

Welcome to Charities in Brief No.2 Autumn 2010

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The Finance Act 2010 has introduced a new definition for charities which could potentially impact on the availability of charitable tax reliefs. Under the Act, charities must now satisfy the 'management condition', ensuring that its managers meet the new 'fit and proper' persons test.

What is the 'Fit and Proper' test?

The 'fit and proper' test is designed to ensure that charities are not controlled or managed by anyone who presents a risk to the charity and therefore may prejudice the charity's tax position. An individual may fail the test for example, if they have a history of tax fraud or identity theft. Where an individual fails a test, HMRC may reject the charity's claim to tax relief. Whilst there is no definition of a 'fit and proper' person, HMRC has issued guidance on how it will apply the test to the managers of a charity and this group includes trustees, directors and any other officials who have day to day control over the running of the charity.

How will existing charities be affected?

As far as existing charities are concerned, HMRC will not ask them to demonstrate that their managers are 'fit and proper' persons as a matter of routine. But, HMRC would expect a charity to be able to demonstrate, if challenged, that it has taken the necessary steps to reassure itself that its managers are 'fit and proper'. HMRC suggests one way to do this would be to ask managers to

read their basic guide and sign the model declaration included in the guide.

The declaration is not compulsory for new or existing trustees, directors or employers. However, from 5 April 2010, where there is a new manager that is a 'responsible person' or an 'authorised official', the charity must notify HMRC by completing and submitting a 'Charities Variation Form'.

It is not necessary for the charity to notify HMRC of other changes to trustees, directors or employees, unless the change also affects the 'authorised official' nominated by the charity.

Summary

To lose charitable tax reliefs could have a drastic effect on charities, so it is crucial all charities make themselves aware of these new rules and take the necessary steps. In the majority of cases, there is no immediate action that existing charities are obliged to take in order to demonstrate that they meet the 'management condition'. The only exception would be the need to complete the 'Charities Variations Form' where there is a change to an authorized official.

All managers of a charity should be made aware of the 'fit and proper' declaration form and bear in mind that they may be asked by HMRC to demonstrate that they satisfy the 'management condition', in which case all relevant persons would be required to complete the 'fit and proper' person declaration form.

For further information or advice regarding these new rules, please contact

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VAT INCREASE

In the emergency Budget delivered in the Budget
20%, effective from 4 January 2011



CLOSE OUT

Brokers' Managing Director DAN MALONEY reports on how charities can lose money to employee fraud...

There's no question that fundraising is a difficult job. And although employee dishonesty can cost private companies some hard-earned cash, for charities the implications go beyond a dent in the balance sheet. It can damage their reputation, push away supporters and seriously impair their ability to fulfil their *raison d'être*.

Yet, according to a report by the Fraud Advisory Panel, three in five charities do not have any anti-fraud measures in place, despite the fact that most organisations believe they are more vulnerable to fraud than other sectors. Moreover, 7% of charities claim to have experienced fraud in the past 12 months.

Charities tend to be careful with their money, but insurance costs are minimal in comparison to losses that could arise from employee fraud. Earlier this year, for example, an employee of

Diabetes UK pleaded guilty to transferring money by deception. She had diverted £250,000 into private bank accounts over a period of six months.

Road to recovery

Fraud involving employees is a significant threat to charities and in the current financial climate, the propensity for people to turn to theft from their employers is perhaps higher.

Having dual controls in place for any financial transaction provides a robust system of control that can reduce the risk of fraud.

Financial losses can be significant and damage to reputation could deal a serious blow to the charity's future fundraising efforts. The wider implications of fraud are exactly why Champion Insurance Brokers use specialist insurers who can include crisis containment cover within their charity trustee policies. Some policies also

include cover for employee dishonesty, providing advice to help charities get back on their feet following negative publicity.

It is crucial for a charity to protect its brand and ensure that the money it receives is going to the right place. Would you donate if you knew your money was not going to the cause? The public has an interest in charities and losing money through the back door doesn't help. No organisation is fraudproof, but having the right insurance policy could mean a speedier recovery, both financially and in terms of reassuring supporters that they are helping a professional organisation.

To discuss the insurance needs of your charity, please contact
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INCREASE: WHAT IS THE IMPACT?

delivered on 22 June, the Chancellor included an increase in the standard rate of VAT from 17.5% to 20% from 1 January 2011. JOANNE COOPER from Champion's Tax Team discusses the implications for charities...

The forthcoming rise in VAT is unfortunately bad news for charities, as it is expected it will increase irrecoverable VAT for them by at least £150m per year.

Furthermore, from 22 January 2010 the so-called Lennartz accounting mechanism has been given a narrower application by Her Majesty's Revenue and Customs.

Previously, the Lennartz principle allowed charities that used assets for both business and non-business purposes to recover the VAT incurred on the purchase of the asset upfront, provided there was some element of taxable use. Under HMRC's narrower application now in force, the principle is restricted to instances where the asset is put to use "wholly outside the purposes of the taxpayer's business/enterprise".

As charities often buy assets for business and non-business use, arguably charities will be most affected by this change, which will lead to a cashflow disadvantage for them.

In summary, not only has the cost of undertaking capital projects increased significantly due to the VAT increase, charities are now no longer able to rely on the cashflow advantage of recovering all or a large percentage of the VAT incurred upfront. Charities should therefore take the opportunity to review all possible reliefs that they may be entitled to.

For help or advice regarding the VAT increase, please call
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CHARITIES IN BRIEF

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