Charity Sector

Specialist Charity Accountants

Newsletter
Winter 2017

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Introduction

Welcome to our Winter 2017 charity newsletter.

What has happened to 2016? It seems to have disappeared in the blink of an eye. In this issue, we give prominence to a recurring question we receive, that of charity structure. This is an important subject which is often put to one side due to the day to day rigours of running a charity. There's not a definitive answer I'm afraid, but we have endeavoured to provide a summary of the key points. We also cover the emotive topic of fraud as well as considering the news from the Autumn Statement.

In this issue, we look at:

- Is your structure right for you?
- Making tax Digital
- Fundraising
- Autumn Statement
- Price, detection and prevention of Charity Fraud

We hope you enjoy this edition of our newsletter and, as always, please get in touch if you would like any further information.

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Hawsons are specialist charity accountants

At Hawsons we recognise that not-for-profit organisations have very different requirements from other businesses and are currently exposed to a challenging economic climate. Our dedicated team fully understands the complex, ever-changing regulatory requirements of the charity and not-for-profit sector. Given the additional pressures on fundraising, complex tax regimes, internal risk exposure and stakeholder demands, it has never been more important to obtain specialist professional advice.

Our specialist team acts for a large number of charitable and not-for-profit organisations across each of our Sheffield, Doncaster and Northampton offices. For more information on our charity and not-for-profit expertise, including the services we offer and our experience, please visit: **www.hawsons.co.uk/charities**

HLB International

Is your structure right for you?

When setting up your charity's structure, it is important that you consider your options carefully. Broadly, there are four structures people tend to choose from, these are; charitable company, charitable incorporated organisation, charitable trust and an unincorporated charitable association.

Choosing the correct structure for your charity is an important decision as getting it right in the first instance can save time and effort down the line. That's not to say that you can't change your charity's structure at a later date however. If you are planning on starting up a charity or changing your charity's structure, then it is important to know what some of the options are.

The different types of structure

A governing document is a legal document that sets out your charity's purpose and the rules to which it should adhere to. The structure can impact on how the charity will operate and the culture it then adopts. Some points to consider:

- who runs the charity – will the trustees be personally liable for what the charity does
- how the charity is run – will it have a wider membership?
- what the charity can do – whether it can employ its own staff as well as enter into contracts

Charitable Incorporated Organisation (CIO)

This is the newest form of charitable structure which first came into play in 2013. Trustees have limited liability since the law views the charity as a separate legal entity in the way it would an individual. This allows the charity to do a number of things, such as:

- Employ paid staff
- Deliver charitable services under contractual agreements
- Own leasehold or freehold land or other property
- Enter commercial contracts registered in its own name

Unincorporated Association

Perhaps not as prevalent for newer charities as they once were, associations tend to be set up if you want your charity to have a wider membership but determine that a corporate structure is not necessary. This can depend on the nature of what the charitable remit is.

Charitable Trust

Trusts are often used by organisations who have a primary purpose of making grants without getting too involved in other work types. The governing document will take the form of a trust deed which stipulates the assets available to the trust. Liability is far greater than with a CIO or limited company.

Charitable Company

In a charitable company, the trustees have limited liability for the debts or liabilities. A charitable company is not the same as a commercial company so, unlike commercial companies, a charitable company:

- Is usually limited by guarantee and not shares. This means they cannot distribute surpluses to shareholders or members
- Can only use its assets for charitable purposes (to do otherwise would be against its charitable objects)
- Must operate for the public benefit

We only cover the very basics regarding charity structure in this article. Getting your structure right is an important decision and one we recommend you seek professional advice on. We are always happy to talk through the issues applicable to your charity. There is definitely no 'one size fits all' I'm afraid!

Making tax digital

HMRC have recently published six consultation documents on the 'Making Tax Digital' strategy – the biggest shake-up of the personal tax system in 20 years. These documents set out HMRC's plans to move to a fully digital tax system by 2020, with the aim of making the tax system more efficient.

The government first announced the project in the 2015 Budget but has now provided additional details of the proposals for consultation.

The consultation documents

The six consultation documents cover:

- Bringing business tax into the digital age
- Simplifying tax for unincorporated businesses
- The simplified cash basis for unincorporated property businesses
- Voluntary tax payments in advance of liabilities being due
- Tax administration
- Transforming the tax system through better use of information

In summary

HMRC plan to make fundamental changes to the way tax reporting is carried out. Business owners and landlords will be required to keep records digitally and update HMRC more frequently than is currently the case. These reforms will be introduced from April 2018.

By 2020 most businesses and landlords will have to use software or apps to keep their records and report to HMRC on a quarterly basis. Tax returns will be replaced by an End of Year declaration which will need to be filed within 9 months of the end of the period of account.

HMRC also intend to make changes to some of the underlying tax rules for businesses and amend HMRC's compliance and enquiry powers. This will include the introduction of a new regime for late submission penalties, late payment sanctions and proposals to align interest across taxes.

Those taxpayers who are likely to be exempt from the changes include:

- All unincorporated businesses and landlords with an annual income of less than £10,000;
- Charities and Community Amateur Sports Clubs (CASCs) and;
- Those who cannot engage digitally

Reaction

Craig Walker, Senior Tax Manager at Hawsons commented: "The proposals are radical and wide ranging, and clearly significant consultation is required. There are deep concerns within the profession and the business community that HMRC's plans are overambitious and unrealistic, the proposals will place additional burdens and costs on businesses, and the current timetable for implementation is unworkable."

"Although the concessions for businesses with income below £10,000 are welcome, much more still needs to be done by HMRC to address the legitimate concerns of businesses."

More on Making Tax Digital

Over the coming weeks and months, we will provide further details on the new initiative, commenting on the new consultation documents and what they mean to taxpayers and the personal tax system.

Fundraising Regulator Levy

You may or may not have heard of the new regulator in the charity sector. The Fundraising Regulator (FR) came into being in July 2016 and is now responsible for the Code of Fundraising Practice.

This code sets out the standards expected of fundraising organisations across the UK. The regulator is responsible for keeping the code up to date and also investigating complaints against a charity's fundraising activities. The FR is a voluntary, independent regulator in England and Wales. Charities with headquarters in Scotland are committed to self-regulation for fundraising and are instead overseen by an Independent Panel which the charity regulator in Scotland oversee.

In order to fund the FR, there is a new levy on a number of fundraising organisations along with a registration fee system. Letters from the FR to those organisations subject to the levy started to land in the autumn of 2016 and this may have been a shock to many charities.

How is the Levy Calculated?

The levy calculation is based on data from the Annual Returns made to the Charity Commission for the year ended 31 December 2014. If your charity is an exempt charity, a flat rate levy is due to be charged instead.

The amount charged is based on bandings determined by the level of spend on generating voluntary income. All charities with a spend over £100,000 per the 2014 Annual Return are being included in the levy and will automatically be sent a letter closely followed by an invoice, requesting payment within 30 days. The amount of the levy ranges from £150 to £15,000 depending on how much was spent on generating voluntary income. Exempt charities are charged a flat rate of £1,000 per annum.

The levy is a fixed rate for three years and will be paid annually. In 2017 and 2018, the invoices are expected in the month of June.

Do you have to pay it?

The levy is voluntary but it you want to be registered with the FR, you will have to pay it. Registration with the FR will entitle charities to use the FR logo to show donors that they have signed up to the code of practice. This replaces the previous Fundraising Standards Board (FRSB) tick-mark. The charity name will also be published on the FR website and the FR note that this will act as a public sign of commitment to good practice.

So, while you do not have to pay it, you do need to consider what message it sends to your donors if you are not registered with the Regulator. The government has reserved powers in the Charities (Protection and Social Investment) Act 2016 to enforce payment of the levy if necessary.

What if you haven't received a letter?

If your spend on generating voluntary income was below £100,000 on your 2014 annual return, you will not be subject to the levy and hence will not automatically receive a letter and invoice from the FR. You can however register with the regulator voluntarily. The registration fee is £50. The registration scheme is due to open in the winter of 2016 but you can sign up to receive updates about the work of the FR on their website.

What other things are the FR doing?

The FR has recently concluded a consultation into launching a Fundraising Preference Service. The scheme is intended to work in a similar way to the mail preference service where people can register to 'opt out' of fundraising communications from charities. The proposal is that these 'opt outs' could be specific to telephone calls, mail, fundraising communications or all communications.

The final arrangements will be published soon and will impact how you communicate with your donors in the future.

How can we help you?

We will continue to keep you updated on developments in the charity sector and particularly regarding the work of the FR. If you have any specific questions over the Fundraising Levy, registering with the FR or the Fundraising Preference service, please do get in touch with us.

Autumn Statement

Philip Hammond presented what was to be his first and the last Autumn Statement on Wednesday 23rd November as he announced that going forward the budget will be in the Autumn with a Spring Statement replacing the current one. In this article, we summarise the key points arising from the Autumn Statement and focus on what the changes may mean for the charity sector.

In Summary (general):

- the government reaffirming the objectives to raise the personal allowance to £12,500 and the higher rate threshold to £50,000 by the end of this Parliament.
- reduction of the Money Purchase Annual Allowance from £10,000 to £4,000.
- Insurance Premium Tax to rise from 10% to 12% from June 2017.
- tax and National Insurance advantages of salary sacrifice schemes to be removed.
- anti-avoidance measures for the VAT Flat Rate Scheme.

In addition, the Chancellor announced the following pay and welfare measures:

- National Living Wage to rise from £7.20 an hour to £7.50 from April 2017.
- Universal Credit taper rate to be cut from 65% to 63% from April 2017.

In the March Budget the government announced various proposals, many of which have been subject to consultation with interested parties. Draft legislation relating to many of these areas will be published in due course and some of the details may change as a result.

In summary (charity specific)

- Review of the way gift aid is run which should provide an extra £60m for the charity sector in the next five years, and £125m extra for museums and galleries.
- Government remains committed to spending 0.7% of GDP on overseas aid. However, the bleak economic outlook means that sum could fall by £80m in 2017/18 and by £210m in 2018/19.
- Increase in National Living Wage from £7.20 to £7.50 an hour from April 2017.
- £3m from tampon tax will be given to women’s charities by Comic Relief.
- Firms who are fined breaking Libor rules will provide £102m for armed forces charities – including the Defence and National Rehabilitation Centre at Stanford Hall.

Autumn Statement Charity Impact

Simon Bladen, Charity Partner at Hawsons, had this to say: “I think overall the Autumn Statement was somewhat of a non-event for charities. Although there were some interesting proposals in a Statement which largely focused on infrastructure and transport. I truly hope that devolving greater power to local authorities will at least have some positive impact on the sector.”

“Unfortunately, the increase to the National Living Wage could push up costs for some charities for no additional return. Overall charities play a very important role in building the economy and I think sooner or later we need to see a response acknowledging that fact.”

Caron Bradshaw, Chief Executive of the Charity Finance Group, said this: "We have seen tens of billions promised in infrastructure spending, business rate cuts and personal tax cuts. Most of this has been financed by greater levels of borrowing. There isn't a lack of money, there is simply a lack of political will to support the valuable work of our sector."

Price, Detection and Prevention of Charity Fraud

No sectors are immune to fraud and the charity sector is no different. In fact, charities can sometimes be seen as soft targets. Some of the possible reasons for this include: To a certain degree, many charities still rely on cash-based fundraising and have fluctuating income streams, which can make it easier to conceal a fraud as financial trends become more difficult to track year on year. The lack of sophistication of internal controls, often due to a reliance on a small number of people and continuing funding pressures which can make it hard to monitor finance

Types of fraud

There are various frauds to which charities are potentially vulnerable. These can be categorised as either internal (involving only people within the charity) or external (in which at least some part of the fraud is committed outside of the charity).

The most common internal frauds identified are usually unauthorised or deliberately misdirected electronic payments, theft of cash takings, inflated expense claims, and failure to remove leavers from the payroll or fictitious employees. Externally, charities suffer most from cheque fraud, false payment requests, e-crime, phishing e-mails and identity theft.

The price of fraud

Charities that fall victim to fraud not only face financial losses, but also suffer potential prolonged damage to their reputation and levels of public trust and confidence.

Latest statistics estimate that global average loss to charities per year through fraud is 5.47% of income while fraud costs the UK charity sector £1.65bn per annum Almost 1 in 10 charities with income of more than £100,000 reported fraud and 7% of victims experienced fraud externally – 31.3% experienced fraud internally. A recently report, co-authored by the Centre for Counter Fraud Studies and BDO, estimated that improved counter-fraud measures could reduce the cost of UK charity fraud by up to 40%.

How can I prevent fraud? The basics

It is important charities introduce measures to help prevent and detect fraud. “Just because you have not been a victim of fraud – do not assume that you won’t be”

One the best steps a charity can take is to develop a clear plan of what to do when there is a suspected/confirmed fraud. This should include a formal anti-fraud policy, a confidential whistleblowing policy and a pre-planned procedure to follow.

Details and other basic measures:

- Keep records of alleged and confirmed fraud. This will help spot/prevent further fraud by identifying where the charity may be vulnerable.
- Introduce (and issue to all staff) a formal anti-fraud policy. Research where your risks are and outline the threat of fraud and preventative measures all staff should take. This will also include a pre-planned procedure to follow if there is a suspected/confirmed fraud – What should someone do? Who should they inform?
- Ensure these policies are kept up to date as fraudulent threats evolve over time i.e. Charity fraud and the growth of the internet or the ‘credit card scam’ (where fraudsters use a stolen credit card to make a large donation on the basis that the charity sends half of the money to another charity [or another complex/suspicious condition]– where the bank details given are usually from the fraudster’s personal account)
- Introduce and encourage a confidential whistleblowing policy. It is important staff know the procedure of how to report any concerns of fraudulent activity. It should be as transparent as possible.
- Implement robust financial controls and reinforce the importance of these. Segregate duties and keep more than one or two people in charge of your charity’s financial controls.
- Robust recruitment – especially for positions which require the employee to handle the charity’s finances. Ensure that you check references and consider pre-employment screening.

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Charity Health Check

How healthy is your charity?

If you answer no to any of the below questions, we would really like to meet you and share with you how Hawsons may be able to help you. We offer all new clients a free initial, no-obligation consultation, at a time to suit you. Whether we are appointed as auditors/advisers, or helping with a one-off exercise, we look forward to meeting you.

Questions

Question	YES
Do you feel that your charity has sufficient funds to undertake all of its aims?	☐
Have the trustees outlined a policy for reserves setting out the amount the charity needs to hold in funds?	☐
Have you reviewed the new charity SORP and understand how your charity's accounts may be affected?	☐
Do the charity's accounts present the best image to funders and the public at large?	☐
Are you making full use of the SORP exemptions to make the charity's published accounts easier to follow?	☐
Have you undertaken a VAT health check in the last 12 months?	☐
Does the charity have incoming resources that may be VATable?	☐
Are you confident that your charity is not undertaking trading activities?	☐
Are you aware of the tax laws relating to charities and are confident that the charity is complying with them?	☐
Do you find dealing with the charity's payroll and making HMRC returns a straightforward process?	☐
Do the charity's trustees know about their responsibilities and level of personal risk?	☐
Has the charity considered the potential benefits of incorporation?	☐
Have you reviewed the structure of the charity recently to check that it's still appropriate for the activities that it undertakes?	☐
Are you comfortable that the charity has control over all of its incoming resources and expenditure?	☐
Can the charity demonstrate how funds have been applied to its aims with relative ease at any given point in time?	☐
Does the charity have a funding plan for the next 12-24 months?	☐

Did you answer no to any of these questions?

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Find out more about how Hawsons can help your charity.

Please call your local office or visit:

www.hawsons.co.uk/charities

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