



"OVERALL AUDIT SERVICE AWARD" – WINNER 2009
Annual Charity Finance survey

not for profit | budget summary

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As expected, there was little new information of specific importance to the third sector announced in the 2010 budget speech. Among a raft of previously announced measures, one or two surprises are revealed in the budget notes. Charitable reliefs have been targeted for further seemingly innocuous anti-avoidance provisions that could have, as yet, unforeseen consequences. As is often the case, the devil will be in the detail and it remains to be seen whether the measures are proportionate and appropriately targeted.

On the plus side, the Government did announce that it will work with charities to consider options for implementing a VAT exemption for cost sharing which exists in EU law but which has never been implemented in UK legislation. This has been talked about for some considerable time and the announcement in the Budget is suitably vague such that it may be several more years before anything comes of this. The Charity Tax Group (CTG) have been lobbying for this change for quite a while and this is a welcome acknowledgement that this provision exists and it could benefit charities.

extending UK charity tax reliefs to Europe and alignment of definition of charity

Following a judgement in the European Court of Justice on 27 January 2009, legislation will be introduced to extend charitable tax reliefs to qualifying organisations in the EU, Norway and Iceland and to align the definition of charity across all the reliefs administered by HMRC. In order to qualify for the reliefs, charitable bodies (including those in the UK) must be: -

- set up for charitable purposes only;
- located in a member state of the EU, Iceland or Norway;
- regulated by a body equivalent to the Charity Commission in their home country; and
- supervised by "fit and proper" persons.

The reliefs available to Community Amateur Sports Clubs will similarly be extended to their non-UK equivalents, subject to meeting the location and "fit and proper" management conditions.



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payments to overseas bodies and administration of gift aid claims

The above measure will be combined with a strengthening of the rules requiring that charities take reasonable steps to ensure that payments to bodies outside of the UK are used for genuine charitable purposes and various other measures regarding the administration of repayment claims (such as putting the ability to make interim claims on a statutory footing but introducing a limit on the number of such claims that can be made in a year). Full details are yet to be released and, in the case of repayment claims, are to be discussed with Charities before implementation.

fit and proper persons

At first glance, the “fit and proper persons” tests have the potential for situations beyond a charities control to have disastrous consequences. Full details are yet to be released but HMRC profess that the tests have always been applied on a non-statutory basis and early guidance offers assurances that a sensible approach should be applied. HMRC also indicate that a charity that has followed correct procedure should not simply lose its entitlement to relief through, for instance, unknowingly appointing a trustee with a history of tax avoidance.

anti avoidance - substantial donors to charities

Informal consultation with stakeholders will continue on the proposed rules that will replace the substantial donors to charities legislation in the light of the extension of charitable tax reliefs to certain European organisations.

anti avoidance - gifts of qualifying investments to charities

As previously announced, new rules are being introduced with effect from 15 December 2009 to block tax avoidance schemes that exploit the rules for tax relief on gifts of qualifying investments to charities. Qualifying investments consist of certain shares, securities and land. The new rules adjust the amount of relief to the donor to the economic cost of acquisition of the gift to the donor where:

- the qualifying investment gifted to the charity (or anything from which the investment derives) was acquired within 4 years of the date of disposal; and
- the main purpose, or one of the main purposes, of acquiring the qualifying investment was to dispose of it to a charity and claim the tax relief.

payroll giving

With effect from 24 March 2010, income from payroll giving will now need to be put to use for charitable purposes in order to qualify for exemption.

VAT

Although the acknowledgement of the need to look at a cost sharing exemption is welcomed, the short term announcements were for the most part less favourable. Firstly the Government confirmed that legislation would be introduced in the next Parliament to withdraw the Lennartz provisions. This had been announced in January as a result of a case at the ECJ, and in a subsequent EU Directive. The detail of the legislation remains to be seen, but organisations which are currently using the Lennartz provisions will be allowed to continue to do so until the expiry of their 10 year period.

Certain Royal Mail postal services which have previously been treated as exempt from VAT will become subject to VAT at the standard-rate giving rise to a potential increase in cost for charities which cannot recover all their VAT. The change will apply to Royal Mail services which are not part of their obligations under their licence as a Universal Service provider, e.g. Parcelforce and services provided on terms and conditions which have been freely negotiated.

It was confirmed that the familiar Default Surcharge regime for the late submission of returns or the late payment of VAT due on those returns will change. The change will probably not take effect until 2013 but the draft legislation appears to be significantly harsher, which will add pressure to already busy charity finance teams.

The turnover threshold for the requirement to register for VAT increases from £68,000 to £70,000 with effect from 1 April 2010 (deregistration threshold increases from £66,000 to £68,000).

income tax and pensions

The Chancellor repeated the changes he had already announced and, due to the resultant high marginal tax rates, these could effectively decrease the net cost of giving to charity for higher paid individuals.

From April 2010, a new 50% income tax rate will apply to income over £150,000 and the personal allowance will be abated for income over £100,000 (being fully withdrawn for income over £112,950).

From April 2011 tax relief will be restricted on pension contributions for those earning more than £150,000 (including the value of employer contributions and charitable donations). For those earning between £150,000 and £180,000 higher rate tax relief will be gradually reduced. Earnings over £180,000 will only qualify for basic rate relief.

employee benefits

Favourable rates of company car benefits were introduced on zero and low emission cars so that cars with zero carbon emissions will enjoy a 0% taxable benefit rate and the taxable benefit on cars with CO2 emissions of less than 75g/km will be calculated at 5%.

The rules for employer-supported childcare will be relaxed to allow low-paid employees to take part in schemes where they would otherwise be prevented from doing so by the National Minimum Wage legislation.

capital allowances

There will be an increase in the threshold of the Annual Investment Allowance to £100,000.

charity pooled funds

The Government's response to the 2009 consultation on how to better regulate charity pooled funds whilst preserving tax relief has been deferred until the Autumn.

about haysmacintyre

haysmacintyre, Chartered Accountants and business advisers, works with over 550 charities and not for profit organisations in the UK and overseas. Our services include the full range of audit, tax, VAT and comprehensive advisory services. Our multi-disciplinary specialist team has extensive sector experience working for a diverse range of charities. We are based in one location which ensures an integrated and comprehensive approach to our clients' requirements.

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