haysmacintyre

NFP eNews
10 MARCH 2022

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

CHARITY COMMISSION GUIDANCE ON THE CRISIS IN UKRAINE

In the wake of the invasion of Ukraine by Russia, the Charity Commission and fundraising regulator have issued a statement urging the public to 'give safely' to registered charities. They reiterated that giving to charities with experience of delivering humanitarian aid in challenging environments is often the most efficient and helpful way to support those most in need.

The Commission recommends any charities who may be impacted by the latest financial sanctions to sign up to e-alerts from HM Treasury. General guidance on financial sanctions can be found here.

Those who are working in high risk areas should ensure they are following Foreign, Commonwealth and Development Office (FCDO) advice, and keeping staff, volunteers and funds safe.

There may be reputational implications from accepting donations from organisations and individuals with links to Russia. The Commission's 'know your donor' guide can be found here.

CCAB SPEAKS ON THE UKRAINE INVASION

CCAB has issued a statement to the accounting profession following Russia's invasion of Ukraine which covers matters that accountants should consider, whether in business or practice. The statement covers: ethical considerations, including the need to act appropriately; keeping up to date with changing sanction rules; considering the need to obtain legal advice; guidance links on trade sanctions; enhanced due diligence procedures on Politically Exposed Persons; and fully understanding the source of funds and wealth of high-risk clients.

CHARITY COMMISSION INQUIRY INTO THE COLLAPSE OF KIDS COMPANY

The Charity Commission has concluded its Inquiry into the circumstances surrounding the August 2015 collapse of Kids Company and its report was published on 10 February. The Inquiry was opened in August 2015, but was paused while the Charity went through an involuntary insolvency process, in order to avoid prejudicing the outcome of a High Court trial determining whether the then Trustees should be disqualified from acting as company directors. The High Court issued its judgment on 12 February 2021, and concluded that the Trustees should not be disqualified from acting as company directors.

The scope of the Charity Commission's Inquiry was considerably wider than the matter decided by the High Court, and the Inquiry report can be read in full here. The Commission has identified various learning points for the sector,

- Boards should ensure checks and balances, and the right blend of skills and knowledge are in place to avoid power imbalances
- Boards should consider both formal terms of office for Trustees, and a diversity policy to ensure a broad range of experience
- Charities should identify and balance the risks associated with their operating model with the benefits of that model which should be evidenced
- Where charities are earning income from service provision, they should be giving due consideration to covering an element of core costs as well as the direct costs of provision
- Charities should ensure that their infrastructure, governance and resources keep pace with their growth

CHARITIES BILL RECEIVES ROYAL ASSENT

The Charities Bill received Royal Assent in February and has now passed the bill into law as the Charities Act 2022. The key changes to the act are:

- It will be easier for charities to amend their governing documents or Royal Charters
- There will be more flexibility in the use of permanent endowment funds, including the ability to borrow a sum of up to 25% of the value of permanent endowment funds without Charity Commission approval
- The rules on what advice charities will need when selling land are more straightforward, and charities will have access to a wider pool of professional advisers on land disposals
- Trustees will be able to be paid for goods provided to a charity in certain circumstances, even if not specified in their governing document
- There will be simpler rules on failed fundraising appeals, including the ability to spend donations below £120 on similar charitable purposes without needing permission from individual donors

Changes to the Act will be gradually implemented by the Charity Commission between now and Autumn 2023. This includes updating guidance for trustees and some online services.

FUNDRAISING REGULATOR CALLS FOR SAFE AND RESPONSIBLE FUNDRAISING AS COVID-19 RESTRICTIONS LIFT

On 16 February the Fundraising Regulator issued revised guidance on safe and responsible fundraising during the COVID-19 pandemic. The guidance has been updated to reflect the current situation of the pandemic in the UK, and contains specific advice that can be applied to all fundraising, as well as setting out government guidance that should continue to be followed.

FUNDRAISING REGULATOR PUBLISHES ANNUAL REPORT

The Fundraising Regulator has published their latest annual report and accounts. Headline figures include that 98% of eligible fundraising organisations contributed to the levy, which is the highest rate to date, despite the financial pressures caused by the pandemic. The report notes that the regulator received 377 complaints about fundraising in the year to 31 August 2021. The total complaints received by the regulator was higher (1,035), however the majority were outside of the regulator's remit. The most complained about fundraising methods were digital (75 complaints) and charity bags (72 complaints).

NCVO REPORT ON EMBRACING FLEXIBLE WORKING

The National Council for Voluntary Organisations (NCVO), Association of Chief Executives of Voluntary Organisations (ACEVO) and Starfish have together published a report titled 'Time to flex: embracing flexible working', which states that "flexible working is fundamental to the future of work within charities - a sector with social justice and compassion at its heart. It's vital to attracting and retaining the most talented people in our sector, and essential for building inclusion, equity, diversity, wellbeing, and healthy trust-based cultures where everyone can thrive and do their best work".

The report makes six recommendations, including that the voluntary sector should champion a default position of 'yes to flex' - where employers proactively consider how flexibility is possible in the job design for all roles, for everyone.

You can read the other five recommendations, along with the rest of the report, here.

CORONAVIRUS STATUTORY SICK PAY REBATE SCHEME TO END

HMRC's Statutory Sick Pay (SSP) Rebate Scheme, which was reintroduced on 21 December 2021, will close for coronavirus related absences after 17 March 2022. Employers have up to and including 24 March 2022 to submit any final claims and amend any claims that have already been submitted. SSP must have been paid before it can be reclaimed, which may exclude claims from the March period where the payroll date is after 24 March 2022. From 25 March 2022, normal SSP will apply, whereby employers pay SSP from the fourth qualifying day the employee is off work, regardless of the reason for their sickness absence.

INCREASE IN INTEREST RATE ON LATE TAX PAYMENTS

Following the recent increase in base rates by the Bank of England, HMRC has announced that the late payment interest rate will increase by 0.25% to 3.0% from 21 February 2022. However, the repayment interest rate will remain at 0.5%, the rate it has been since 29 September 2009.

TREASURY COMMITTEE FRUSTRATED AT SLOW PROGRESS

The Treasury Committee has called for additional government action to combat fraud and scammers in its report on Economic Crime, in particular against online fraudulent adverts. A number of recommendations are made in a strongly worded summary, which displays the Committee's frustrations at the slow rate of progress in tackling economic crime.

Some of these recommendations include,

- Appropriate resourcing of law enforcement agencies
- Constructive engagement from online companies to tackle scams and frauds
- Mandatory reimbursement of authorised push payment fraud
- Considering creating a new independent supervisory body
- Increasing the pace of reform at Companies House

ADRIAN CHILES 1, HMRC 0

A recent tax case involving the presenter Adrian Chiles highlights the complexity of IR35 compliance. The case details the importance of considering all the facts of the case and the engagement as a whole. The judge considered that whilst the three main employment status indicators (provision of personal services, mutuality of obligation and control) were met, following the examination of all the activities undertaken, he concluded that Mr Chiles was in business on his own account and self-employed. If you have any questions about the employment status of your contractors, or IR35 in general, please contact our Employment Tax team.

NAO INVESTIGATES IR35 REFORMS

The National Audit Office (NAO) has published its report on lessons learnt from the implementation of the reforms to the IR35 legislation for off-payroll working arrangements in the public sector. The report highlights that HMRC has seen an increase in revenues and the number of workers deemed to be employees for tax purposes. However, several recommendations have been made, especially further developments to the CEST tool and its usefulness for different sectors. IR35 is proving a problematic issue for many businesses, including government departments. Please contact Nick Bustin, Employment Tax Director, for further information and assistance.

THEATRE TAX RELIEF CASE

Details of a judgement regarding Theatre Tax Relief (TTR) have been released following a first tier tribunal case last year, which resulted in the rejection of a claim for TTR relief.

The claimant company produced stunt and puppet shows at Legoland Windsor and Whipsnade Zoo and made a claim for TTR in the region of c£60k. HMRC contested the claim and, in particular, argued that the commercial purpose condition had not been met.

In order to meet the commercial purpose condition, a company must intend for the performances to be to ***paying members of the general public***. In this case, the only payments made related to payments by the visitors of the two visitor attractions for general admission to the sites. As there was no distinguishable part payable for admission to the live performances, HMRC argued that the condition had not been met.

In summing up the case, the judge indicated that had there been a separate charge to attend the live performances, then the claim may have been allowed.

This is a timely reminder that the detail of the legislation must not be overlooked when making this type of claim. Please contact us if you wish to discuss TTR or any other creative sector tax relief claims.

UPCOMING EVENTS

Trustee Training: What Every Trustee Should Know
Wednesday 30 March 2022
09:30 - 17:00
Online

haysmacintyre, Farrer & Co and Cazenove Charities are hosting a comprehensive programme of training sessions for both new and experienced trustees.

NFP VAT and Tax Exchange
19 April 2022
10:00 - 11:00
Online

Bi-annual independent schools update
Tuesday 26 April 2022
16:00 - 17:30
Online

Quarterly Charities Update
06 June 2022
16:00 - 17:30
Online

Quarterly Charities Update
14 September 2022
16:00 - 17:30
Online

Quarterly Charities Update
06 December 2022
16:00 - 17:30
Online

For further details on our not for profit upcoming events and to register, visit www.haysmacintyre.com/events.

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 Jane Askew, Director, with any comments.

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A member of
msi Global Alliance
Independent legal & accounting firms

Committed to Sustainability

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