4m. The Commission has confirmed that it will lose approximately 6% from its budget when taking into account inflation.
- Existing limited by guarantee charities are likely to be able to transfer to Charitable Incorporated Organisation (CIO) status during 2014 as part of the phased introduction of this new charitable form.
- HMRC have published a Gift Aid Small Donation Scheme (GASDS) help sheet and updated its detailed guidance on both non charitable expenditure and tainted charity donations. The new GASDS provides an overview of how the scheme works. More details can be found on the HMRC website.
- The Trusts (Capital and Income) Act 2013 amends the Charities Act 2011 and will affect those charities that have a permanent endowment. The legislation will allow a 'total return' approach to investment by trustee resolution rather than having to obtain Charity Commission permission. The charity will still need to comply with the relevant Charity Commission regulations. This legislation comes into force from January 2014.

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