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focus on...

July 2013

Welcome to Focus On... our special quarterly bulletin looking at issues relevant to particular sectors and topics of interest.

In July's Focus On... Charities, we look at how long-awaited new guidance has been issued for charity shops wanting to claim Gift Aid on the sale of goods in charity shops. Meanwhile, new figures show that public funding for charities could be almost £2 billion lower by 2017-18. The Charity Commission has reissued a warning to charities about the risks involved in arrangements relating to tenancy agreements and business rates relief. Finally, the Commission has launched a consultation into the way common investment funds are regulated.

If you would like to discuss any aspect of our specialist charity audit and accountancy services, please contact Emma Murray, Audit and Compliance Partner at Nicholsons, at emma.murray@nicholsonsca.co.uk or phone 0845 27 66 555.

Charities 'face £1.7bn cut in public funding'

Public funding for charities could be almost £2 billion lower by 2017-18, according to new analysis from a leading sector organisation.

New findings released by the National Council for Voluntary Organisations (NCVO) suggest that public funding could be 12 per cent lower in 2017-18 than in 2010-11, the latest year for which data is available.

The NCVO's Counting the Cuts report was based on forecasts of public spending from independent fiscal watchdog the Office for Budget Responsibility and its own NCVO UK Civil Society Almanac data on charities' income.

The almanac, released on 30 April, analysed charities' accounts for the financial year 2010-11. In cash terms, the charity sector generated an extra £2 billion compared to the previous year, with a total income of £38.3 billion.

However, rising costs – including inflation at five per cent – wiped out the effect of this increase and meant that the sector's real-terms income was almost identical to that in 2009-10.

The NCVO said future reductions in public spending were likely to be concentrated in departments that were key sources of income for charities, with local government expected to be particularly hard hit.

If these cuts are passed on proportionately to charities, the sector's income would be £1.7 billion (12 per cent) lower in 2017-18 than in 2010-11, using 2010-11 prices.

At Nicholsons, we understand the challenges faced by charities when it comes to keeping costs down. For further information on we can help, please contact us.

Shops get new guidance on Gift Aid claims

HM Revenue and Customs (HMRC) has published long-awaited guidance on the new rules for claiming Gift Aid on the sale of goods in charity shops.

Under the new measures, originally announced in December last year and which went live from April 2013, people who donate goods to charity shops can make one-off Gift Aid declarations, so that the charities involved do not have to write to them after items are sold before the relief can be claimed.

The new processes, which are optional for shops and donors, allow donors to authorise the gift of up to £100 of sale proceeds, for goods sold by a charity operating the shop directly, or £1,000 of proceeds, where shops are operated by a trading subsidiary, without the shop needing to seek the supporter's permission to claim the tax relief.

Following publication of the new rules in May, the Institute of Fundraising said it believed few charities had implemented the new rules when they came into effect because they had wanted to wait for guidance explaining them in more detail.

It added: "It is hoped that the new guidance will now indeed allow charities to take advantage of the new rules, which were designed to cut the universally excepted inefficiencies."

Nicholsons can provide expert advice on the new rules and any other aspect of Gift Aid. For more information, please contact us.

Commission repeats business rates relief warning

The Charity Commission has reissued a warning to charities about the risks involved in arrangements relating to tenancy agreements and business rates relief.

The commission first warned charities and trustees in December 2011 and repeated its alert on 20 May, following a court judgment on 14 May relating to registered charity the Public Safety Charitable Trust Limited.

Full business rates are due on empty commercial properties that remain unoccupied after three months. However, charities occupying commercial property qualify for a mandatory 80 per cent discount on business rates, provided the property is used wholly or mainly for charitable purposes. Local authorities also have the discretion to grant the remaining 20 per cent as a further discount.

In the court ruling, the judge held that it was reasonable to infer that Parliament intended that the mandatory exemption from rates should depend on the charity making extensive use of the premises for charitable purposes rather than leaving them mainly unused.

The Charity Commission said it was aware of cases where charities were being approached by retailers and landlords of hard-to-let property to enter into tenancy agreements that would remove the requirement on landlords to pay full business rates.

In some cases, this provided good opportunities for charities to lease accommodation for low or nominal rents and even receive donations from landlords that reflected a percentage of the business rates they would otherwise have to pay.

The commission said it was examining cases involving a number of charities that have entered tenancy agreements to see whether their trustees had properly discharged their trustee duties when making the decisions to occupy those properties to further their charitable purposes and whether any benefit to the landlords was incidental to that.

The commission has received information from a number of local authorities concerned about situations where charities are entering into tenancy agreements on commercial properties but where, in practice, the properties are, or appear to be, empty and/or only minimally used.

The commission is concerned that these charities may find themselves involved in what local authorities might consider to be business rates avoidance by landlords. As in the case involving the Public Safety Charitable Trust Limited, this could result in charities losing not just the discretionary discount but being required to pay full business rates.

Before entering into any tenancy agreements to occupy empty properties, charity trustees must:

- be assured that the tenancy agreement is for the exclusive benefit of the charity, will further the charity's purposes and is in its best interests
- ensure the property is genuinely required and is fit for purpose
- consider the potential liability of the charity to pay outstanding rates if the local authority disputes use of the premises and refuses rates relief
- very carefully safeguard the charity's independence and ensure the charity is not being abused for the benefit of a commercial company
- where appropriate, take suitable professional advice, including legal advice, before entering into a tenancy agreement.

As accountants experienced in working with charities, Nicholsons can provide advice and support to help charities and their trustees to fully understand their responsibilities. For more information, please contact us.

Charity Commission launches consultation on proposed CIF changes

The Charity Commission has launched a consultation into proposals to change the way in which common investment funds (CIFs) are regulated.

CIFs are charity investment funds which can be registered with the Commission as a charity. Although the Commission does not regulate a CIF's performance, it does regulate it as charity.

However, the Commission says that a European Union directive, the Alternative Investment Fund Managers Directive, which took effect in July 2011, means regulations which govern CIF fund managers must now change.

The proposed changes would give the Financial Conduct Authority responsibility for ensuring that managers of CIFs comply with certain responsibilities.

The Commission's model scheme, which serves as the governing documents of a charity and is used by CIFs when they register with the regulator, needs to change to reflect the changes imposed by the EU directive, the commission statement said.

The consultation closes on 11 September. For further information on CIFs, please contact us.

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