Compass Accountants

Not for Profit Bulletin - Winter 2015/2016

(Including Charities, Museums, Galleries, Schools & Academies)

You promise… We understand…

This edition includes…

Gift Aid: partnership declarations invalid from April 2016

HMRC has amended its detailed guidance notes for charities for the April 2016 changes in how gift aid is applied to partnership donations, so that from 6 April 2016 gift aid declarations will need to be made by each individual partner for partnership donations.

A change in the law to effectively permit partnership declarations might have been less burdensome for business and encouraged collective charitable giving.

In England, Wales and Northern Ireland a business partnership consisting of individuals is treated as made by the underlying partners. Up to and including 5 April 2016, one partner can make a gift aid declaration on behalf of all the partners, provided he or she has the power to do so under the terms of the partnership agreement or some other instrument given under seal. They can do this on the same declaration, provided is lists all the individual partners' names and home addresses.

From 6 April 2016, when a business partnership makes a donation to a charity or community amateur sports club (CASC), each individual partner will have to make their own gift aid declaration to reflect to correct legal position. Each partners gift aid declaration must contain their name and full home address and be given to the charity or CASC. The amount of each partner's share of the whole donation also needs to be specified in their declaration or in any supporting correspondence given to a charity or CASC.

The partners should enter their share of the donation on their own self-assessment tax returns. How the donation is apportioned between the partners is a matter for them to decide. For example, in:

- Equal shares; or
- Accordance with their share of the partnership profits set out in the partnership agreement; or
- Whatever split the partners agree.

The name and address of each partner who makes a gift aid donation to charity or CASC must be recorded and shown separately on the gift aid schedule when the partnership makes its claim for repayment of tax to HMRC.

It will be interesting to see whether the new government, which wishes to reduce red tape, will consider whether the law around partnerships should be changed. The Office of Tax Simplification in its partnership report (review of partnerships: final report, January 2015) recommended that HMRC should consider seeking a change in law so that either:

1. The firm may make a donation and the relevant gift aid declaration is made by the representative partner. The donation would be treated a made under gift aid by individual partners with the charity entitled to reclaim the basic rate income tax; or
2. The firm may simply take a deduction for the donation in its computation of trading profits. In this case it would be treated as a gross donation with no eligibility for the charity to reclaim basic rate tax, in parallel to the gift aid system for companies.

If either were implemented, such recent HMRC changes to practice to tie in with the strict interpretation of the rule of law, would no longer be required.

More on Gift Aid Declarations

HMRC have drawn up a new Gift Aid declaration for one-off donations which must be used from April 2016. Updated forms have also been issued for multiple donations and sponsored events.See www.gov.uk/government/publications/charities-gift-aid-declaration-form-for-a-single-donation
And www.gov.uk/government/publications/charities-and-casc-gift-aid-declaration-forms-for-multiple-donation%20

The new wording is designed to be simpler and increase take up of gift aid on donations. It includes a line warning people that if they pay less tax in a year than the gift aid claimed on all of their donations it is then their responsibility to pay the difference.

Accounting for Donated Goods – FRS102 and SORP 2015

In the appendix to this newsletter we have laid out at some length, a guide of how to account for donated goods under FRS 102 and SORP 2015. We set out guidelines on what, when and how to disclose such goods in the accounts of your charity.

Company cars – latest advisory fuel rates

Rates applying from 1 September 2015.

HMRC has announced the new advisory fuel rates that apply from 1 September 2015. These are the rates employers can use to reimburse employees who pay to put petrol in their company cars when using them for business.

Most of the rates have gone down by 1p per mile; the exceptions are the petrol and LPG rates for cars with engine size more than 1400cc, which have stayed the same.

The new rates (amounts per mile) are:

Engine size	Petrol	LPG
1400cc or less	11p	7p
1401cc to 2000cc	14p	9p
Over 2000cc	21p	14p

Engine size	Diesel
1600cc or less	9p
1601cc to 2000cc	11p
Over 2000cc	13p

Hybrid cars are treated as either petrol or diesel cars for this purpose.

Advisory fuel rates are intended to reflect actual average fuel costs and are updated quarterly. They can be used by employers who:

- reimburse employees for business travel in their company cars, or
- require employees to repay the cost of fuel used for private travel.

Using the rates means there is no charge to either income tax or NIC on the amounts paid to employees. It is possible to use them to negotiate dispensations for mileage payments for business travel in company cars.

The new rates apply to all journeys undertaken on or after 1 September 2015 until further notice – though rates are usually updated quarterly. For one month from the date of change, employers may use either the previous or the current rates.

HMRC extends reclaims for overpaid VAT on supplies of sporting services

Following the decision of the European Court of Justice (ECJ) in the Bridport and West Dorset Golf Club, HMRC has accepted that supplies of goods and sporting services made by non-profit-making membership organisations to both members and non-members may qualify as exempt supplies for VAT purposes. The Bridport appeal concerned green fees paid by non-members to a non-profit making member's golf club. However other types of non-profit making member's sports clubs may also be affected by this judgment.

The ECJ decided that green fees charged by non-profit making organisations were exempt from VAT. This resulted in many golf clubs submitting claims for refunds of VAT on green-fee income. HMRC originally refused to repay this VAT, claiming the clubs would be unjustly enriched as the VAT was originally paid by the members. HMRC has now decided that it will repay some, but not all, of the VAT – either 50% or 33% of the refund claimed. This only applies to clubs established as not-for-profit.

HMRC has issued VAT information sheet 01/15: claims by non-profit making members' sports clubs for overpaid VAT on supplies of sporting services to non-members.

This sets out guidance for both clubs which have already made a claim prior to the Bridport decision, and those which may be considering making a claim following it. To obtain a refund from the HMRC, the club needs to confirm that it has checked its claim follows VAT information sheet 01/15, whether its fees were over, or under, £100 per person per round, and whether it would prefer a payment, or a credit to the VAT account. All new claims are subjected to the 4 year time limit.

The address to send the claim and the above confirmations is: VAT Bridport Claims, 50483. PO Box 200, Bootle, L69 9AH

Community Amateur Sports Clubs (CASCs) and the deregistration charge

Window of opportunity for sports clubs which no longer satisfy the rules

HMRC has updated its guidance following the introduction of new rules for sports clubs which came into effect in April 2015.

Since 1 April 2015, the rules allowing a club to claim Community Amateur Sports Club (CASC) status, and so benefit from the special tax exemptions which go with it, have been tightened up.

Community Amateur Sports Clubs (CASCs) and the deregistration charge (continued)

CASCs came into being in 2002. The intention was to reduce the administrative and tax burdens on sports clubs and to encourage participation generally. Sports clubs that are registered with HMRC as CASCs benefit from considerable tax advantages through exemptions and relief's, similar to those applying to charities, but without the need to involve the Charity Commissioners.

The original rules were amended substantially by s46 and Sch 21, FA 2013 which also gave the Treasury power to make regulations specifying the detailed limits to be applied for the purposes of the new definitions a club had to meet in order to continue to qualify as a CASC. The regulations have since been supplemented by HMRC guidance, see Community Amateur Sports Clubs: detailed guidance notes.

In our earlier news items and in an article in TAXline July 2015, we explained these changes in more detail, but our concern remained what might happen to clubs which were deregistered by HMRC because they couldn't meet the new rules, for example because they had too many non-playing members?

Where a club is no longer entitled to be registered as a CASC, HMRC may terminate the club's registration. HMRC may choose the date for deregistration and must notify the club accordingly of the decision. In practice HMRC will write to the secretary of the club. There's no other provision for a club to be removed from the CASC register. A club can't simply ask to be removed.

When a registered CASC is deregistered by HMRC a charge to corporation tax may arise in respect of the club's property. This is because the CASC rules deem the club to have disposed of its property and reacquired it at market value on the date of deregistration. There's no tax exemption available for any chargeable gain that arises.

However, HMRC has been writing to the clubs affected saying that provided they deregister before 1 April 2016, there will be no tax charge on property which is deemed to be disposed of. It has now also updated its guidance in Chapter 6 of the Community Amateur Sports Clubs: detailed guidance notes.

The guidance has been amended to reflect this as follows:

'6.1.8 CASCs that have always been fully compliant with the rules prior to 1 April 2015 will be given 12 months from the 1 April 2015 to meet the requirements of the new rules. If any of these CASCs are still unable to meet the new conditions after this time they will be deregistered with effect from 1 April 2016.'

Professional bodies approved for tax relief: latest list

HMRC's list of organisations whose membership fees are tax-deductible.

HMRC has published the latest version of its list Approved professional organisations and learned societies

Fees or subscriptions paid to professional organisations and societies which HMRC has approved are tax-deductible, provided the membership is necessary or relevant to the taxpayer's work.

HMRC notes that an individual cannot claim tax relief for fees or subscriptions paid to professional organisations not approved by HMRC, or for life membership subscriptions, or for fees or subscriptions they haven't paid themselves (eg where their employer has paid them).

For some organisations, it may be possible to reclaim tax on annual subscriptions for their journals or other publications. These are indicated on the list.

The latest list, published on 25 August, includes all bodies approved by HMRC up to 2 June 2015. The list has been reordered but there haven't been very many changes in the last six months. You can find a detailed list of what has changed in the Full Page History on the relevant GOV.UK web page.

Appendix

FRS 102 and Charities SORP 2015 - Accounting for donated goods

The following article offers an in-depth guide on implementing FRS102 and SORP

Under FRS 102 and the Charities SORP 2015, there is a requirement to recognise income arising from receipts of resources from non-exchange transactions at fair value (which includes donated goods).

FRS 102 now challenges accounting practice under SORP 2005 which required accounting for income from donated goods, only when the goods in question have been sold.

FRS 102 requires that an entity must take into account:

- Whether the resource can be measured reliably and
- Whether the benefits of recognising receipts from donated goods (non-exchange transactions) outweigh the costs.

An entity shall recognise their receipts as follows:

1. Transactions that **do not impose** specified future performance related conditions on the recipient, are recognised as income **when the resources are received or receivable.**
2. Transactions that **do impose** specified future performance related conditions on the recipient, are recognised as income **only when the performance-related conditions are met.**
3. Where resources are **received before the revenue recognition** criteria are satisfied, liability is recognised.

This means that where it is not practicable to estimate the value of the resource with sufficient reliability, the income shall be included in the financial period when the resource is sold (section 34
FRS 102).

It is clear that FRS 102 and SORP 2015 intend accounts to recognise donated goods at fair value on their receipt unless:

- **Either** the provision of such information is not material
- **Or** the cost of obtaining and establishing such reliable information outweighs the benefit that providing this information in financial statements will provide to their users.

Thus, charities will need to recognise donated stock at fair value on receipt unless they are considered to be **not material** or **not justifiable from a cost/benefit point of view**.

Although no cost has been incurred to acquire the goods in question, FRS 102 does not permit non-recognition of the transaction.

Under SORP 2005, on grounds of practicability, it was determined that the receipt of resources occurs only when the goods have been sold. It would be reasonable to argue that it is at this point that the real benefit to the charity becomes known or is capable of reliable estimation.

A fresh look at the situation follows the birth of a new accounting framework, recognising that many organisations carrying significant stocks of donated retail goods are keeping records that are sufficient to determine value for recognition in financial statements as a result of:

- Increasingly sophisticated record keeping methods
- More readily available valuation data
- More effective use of IT and sales controls

This does set the hurdle for other charities who do not maintain systems to enable them to account for donated goods. The value of donated stock given for resale could be important information for users of financial statements. A charity's financial position could be materially affected by the inclusion/exclusion of such stock.

FRS 102 requires that for a charity to decide that such information need not be recognised in its financial statements can only be on the basis that cost must outweigh the benefit to the users.

What is the basis for a charity deciding on whether or not to include donated goods from its accounts on the basis of materiality or cost/benefit?

Appendix (continued)

Materiality – are the amounts involved material?

FRS 102 and the Charities SORP 2015 apply only to **material** balances or classes of transactions. This indicates that where they are expected to be not material, they need not be recognised on receipt.

In order to decide if information is material, you need to consider the qualitative as well as quantitative position of the information; recognising that some information, even if relatively small in amount, may be useful to users.

In order to argue that donated goods are not material and so should be excluded from the financial statements, you must arrive at an estimate of their value. If no estimate is possible this implies a lack of controls over retail activity generally which in turn implies this is not always a credible conclusion.

If a rough estimate of donated goods can be obtained and is considered to be **not material, and the trustees and auditors are both satisfied** with the degree of accuracy of the estimate, no further work is required.

It should however be noted that:

- This does represent an adjusted item in the accounts
- The accounting policy should note that **material** donated goods would be recognised in the financial statements

Materiality needs to be determined after considering:

- Brought forward items
- Retail gift aid items
- New goods
- Approach to rag regulations
- SOFA **and** balance sheet effect
- Each year separately
- Cumulative information and
- Under FRS 102 a material “error” generates a prior year adjustment

If donated goods are **considered material**, consider other justification for exclusion.

Thank you for reading! If you know of anyone that will benefit from this newsletter, please feel free to pass their contact details on to us, or they can email us at info@compassaccountants.com

If you have any queries regarding the items included, or have any other questions we can help with, contact us on : ***01329 844145****.*

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