



"OVERALL AUDIT SERVICE AWARD" – WINNER 2008
Annual Charity Finance survey

not for profit | budget summary

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substantial donors

Perhaps the most notable news for charities arising from the 2009 Budget is the lack of immediate changes relating to the substantial donor rules. It seems that the majority of changes (such as the suggested primary purpose/arm's length exemptions, de-minimis limits and more generous thresholds/time limits) have been forgotten in favour of a further period of consultation with a view to the introduction of an anti-avoidance purpose test. In any event, further legislation is not anticipated until 2010.

With effect from 23 April 2009, the threshold of relievable gifts which a person may make over a period of 6 years before becoming a substantial donor will increase from £100,000 to £150,000. The threshold for gifts that a person may make in a 12 month period before they become a substantial donor will remain at £25,000.

gift aid

The Budget confirms that, where UK resident but non-domiciled individuals elect to pay the £30,000 remittance basis charge, this will qualify as UK tax suffered for the purposes of Gift Aid.

The current 6 year time limit for reclaiming tax under gift aid will reduce to 4 years with effect from April 2010. Charities should ensure that their claims are up to date, especially where back-dated declarations are obtained from long standing donors. This could potentially affect many charities and we are keen to see in the final legislation how this may affect Gift Aid audit settlements if a charity makes repayment of over claimed tax to HMRC between now and April 2010 but valid declarations are obtained after April 2010.

A 50% rate of tax will be introduced for individuals with an income of in excess of £150,000 with effect from 6 April 2010. In the long term, the resultant lower net cost of giving might persuade some benefactors to increase their donations but, in the shorter term, could cause some to delay making gifts and maximise tax relief. We understand that interim loans may be utilised to protect a charity's cash flow position.

Research into the improvement of Gift Aid was announced, which includes considering the possibility of transferring the benefit of higher rate relief from the individual to the charity.



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other charity announcements and consultations

We welcome the announcement of a new £20M hardship fund to support third sector organisations, delivering front line support to the most disadvantaged in society, affected by the recession and with demonstrable resource constraints due to increased demand.

There will be a consultation on the design and functions of a social investment wholesale bank.

new penalty regime – late filing of return and late payment of tax

Legislation will be introduced in Finance Bill 2009 to reform penalty regimes for late filing of tax returns and late payment of tax imposing penalties for the first time to all employers who are late in making monthly PAYE and NICs payments and companies paying their corporation tax late. The new regimes will replace the current variety of penalties and will treat late payment and late filed returns separately. Whilst broadly aligned across the taxes they are modified for PAYE. Penalties will not apply where taxpayers have agreed a time to pay arrangement with HMRC. A simpler and formulaic structure for the right of appeal against all penalty decisions will also be introduced. The changes will be introduced gradually over a number of years as HMRC develop their systems starting with penalties for late payment of 'in year' PAYE, from April 2010.

Penalties for late payment of taxes and deductions collected through the PAYE system:

- the amount of the penalty will depend on the number of defaults in any 12 month period. The first time the taxpayer defaults, they will not receive a penalty
- a second late payment and any subsequent failures in the default period will attract a penalty of 2 per cent of the tax unpaid rising to 5 per cent of tax unpaid
- further penalties of 5 per cent of any amounts of tax still unpaid at 6 and 12 months.

Penalties for late filing – Where the obligation to file the return is annual or occasional (e.g. Income tax Self Assessment, Corporation Tax and Inheritance Tax):

- £100 penalty immediately after the due date for filing (whether or not the tax has been paid) – NB: unlike for the past, it now seems that penalties could well be charged for late Trust and Estate tax returns even where no tax liability arises;
- daily penalties of £10 per day (annual obligations only) for returns that are more than three months late, running for a maximum of 90 days;
- penalties of 5 per cent of tax due for the return period for prolonged failures (over 6 months and again at 12 months); and
- higher penalties of 70 per cent of the tax due where a person fails to submit a return for over 12 months and has deliberately withheld information necessary for HMRC to assess the tax due (100 per cent penalty if deliberate with concealment).

Penalties for late payment where the obligation to make payment is annual or occasional:

- penalties of 5 per cent of the amount of tax unpaid, generally one month after the payment due date (or at the filing date of the relevant return for CT and IHT);
- further penalties of 5 per cent of any amounts of tax still unpaid at 6 and 12 months.

other general changes

corporate transparency

In a similar vein to the Sarbanes-Oxley Act in the US, the Government is seeking to legislate to improve the standard of corporate record keeping in the UK. With effect from the granting of Royal Assent to Finance Bill 2009, legislation to ensure that the accounting systems in operation within large companies or groups of companies liable to UK taxes are adequate for the purposes of accurate tax reporting should become active. Senior accounting officers of such organisations will be required to take reasonable steps to establish and monitor their systems and to either certify annually that they are adequate or to specify the nature of any inadequacies. A large company is any company meeting 2 from 3 of the following criteria:

Turnover	>£22,800,000
Assets	>£11,400,000
Employees	>250

Companies will be responsible for notifying HMRC of the identity of the senior accounting officer and penalties will be chargeable for careless or deliberate failure or inaccuracies.

capital allowances

A temporary first year allowance of 40% is to be introduced for assets purchased during the twelve months commencing from 1 April 2009 for companies and from 6 April 2009 for individuals and partnerships. This relates to assets in the main pool and is in addition to the 100% annual investment allowance. Trading subsidiaries may, as a result, be able to retain additional profits to increase the reserves available for use as working capital.

VAT registration threshold change

The turnover threshold for the requirement to register for VAT increases from £67,000 to £68,000 with effect from 1 May 2009 (deregistration threshold increases from £65,000 to £66,000).

place of supply of services for VAT purposes

In 2010, changes will be introduced to the place of supplies of international services and the reporting of them. Charities may not realise that these changes could affect them; the most likely transactions for charities include business sponsorship with EU based corporate sponsors where the charity charges the sponsor for a service and purchasing services from EU suppliers.

information

An obligation for organisations to supply contact details for tax debtors upon request by HMRC is to be introduced. This is a potentially onerous part of the legislation and we can only hope that sufficient safeguards are built in.

anti-avoidance

It is possible that some anti-avoidance legislation introduced in the budget may affect charities and HMRC are in talks to extend the motive test mentioned above in connection with the substantial donor rules to these areas.

VAT rate

The VAT rate will revert to 17.5% from the existing 15% on 31 December 2009. Rules have been introduced to stop cases of manipulation to extend the effective life of the 15% rate. However, a reasonable level of scope remains to arrange matters so that

the 15% rate applies in certain cases. In particular, membership subscriptions due for years commencing after 1 January 2010 might fall to be invoiced early to capture the 15% rate. We can advise further.

VAT partial exemption

Though not announced in the budget, new deregulatory rules were introduced from 1 April 2009 offering worthwhile opportunities to those operating the standard method. We can assist you in reviewing those opportunities.

living accommodation provided by reason of employment – payments of lease premiums

Employees who are provided with accommodation suffer a tax charge on the benefit to the employee of that accommodation.

The tax charge is calculated on the higher of the annual value or the actual rent paid for the property (less any amount paid by the employee). A loophole exists because lease premiums are ignored for benefit calculation purposes and this has been exploited in some cases by having an artificially high lease premium, and artificially low rent; resulting in a lower benefit in kind charge for the employee based on the low rent.

The Finance Bill 2009 will introduce legislation to prevent this avoidance of tax on the benefit of living accommodation and will apply to leases of ten years or less, entered into or extended on or after 22 April 2009. The new rules will not apply to leases entered into in relation to a property used mainly for a business purpose by the employer and partly for the domestic use of an employee. The benefit in kind value in any tax year will be the amount of the lease premium spread over the duration of the lease plus the amount of any rent paid by the person at whose cost the accommodation is provided less any amount made good by the employee.

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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