

Welcome to the latest issue of the Brabners Chaffe Street Charity and Social Enterprise Unit Newsletter.



Charities are not immune to the effects of what is happening in the wider economy. Already clients have begun to see the downturn in income streams whether they are endowed charities with invested assets producing income, or otherwise. There are even cases of local authorities and

public authorities pressurising charities to reduce the price of existing contracts. All this makes for a very worrying time, but it also provides an excellent opportunity for the sector to show what it is truly made of, and to provide services at a time when charity could not be needed more.

The challenge for Trustees going forward is how to raise more money, whilst at the same time making less money go further. Some clients are already finding innovative solutions, exploring new funding avenues, and generally using this

opportunity to undertake good housekeeping leading to much needed financial savings.

Since the last newsletter, Brabners Chaffe Street has been busy continuing with its in-house seminar programme, which has proven popular with clients and other contacts within the sector. The seminars are free to attend. They provide an excellent forum for individuals to keep abreast of the latest developments in the sector, and to take advantage of the networking opportunity with other charities and meet a range of professionals who have expertise in this area of charity.

To register your interest in attending future seminars or if you have any issues requiring legal advice, please contact Stephen Claus on **0151 600 3341** or stephen.claus@brabnerscs.com or a member of the team whose contact details are on the back page of this newsletter.

VAT Partial Exemption Changes – *Simplification?*

HMRC has stated that it intends to 'simplify' the existing VAT Partial Exemption ('PE') and Capital Goods Scheme ('CGS') rules with the aim of reducing compliance costs for businesses. Budget 2009 should produce the first stage legislation for amending the partial exemption regulations. It is intended that the changes regarding the partial exemption standard method are implemented from 1 April 2009. However, implementation may be

delayed until 1 April 2010. By 1 April 2010 there will also be changes to the partial exemption de minimis limit and then in 2011 changes to the CGS.

HMRC estimate that there are currently approximately 140,000 partly exempt businesses of which approximately 120,000 operate the standard method (a simple turnover based calculation) in order to recover residual input tax. About 100,000 partially exempt businesses are not

required to restrict their VAT recovery and are able to recover VAT on exempt supplies as well as taxable supplies since the levels of VAT incurred fall below the de-minimis limits. Other businesses, such as charities and educational bodies, are required to apportion VAT on costs between business and non-business activities with VAT on business activities being treated as input tax and recoverable subject to the PE rules.

VAT Partial Exemption Changes – Simplification?

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The first of the changes aims to simplify the standard method. Specifically, the following changes are suggested:

- In-year provisional recovery rate
- Early annual adjustment
- Use based option for start up businesses
- Inclusion of certain overseas supplies in the standard method
- Alternative standard methods.

In-year provisional recovery rate

Under the standard method, a business must calculate the percentage of recoverable input tax at the end of each quarter. This is a provisional calculation and at the end of the year, the business must calculate an annual recoverable percentage and adjust for any under or over recovery of input tax by way of an annual adjustment. The proposed change would allow a business to apply the prior year recovery percentage as an in-year provisional recovery rate and then finalise the actual rate as part of the annual adjustment.

Early year adjustment

A business is required to account for a

standard method annual adjustment in the first quarter following the end of the year. It is proposed to save the need for a fifth calculation by allowing the annual adjustment to be made in the final quarter of the year.

Use based option for start up businesses

Newly formed businesses are sometimes unable to operate the standard method because they have not yet started to trade and so do not have any turnover figures to put into the calculations or the standard method produces an unfair result since the turnover is low / erratic. Consequently, such a business may be required to seek approval for a partial exemption special method. The proposed change is to introduce a use-based option for start up businesses to prevent them needing to apply for approval to use a special method.

Inclusion of certain overseas supplies in the standard method

Currently the standard method only includes an input tax on supplies made in the UK and excludes certain overseas supplies to ensure that the standard method is not distorted.

Overseas supplies are currently dealt with in a separate calculation or under an agreed PE special method. The proposal is to reduce the cost of undertaking a separate calculation and/or seeking approval for a special method through the inclusion of certain overseas supplies in the standard method.

Alternative standard methods

It is proposed that rather than having only one standard method, as is presently the case, there should be two or three alternative methods that would then save businesses having to apply for a special method.

Although it may appear that the changes will simplify the PE rules. The changes will all need to be worked through and every partially exempt business will need to reconsider the way that it reclaims VAT. HMRC have estimated that only 20,000 businesses will have to make major changes, and that a further 100,000 will have to make minor changes. It estimates compliance costs for each larger business to be around £33 or two hours. However, it is considered that this is a massive underestimate and most businesses, especially charitable organisations will need to take professional advice on these matters.



*Our guest writer is Nina Basra, who manages the Indirect Taxes team at BNB Tax Consultants in Birmingham. She can be contacted on **0121 483 6850** or **www.bnbtax.com**.*



Charity and Fraud

Charities are increasingly challenged by those seeking to take inappropriate advantage. There is a real need for Trustees to be vigilant.

Fraud can arise as a result of complacency i.e. those involved place themselves in a situation where you cannot imagine how you could do without them gaining everybody's trust and confidence, but unfortunately if there is a flaw in an audit or financial systems then regrettably from time to time individuals will take advantage.

Recently, there have been a number of charities in the North West who have been duped by both those making applications for grants, and also by employees.

Just because people are dealing with charity, it does not mean that they will become any more honest than they are in their normal day to day dealings. The number of incidents of white and blue collar crime is rising (perhaps due to the financial credit crunch and the rise in unemployment).

Trustees in this situation must be clear that their audit processes and financial controls are adequate to defend themselves if the worst does happen, and money is lost.

The world is not perfect, even the most robust systems will from time to time be subject to fraud. Trustees must apply the usual standard of care and skill in ensuring that their organization has an adequate system in place, so to avoid any personal liability, an outcome that is clearly not desirable.

Perhaps this is an opportunity to do some housekeeping, and review how your systems are managed to ensure that your Charity is not the next victim?

The following are examples of some basic rules to follow:

- 1. Never sign a blank cheque**
- 2. All cash should be banked and accounted for**
- 3. Cash collections should be counted by at least two trusted people and then banked immediately**
- 4. Never allow your fundraiser to do your banking**
- 5. Ensure management accounts are viewed regularly at Trustee meetings**
- 6. Observe basic rules i.e. check bank statements to make sure that the money is actually there**
- 7. Ensure bank reconciliations are done regularly**
- 8. Do take up references on any prospective contractors and/ or employees**
- 9. Be vigilant if there is a change in anybody's lifestyle which is not readily explicable**
- 10. Don't be afraid to seek advice.**

Further guidance on basic accountancy practice can be provided by your auditors or is available on the Charity Commissioners website.

Public Benefit

Passing the public benefit test is now beginning to challenge charity Trustees. Reports and annual returns from April onwards should now contain public benefit test information.

The complexity necessary to deal with the test will be directly proportionate to the size of income of the charity. The more money coming in, the more sophisticated your answer to the public benefit test questions and issues are expected to be.

It is important to treat the test seriously, and as we have been advocating for some time it is also important that Trustees identify in what way their charity is delivering public benefit to best equip them to deal with the test now arising on paper.

If you are going to experience difficulty with the public benefit test, or if you would like any general advice in relation to the public benefit test, then please do not hesitate to contact us.

Charity Tribunal

Unlike the Scottish Charity Tribunal that will be wound up soon, the Charity Tribunal continues with a slowly growing number of cases.

Presently, the Charity Commission is being represented by Queen's Council, which arguably should only really be necessary in highly complex cases that justify a greater level of expertise and experience.

Do not be put off! Litigants in person or those represented by Solicitors will be readily accommodated by the Tribunal and it is perfectly possible for those dissatisfied by the Charity Commission decision to challenge it themselves.

The Charity Tribunal is undergoing a transformation along with other Tribunals, into a new system which will necessitate a rule change in the Autumn. New rules can be reviewed on the Tribunal website <http://www.charity.tribunals.gov.uk>

Anybody requiring any further information in relation to the operation of the Tribunal, or in respect of the potential challenge to a decision from the Commission that they are unhappy about, should contact Stephen Claus on **0151 600 3341** or stephen.claus@brabnerscs.com.

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Brabners Chaffe Street also operate in the Charity and Social Enterprise Sector.

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