

NFP eNews 10 FEBRUARY 2023

Welcome to haysmacintyre's regular 'e-news alert' for charities and not for profit organisations.



Charity Commission updates guidance on managing financial difficulties

The Charity Commission ("the Commission") has updated its [guidance](#) on managing financial difficulties in your charity arising from the cost of living crisis. The guidance was first published in December 2022, and the section on energy bill relief has been updated to reflect that the Government has extended its automatic energy bill relief for non-domestic customers until 31 March 2024, though at a reduced level after 31 March 2023. Details of the support can be found [here](#).

The Commission has also launched a campaign to raise awareness of its helpful [5 minute guides](#) which serve as a basic toolkit for trustees.

Inquiry into charity linked to failed cryptocurrency platform

The Commission has launched an [inquiry](#) into Effective Ventures Foundation, who reported a serious incident following the bankruptcy of a US cryptocurrency exchange, who provided significant funding to the charity through their philanthropic foundation. Although the Commission has not identified any indication of wrongdoing by the charity's trustees, the inquiry will look into whether the charity's assets were put at risk, and the relationships between the charity's trustees and its funders.



Calling all influencers

The Commission has commenced a [consultation](#) on draft guidance intended to help trustees use social media appropriately and with confidence. The guidance covers areas such as personal and organisational social media usage, considerations for how trustees should respond if personal social media use brings negative attention to the charity, and guidance on how to develop a social media policy. The consultation closes on 14 March and the new guidance will be published this summer.



Fundraising Regulator: new guidance on complying with fundraising reporting requirements

Following the results of their recent research, the Fundraising Regulator ("the Regulator") has updated its guidance on complying with the fundraising reporting requirements in charity's financial statements. All charities with an income over £1m – regardless of their level or type of fundraising activities – are required to comply with the fundraising reporting requirements in the Charities Protection and Social Investment) Act 2016. In its research, the Regulator found that there are signs of improvement in reporting, however more action is required by charities overall to meet the requirements. Charities who pay the fundraising levy are more likely to be compliant than those who do not, however only 33% of levy-paying charities reviewed as part of the research complied with all sections of the legislation.

Read the new guidance [here](#).

Increases to HMRC interest rates

HMRC's late and early tax payment interest rates will rise this month as a result of the increase to the Bank of England base rate from 3.5% to 4% on 2 February. The late payment interest rate will increase to 6.5% from 21 February. The rate of interest paid by HMRC on overpayment of taxes will also increase to 3% from 21 February.

Find out more on the increases [here](#).



IR35 cases: a tale of two (fly) halves

In recent weeks, we have seen two contrasting tribunal decisions regarding IR35 cases which provide different outcomes regarding Sky Sports rugby commentators, Michael Lynagh and Stuart Barnes. The underlying message is that the IR35 legislation is complicated and nuanced and the need to fully understand the facts concerning how the services are provided is paramount. We summarise the two cases below but, if you require assistance with IR35 matters, please do not hesitate to contact our [Employment Tax](#) team.



Michael Lynagh v HMRC: caught offside

MPTL Limited (MPTL), Michael Lynagh's personal service company, was [appealing against an earlier determination](#) that Lynagh's earnings from MPTL were within the scope of IR35 and that income tax and National Insurance of c£230,000 was due. The case concerned procedural issues, specifically the late submission of a Notice of Appeal. The application was dismissed on the basis that the taxpayer was professionally represented and HMRC's delay in responding to a letter had not prejudiced proceedings. The moral of the decision is to ensure all deadlines are met when dealing with any matters which are in dispute with HMRC.

S & L Barnes Limited v HMRC: stayed inside

In contrast to Michael Lynagh, the [First Tier Tribunal](#) decided that Stuart Barnes was not caught by the IR35 legislation after HMRC had argued that c£700,000 of income tax and National Insurance was due for the 2013/14 to 2018/19 tax periods. HMRC said that the contract between S & L Barnes Limited and Sky was one of employment and within IR35. The Tribunal considered whether the engagement had the characteristics normally seen in an employment contract and concluded that Barnes, given the specific facts in this case, was in business on his own account and was operating under a contract for service and not as a deemed employee of Sky.



False accounting to be a criminal offence

The Government has published an amendment to the [Economic Crime and Corporate Transparency Bill](#) which introduces the offence of false accounting for senior managers. This will hold company executives, including CEOs, CFOs and members of partnerships, accountable for failing to prevent false accounting, fraud or money laundering. The offence will affect all senior managers who are responsible for an organisation's activities that are relevant to the offence, if they fail to take all reasonable steps to prevent that offence being committed. The Bill has completed its House of Commons stages and its second reading by the House of Lords was scheduled for 8 February 2023.

And finally...9 to 5 not MI5

The Commission's statutory inquiry into the Ashley Foundation has concluded with evidence of serious financial mismanagement and evidence that the charity's funds were used to benefit its former CEO and trustees. Among its findings, the Commission identified that the charity's funds had been used to conduct surveillance on individuals during contract negotiations. In their [press release](#) about the inquiry, the Commission reminds us that "covert activity is unacceptable for a charity".

UPCOMING EVENTS

[Trustee training: charity law update](#)

15 February 2023

14:00 - 16:45

Online

[Trustee training: introduction to charity finance and reporting](#)

7 March 2023

09:30 - 13:00

Online

[Quarterly charities update](#)

14 March 2023

15:30 - 17:30

Online

We welcome your feedback on this update and would be pleased to hear about any areas you would like to see covered in future editions. Please email [Vikram Sandhu](#), Director, with any comments.

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Shortlisted 2019 National Firm of the Year



Shortlisted 2019 Tax Team of the Year



Highly Commended Partner of the Year



Winner: Audit Team of the Year



Winner of the Bronze Award for 2018 and 2017



Top adviser to the top 5,000 charities, Charity Financials' league table 2021



Top ten by audit fees in the 2020 Charity Finance Audit Survey