DAINS ACCOUNTANTS

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HMRC to grant charities a 'soft landing' in Common Reporting Standard compliance

New guidance has been published by HMRC to reassure charities and their trustees that it will support them to understand the Common Reporting Standard (CRS) rules that were introduced on 1 January 2016 to prevent tax evasion. The rules require financial institutions such as charities that are 'investment entities' to carry out due diligence and report on grant recipients under the Automatic Exchange of Information (AEOI) regime. The first CRS reports under AEOI must be filed by 31 May 2017. However, charities whose income is mainly from gifts, grants, legacies and donations are classified as 'Non-Financial Entities' and do not have to report under the CRS.

A number of sector bodies have called for charities to be exempt from the new rules, and have expressed concerns at the administrative burden the CRS will place on charities and their trustees. They have also raised fears that the new regime could cause charities to scale back on the grants that they provide.

In response to these concerns, HMRC has agreed that during the first few years of AEOI reporting it will not impose penalties on charities that have made efforts to carry out due diligence and report accurately. However the imposition of penalties on charities that have failed to engage with the new requirements will not be ruled out. Charities that are required to report under the CRS must submit the required information using HMRC's online services, and may need to report any payments they make to beneficiaries under their charitable objectives. Due diligence checks will require charities to obtain a 'self-certification' from recipients of grants or other payments, which must include details of the recipient's residence for tax purposes.

HMRC has acknowledged that charities have had less time than other organisations to prepare for the introduction of the new rules, as charities' awareness of the impact of CRS started later than in other sectors.

Andrew O'Brien, head of policy and engagement at the Charity Finance Group welcomed HMRC's approach to providing charities with a 'soft landing' in relation to compliance under the new rules, but said there are still various questions that remain to be answered. These are around how charities will meet the standards of due diligence required by HMRC and how charities that work with vulnerable groups will be able to protect grant recipients. He also added that: *"There is not a lot of time to resolve these issues, as charities are supposed to be gathering information right now and are due to make their first reports in May 2017. HMRC, the Charity Commission and sector bodies will need to work closely together to get this information quickly and in a format that charities, unaccustomed to this kind of tax reporting, can understand."*

Read more about the new guidance at: http://bit.ly/2dKdy31

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Charity Commission's approach to new powers criticised

The Charity Commission's proposed approach to the new power to disqualify trustees has been criticised by third sector organisations. The Commission outlined how it will exercise the power to disqualify in a policy paper published earlier this year. The power to disqualify was introduced under the Charities (Protection and Social Investment) Act 2016 and became effective on 1 October 2016.

The Commission will apply a three stage test to trustee disqualification orders. A trustee will be disqualified if they are unfit for the position, their disqualification is in the public interest and at least one of six conditions is met. The first five conditions relate to criminality, misconduct or mismanagement, and fitness for leadership. The sixth condition relates to 'other conduct, whether or not in relation to a charity that is, or is likely to be, damaging to public trust and confidence in a charity or charities'. Both the National Council for Voluntary Organisations (NVCO) and the Association of Chief Executives of Voluntary Organisations (AVECO) believe that the sixth condition is too broad. NVCO described the Commission's wording as 'vague and open', and too subjective to be used as a criterion for disqualification.

The 2016 Act has also introduced the power to issue 'official warnings' when there has been a breach of trust or duty or other misconduct or mismanagement, but the incident is not serious enough to warrant a statutory inquiry. This power will become effective in November 2016. Respondents to a consultation on draft guidance about the power's implementation have claimed that the guidance was not clear enough and warned that the power may be used as 'a lightning bolt' to punish charities.

Read more about the response to the policy paper at: http://bit.ly/2cWVIqQ

Read more about the response to the draft guidance at: http://bit.ly/2dDgjTS

complaints about charity fundraising up 6%

Almost 67,000 complaints were made about charity fundraising practices in 2015, up by 6% from 2014, according to a report from the Fundraising Standards Board (FRSB). The annual 'FRSB Complaints Report' has revealed that charities that are members of the FRSB recorded 66,814 complaints about their fundraising activities in 2015.

The report has also indicated that 500 of the biggest fundraising charities in the UK were responsible for 98% of all fundraising complaints made in 2015. Furthermore, just 1% of charities, all of which have incomes of £10 million or more, were responsible for six in ten complaints in 2015. In comparison, 90% of small charities received no complaints about their fundraising practices in the same period.

Addressed mail and telephone methods of fundraising attracted the greatest number of complaints, accounting for 60% of all fundraising complaints in 2015. Doorstep fundraising, clothing collections and email campaigns make up the top five methods of fundraising with regards to the number of complaints received. A further 35% of complaints were prompted because of a general dislike of fundraising methods. Trust fundraising and radio advertising recorded the lowest number of complaints.

The report also makes ten recommendations to help charities improve their fundraising practices and avoid complaints. These include identifying any activities that attract high levels of complaints, asking supporters how they would prefer to be contacted about fundraising issues and taking steps to ensure any fundraising activities are compliant with fundraising legislation.

Andrew Hind, Chair of the FRSB said: *"While we must continually stress the essential need for charities to fundraise energetically and innovatively, charities must find ways to ensure that their fundraising approaches minimise any concern to the public. Fundraising should always be a positive experience that reflects the charity's own values and the importance of its supporters."*

Read more about the report at: http://bit.ly/2dlXUJ7

in brief...

One in four are unaware they are using charity services

The vast majority (98%) of the UK population have used services provided by charities, ranging from visiting a community centre run by a charitable organisation to receiving counselling from a mental health charity, according to a report based on research by the Charities Aid Foundation. However almost a quarter (23%) of people are not aware that services they have used were actually run by charities. One third of people aged 18 to 24 were unaware that a service they had used was provided by a charity, in comparison to 17% of people aged over 55. The report recommends that charities do more to promote their charitable status to service users to increase awareness of and support for the work that they do.
http://bit.ly/2epXelR

Guidance for charities working with fundraising agencies

The Institute of Fundraising has published new guidance for charities that use fundraising agencies. The guidance sets out the main issues that charities should consider when engaging an agency to carry out fundraising activities on their behalf. In particular, the guidance will help charities to plan and prepare for engaging the services of an agency, select and appoint a fundraising partner, establish the terms of the agency's contract and put procedures in place to monitor, review and evaluate the service provided by the agency. Stephen Dunmore, Chief Executive of the Fundraising Regulator said: *"it is imperative that every aspect of the fundraising relationship is carefully considered by both charities and agencies, to ensure the public can have confidence in fundraising practice and to protect charities from reputational and financial risk."* Read more about the guidance at:
http://bit.ly/2dxAml3

Fundraising Regulator confirms levy structure

The Fundraising Regulator has confirmed the details of its new levy regime, which came into force on 1 September 2016. The levy applies to charities that spend £100,000 or more on fundraising each year. Smaller charities that are outside the scope of the levy regime can register with the Fundraising Regulator on a voluntary basis for £50 per year to demonstrate their commitment to good fundraising practice. The Regulator has also published further details of its Fundraising Preference Service, which will allow members of the public to opt out of fundraising communications from charities that are subject to the levy. The Fundraising Preference Service is due to be introduced in 2017.
http://bit.ly/2dm1G4l

Law Commission consults on changing purposes

The Law Commission is consulting on its proposals to enable incorporated charities to convert to 'trust corporation' status more easily. Incorporated charities that hold land in charitable trust must have trust corporation status before they are able to sell this land. However, incorporated charities have argued that converting to trust corporation status is complex, time consuming and expensive. As a result, the Law Commission has proposed to make it easier for incorporated charities to change their status. The Commission is also consulting on its plans to allow unincorporated charities to change their charitable purpose with the consent of the Charity Commission for England and Wales. Currently, unincorporated charities wishing to change their purpose must seek a scheme (a formal legal document that is only granted in special circumstances) from the Charity Commission.
http://bit.ly/2dt8DTe

New guidance for charities on legal proceedings

The Charity Commission for England and Wales has issued new guidance for charity trustees about taking and defending legal proceedings. The guidance clarifies the issues that trustees should consider when faced with litigation and helps them comply with their legal obligations, as well as their duty to act in the best interests of their charity. The guidance sets out some guiding principles that trustees should consider with regard to any legal proceedings, such as what the financial implications may be or whether it is in the best interest of the charity. It also outlines the alternative dispute resolution methods that trustees should consider before taking legal action, for example using third party mediation services.
http://bit.ly/2cMSenH

Charities urged to manage financial risks

Charity trustees that take early action to identify and manage financial risks will secure better outcomes for their charities and beneficiaries. This is according to two reports published by the Charity Commission for England and Wales. The reports have revealed that the financial outlook for the charity sector remains challenging and has urged trustees to stay alert to financial risks. The reports outline the different options that trustees should explore to achieve positive outcomes despite their financial difficulties, including mergers and collaborations. The reports also include a number of case studies that demonstrate the early steps trustees can take to address and manage financial difficulties, as well as to minimise the risk to their beneficiaries.
http://bit.ly/2dTktpR

Charities less optimistic about the future

Almost two thirds (64%) of charities are optimistic about their organisation's prospects for the next 12 months, according to a survey of more than 400 fundraising and finance professionals in the charity sector. The 'Managing the new normal' survey has revealed that optimism in the charity sector fell by 10% from 2015 to 2016, while staff morale also decreased. Around 58% of respondents said their colleagues are energised and optimistic about the future in comparison with 61% in 2015.

Media coverage and public scrutiny is considered the biggest challenge facing the charity sector over the next twelve months, identified by 83% of respondents. Furthermore, one in three respondents believes that maintaining public trust and confidence is a crucial issue for the sector.

The survey also found that 65% of charities recorded an increase in demand for their services from 2015 to 2016. However, one quarter of respondents said that they do not have the resources or capacity to meet increased levels of demand. More than half (54%) of charities said that they are unable to increase their levels of financial reserves, while 85% said they do not have the skills or capacity to use social investment to raise capital.

The survey has also indicated that 73% of respondents have improved their fundraising practices in the past 12 months and 79% plan to explore new fundraising options in future. Donor retention has also improved in the sector, with 12% fewer charities reporting an increase in donor attrition from 2015 to 2016. Caron Bradshaw, Chief Executive of the Charity Finance Group said: *"Charities are facing a number of challenges both financial and reputational, but this survey is encouraging as it shows charities taking seriously the need to meet these challenges."*

Read more about the survey at: http://pwc.to/2dovP2L

Dains LLP

If you would like further information on any of the articles in this newsletter please contact;

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The UK200Group is a modern and proactive professional membership association of independent chartered accountancy and law firms which provides training and business services to enhance the performance of member firms. As well as being focused on the general small to medium businesses, members have specialist knowledge and experience of the agriculture, healthcare, charities, legal and property and construction sectors to provide effective support and advice in the areas of tax, financial management, business planning and legal issues.

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Charities Outreach Team reveals top tax relief claims mistakes

The most common mistakes made by charities that applied for tax relief have been revealed by the Charities Outreach Team. Around 10,000 claims for relief were delayed due to mistakes made by charities in their applications for relief.

The top mistake made by charities was naming the wrong person on their claim form. Charities can change who is responsible for their tax affairs, however, they must notify HMRC of this change by submitting a 'change of details' form (ChV1), otherwise the change is ineffective. The second most common mistake was entering the amount of donations received under the Gift Aid Small Donations Scheme (GASDS), rather than the total amount of donations eligible for relief (£5,000 in 2015/16 and £8,000 in 2016/17). The third and fourth most frequent mistakes were out of date GASDS claims and incorrectly completed paper forms respectively. Forms are scanned and read electronically, meaning ticking, crossing or striking out form boxes or writing 'N/A' can result in the form being rejected.

The Charities Outreach Team consists of charity tax specialists and was established in 2014 by HMRC to help charities understand, claim and benefit from tax relief. Its helpline has received around 40,000 calls since it was set up. The most frequent reason for calling the helpline was to seek advice on completing application and change of details forms. The second most frequent reason was to chase the progress of a claim, the third and fourth for advice on the GASDS and eligible donations respectively, and the fifth most common reason was to ask whether charities need to complete a Corporation Tax return.

Read more about the Charities Outreach Team statistics at: http://bit.ly/2dB5FI9