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Charities

Registered charities may qualify for a number of potentially valuable tax exemptions and reliefs. However, they are not necessarily immune from tax entirely. Here we outline some of the key areas to consider.

Qualifying conditions

To be defined as a charity for tax purposes, an organisation must be:

1. Established for charitable purposes only
2. Subject to the control of a court in a relevant country
3. Registered with the relevant regulator, if required, in that country
4. Managed by fit and proper persons.

The Charities Commission is responsible for regulating charities in England and Wales. Charities in Scotland must register with the Office of the Scottish Charity Regulator, and charities in Northern Ireland must register with the Charity Commission for Northern Ireland.

Once the four conditions are met, the charity can apply to HMRC to be registered as a charity for tax purposes. If the charity is to take advantage of the Gift Aid scheme and charitable tax exemptions, it must register for an HMRC online account.

Community Amateur Sports Clubs (CASCs)

Registered CASCs are also entitled to certain tax benefits, including Gift Aid. To qualify as a CASC for tax purposes, the club must broadly:

- be open to the whole community
- be organised on an amateur basis
- have, as its main purpose, the provision of facilities for, and the promotion of participation in, one or more eligible sports
- not exceed the income limit (£100,000 per year).

In order to be eligible for tax reliefs, the CASC must promote participation and provide facilities for their eligible sport. Where this condition is met, the club will not pay tax on: bank interest; Gift Aid donations; capital gains; trading profits where turnover is less than £50,000 a year; and income from property if the total property income is less than £30,000 a year.

Tax exemptions and reliefs

Trading profits

Broadly, a charity's trading profits are exempt from tax as long as, in the case of carrying out a primary purpose, the activities contribute directly to the furtherance of its charitable objectives. There are two forms of charitable trading – primary purpose trading and trading mainly carried out by the beneficiaries.

The exemption must be that the trade is exercised in carrying out a primary purpose of the charity or that the trade is carried out by the beneficiaries of the charity. If the funds are then applied on non-charitable expenditure, tax relief may be lost.

Any income received by the charity from the sale of goods that have been donated is not regarded as trading profit but just the realisation of the value of a gift.

Other profits

Subject to certain restrictions, other activities which are exempt from tax include fundraising events such as discos or fairs, and also lotteries. All interest, dividends and Gift Aid donations may be exempt from tax, while capital gains also avoid tax. In all cases the income or gains are only exempt if applied for charitable purposes.

Gift Aid

The Gift Aid scheme allows registered charities and CASCs to maximise the value of monetary donations by reclaiming the basic rate of tax paid by the donor (so an additional 25p can be claimed for every £1 donated). The donor will need to have completed a Gift Aid declaration and have paid enough tax in that tax year to cover the amount that is being claimed in Gift Aid.

Gift Aid Small Donations Scheme (GASDS)

Charities and CASCs may be able to claim top-up payments from HMRC on small cash donations under the GASDS, without the need to collect Gift Aid declarations. The limit on small donations is £30 or less from 6 April 2019.

The scheme only applies to cash and contactless card donations, making it particularly pertinent to those who operate collection boxes or bucket collections. Qualifying organisations can claim a top-up payment worth up to £2,000 on up to £8,000.

When tax is due

Non-charitable trading

The profits of activities which are not treated as charitable trading will be taxable. There is, however, a statutory exemption for the profits of small scale non-charitable trading.

Certain activities closely linked to the primary purpose of the charity may also be exempt. A common example of this would be a charity which is an art gallery selling promotional pens, mugs, etc which are not related to the main purpose of the charity.

Where a charity has both charitable trading and non-charitable trading, it will need to apportion income and expenses between the two types of activities.

One way of dealing with the tax charge on non-charitable trading profit may be to set up a trading subsidiary of the charity which carries out the activities which are not tax exempt. This subsidiary then donates its profits to the charity under Gift Aid, thereby reducing taxable profits.

Non-charitable expenditure

Tax exemptions are restricted where the charity has incurred non-charitable expenditure and has an amount of income or gains that are eligible for tax relief or exemption. Where non-charitable expenditure is incurred, the charity will lose tax exemption on an equivalent amount of its attributable income and gains. The rules on this area are complex.

VAT

For VAT purposes there is no distinction between charitable and non-charitable trading. Even though an activity is carried out for the benefit of the community or in the furtherance of charitable objects, it can still be a business activity for VAT purposes and VAT may be due on the income.

If the charity is VAT registered it may be possible to reclaim some VAT under the normal VAT rules and there are additional VAT reliefs available for charities.

It should be noted that these reliefs are not available to CASCs.

For further information and advice on the tax rules governing charities, not-for-profit organisations and CASCs, please contact us.

Other considerations

Tax Returns

Where tax is owed, the charity must complete a Tax Return and the appropriate Charity Supplementary pages and send them to HMRC. A charity may also be asked by HMRC to complete a Tax Return.

Company Tax Returns

Where a charity is a limited company or an unincorporated association, it is required to complete a Company Tax Return. Limited companies must also send annual accounts to Companies House.

Accounting and reporting

All charities must keep accounting records and prepare accounts. There are particular requirements for most charities to:

- keep full and accurate accounting records (and funds requirements are of particular importance here)
- prepare charity accounts and an annual report
- ensure an audit or independent examination is carried out
- submit an annual return, annual report and accounts to the Charity Commission (and, for limited company charities, to Companies House).

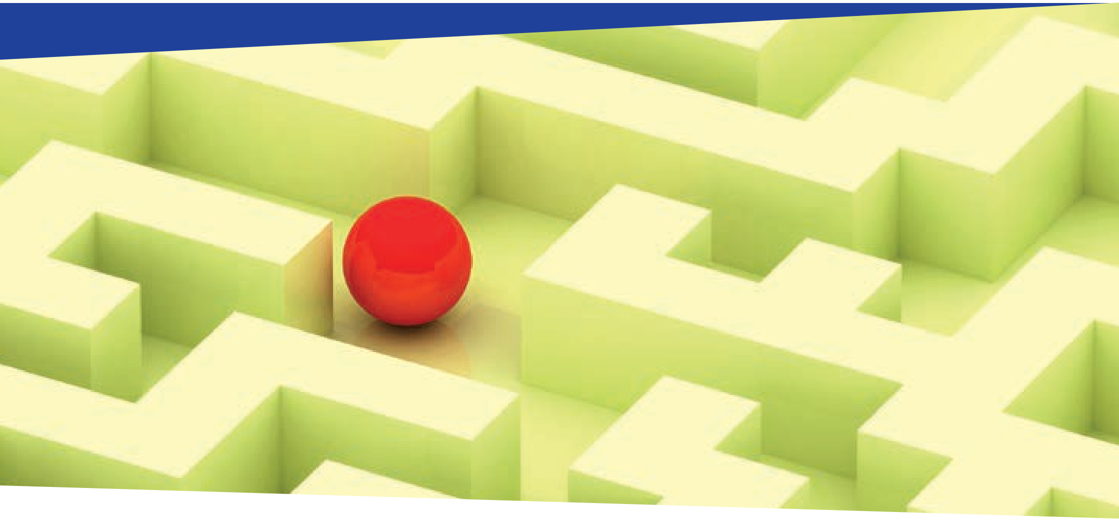
The extent to which these requirements have to be met generally depends upon the type of charity and how much income is generated.

Auditing requirements

All charities with income exceeding £1,000,000 in a financial year are required to have an audit. While charities (both incorporated and unincorporated) whose income falls between £25,000 and £1,000,000 in their financial year do not have to have a full audit, they do require an independent examination. Where income is over £250,000 the independent examiner must be suitably qualified.

There are other criteria to consider, particularly regarding total assets, so do contact us to discuss these in more detail.

There are many complex tax rules governing charities and CASCs. We can guide you through the maze, while helping your organisation to meet the necessary accounting and reporting requirements.



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