The Kubernesis Partnership

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Budget 2012 – Issues for Charities

On 21 March 2012 George Osborne delivered his third full Budget speech as Chancellor of the Exchequer. The speech was perhaps even more full than usual of theatrical elements as he attempted to get support from MPs on his side of the House. Despite all the economic gloom he managed to argue that the UK was doing better than many other countries, and as expected he confirmed the Government's continuing intention to reduce the national deficit, and he promised that it was a "fiscally neutral Budget" with no giveaways.

General Measures

Many of the general measures will have important implications for charities working in specific areas – those working with the low paid, with elderly people, those focusing on support of children, getting young people into work, etc, will want to study the relevant sections of the Budget in detail. There were also many detailed proposals on environmental issues, on transport and on energy costs which will be very relevant to the work of some charities.

However, as usual in our Kubernesis update on the Budget, we focus on issues likely to affect charities specifically because of their charitable status. Many of these are not necessarily good news!

Restriction of Gift Aid on Large Donations from April 2013

The Chancellor only mentioned charities/charitable giving on one occasion in his speech, and it was in the negative sense that he was concerned with those claiming too much tax relief by making use of those areas of the tax system "where there is currently no cap on the reliefs available". Charitable giving was one of these areas – at present a generous donor could gift aid almost their entire taxable income to charity in a given year – the only limit is that the donor must have paid enough tax to cover the tax reclaimed by the charity. (The charity reclaims the basic rate tax and the donor gets the benefit of any further tax relief at the 40p and 50p rates if they would otherwise pay higher rate tax.)

For some reason the Chancellor seems to think that people making large gifts to charity are doing so mainly to get the tax saving, rather than to benefit the charity, and he announced that from 6 April 2013 a limit for tax relief on gifts to charity will be capped at £50,000 or 25% of the donor's income, whichever is the larger.

Moreover, we assume this limit relates to the gross value of the gift, so for someone who could be hit by this it would mean the maximum gift aid donation would be £40,000 (net) – i.e. £50,000 gross (after basic rate tax reclaimed). This appears to be a limit for *all* donations to *all* charities in a given tax year by a particular donor.

This could have a significant impact on major donor fundraising.

It appears the rule will work as follows (we assume the donor has no other tax reliefs other than the new personal allowance of approx £9,000 in 2013/14).

Donor's total taxable income	*Max net gifts to charity without losing tax relief*	*Max gross gifts to charity without losing tax relief*	*Comments*
£49,000	£32,000	£40,000	If income under £50K, can give it all to charity under gift aid apart from personal allowance which is untaxed.
£70,000	£40,000	£50,000	£50K cap applies
£150,000	£40,000	£50,000	£50K cap applies
£240,000	£48,000	£60,000	Max gifts are 25% of income.

A donor could still give more than the capped amount but would not then get tax relief on the excess gift(s) – and it would seem the charity would not even be able to reclaim the basic rate tax if this applies – so it may mean a change to the wording of gift aid declarations.

The Government seems to be aware that this could cause problems for charities seeking major gifts, as the full Budget documentation (the "Red Book") says: "The Government will explore with philanthropists ways to ensure that this measure will not impact significantly on charities that depend on large donations."

However, as announced it is hard to see how the measure could have any other effect. In the *Sunday Times Rich List* there are often examples of wealthy people whose gifts to charity are at least equal to their total income that year. In particular, there is often a time delay between (say) selling a business and giving to charity, so the donor's income or capital gains in the tax year of the gift may not be large in relation to their capital, and donors will thus often structure their gifts in a given year to be roughly the same as their income that year.

It seems there may be a good deal of lobbying by the charity sector for changes to this.

A Short Term Opportunity for 2012

However, if this change goes ahead it presents a fantastic fundraising opportunity for the next year (until 5 April 2013). In the 2012/13 tax year:

- the top rate of tax will still be 50% (it will reduce to 45% from April 2013) – so a donor whose income is over £150K and hence liable to this rate will save more tax by making major gifts in 2012/13 than they would subsequently; and
- the capping of donations as above won't apply in 2012/13.

(We realise many charities we work with would love to have a donation of £5000 to their charities, let alone £50,000+! But don't rule it out: many modest charities have found someone in their community who is willing to give at a very serious level if asked.)

Gift Aid on Cash Donations

A slightly more encouraging announcement was confirmation from the Chancellor that the scheme to allow gift aid on small cash donations without the need for gift aid declarations *will* be going ahead from April 2013, as provisionally announced in the previous Budget.

Under this scheme, charities will be able to claim gift aid type refunds on up to £5,000 of cash donations (max £20 from any one donor) without declarations, providing they have been operating a normal gift aid scheme for at least three years. This could be very useful for church collections, street fundraising events, museums and galleries with fixed collecting boxes, etc.

However, in view of the £20 rule it would seem you might need a notice on your collection boxes saying "No donations over £20, please"! This seems a bit odd – but the answer will be to have gift aid envelopes available with a normal gift aid declaration for gifts above this.

Full details should be available from HMRC in the coming months.

Inheritance Tax Changes for Estates with Charitable Bequests

As previously announced, a tax change will take effect from 2012/13 (i.e. for any death on or after 6 April 2012) so that if at least 10% of the estate is left to charity, inheritance tax (IHT) on the rest of the estate will only be charged at 36% rather than the normal rate of 40%.

This is meant to encourage a new "norm" under which those with significant estates should leave at least 10% to charity: several prominent figures have signed up to this.

However, aspects of the proposal have led to criticism – there has been detailed consultation in the last year on the draft legislation (to which Gareth Morgan contributed) – but the Government hasn't significantly altered its proposals.

The main concerns are: (a) it offers no incentive to leave gifts to charity for the large number of estates below the IHT threshold; (b) it may encourage people to leave *only* 10% of the estate to charity rather than more – the most important charity bequests are where someone leaves the residue of their estate to charity; and (c) the arrangement offers no incentive to those leaving large legacies which bring the rest of the estate below the IHT threshold. So the main benefit is to the families of wealthy testators who give part of their estate to charity but not too much! These families will now receive a bit more than at present as the IHT charge on the non-charitable part of the estate will be lower.

However, something is better than nothing we would recommend all charities to mention this when encouraging people to consider legacies.

Gift Aid on Donations via Charity Shops

It is possible at present for charity shops to accept goods and sell them on the donor's behalf and the donor then gift aids the proceeds to the charity. A number of major charities with shops now operate these schemes but to operate such a scheme properly and legally requires a lot of administration (please get in touch for further details).

The Budget Red Book says "The Government will work with the charity sector to simplify the administration of Gift Aid in the context of charity shops" but it does not give any further details.

VAT Changes – Not So Good

The Chancellor said he would be clamping down on some VAT loopholes, but some of these seem specifically targeted at further limiting the few VAT benefits available to charities. In most cases the changes are expected to take effect from April 2013 and there is no detail at this stage. In particular the Red Book says:

- "The Government will withdraw charitable buildings from the scope of the VAT reduced rate for the supply and installation of energy-saving materials." So take action before April 2013 if necessary before this rule changes.
- "The Government will review the VAT exemption for providers of education, in particular at university degree level, to ensure that commercial universities are treated fairly." Whilst one can see the logic of this argument, it may mean that charities will no longer be able to offer training events more cheaply than commercial bodies by not having to charge VAT – though if the changes are limited to degree courses it may not have a big impact on the sector more widely.
- The Government plans to change the VAT treatment for alterations to listed buildings (to align with the existing VAT treatment of repairs). Repairs are normally subject to 20% VAT (although limited VAT refunds for repairs to places of worship which under the listed places of worship grant scheme). The VAT change on alterations will take effect from 1 October 2012, so it appears that charities with listed buildings will need to raise considerably more when major alterations are needed after that date.

VAT Changes – Positive

However, some other VAT announcements are more positive:

- The Government has confirmed that the "VAT cost sharing exemption" will be introduced in the Finance Bill 2012 (effective from April 2012 if approved by Parliament) to allow charities to share services from service-providing company without incurring a VAT charge. However, as we highlighted in previous Kubernesis updates, the rules on when this can be used will be quite limited. (We hope to produce a more detailed *Kubernesis Bulletin* on this issue in due course.)
- The VAT registration threshold is increased to £77,000. However, we would remind charities that *any organisation* (including charities) with more than £77,000 p.a. of trading income (including contract income, fundraising sales, etc) *must* be registered for VAT unless the relevant sales are definitely VAT exempt (e.g. supplies of education and supplies of welfare services by charities in these fields).

FURTHER HELP: *The Kubernesis Partnership LLP offers a range of seminars on issues concerning charity regulation and accounting. See www.kubernesis.co.uk/seminars.*

- If your organisation or firm belongs to the *Kubernesis Charity Advice Service* (KCAS) and you have any queries on the points mentioned – including issues for your own charity – please contact us at the special e-mail address for this purpose (see covering e-mail). There is no charge for responding to reasonable queries if you belong to the KCAS.
- If you are not currently in KCAS it is possible to register online (see www.kubernesis.co.uk/advice-service) and then queries can be raised immediately subject to the terms of the scheme. For other enquires, please e-mail info@kubernesis.co.uk.

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