

## The Autumn Statement 2013 – Issues for Charities

Today (5 December 2013), Chancellor of the Exchequer, George Osborne, delivered his “Autumn Statement” to Parliament, and in parallel various Government papers were published on related issues. This analysis by Kubernesis seeks to highlight a few issues which may be of particular relevance to charities.

### Issues for Charities as a Whole

Although there were no mentions of charities as a general category with the Chancellor’s speech, the full Autumn Statement Green Book issue by the Treasury mentions a number of policy issues affecting charities. Many of these have been in hand for some time which are now confirmed. In particular:

- **New charity registration portal** – A process is definitely in hand for new charities in England and Wales to register with the Charity Commission (CCEW) and obtain charity tax recognition from HMRC, all through a single portal. This was one of the measures suggested by Lord Hodgson in his 2012 review of the Charities Act. In principle we believe this will be beneficial, especially for new charities being formed as CIOs (charitable incorporated organisations) or existing charities converting to CIOs.

An announcement from HMRC says this will come into effect from 2015/16 for registrations with CCEW (with extensions to Scotland and Northern Ireland in due course).

However, the statement says that the new IT portal for this will be developed by HMRC – it is not clear whether this will be an add-on to the CCEW’s existing online registration system, or whether applications will ultimately have to go through an HMRC portal which will only involve the CCEW further down the line. If the latter it could mean a very significant switch to HMRC becoming the main gatekeeper for new charities.

- **Gift Aid declarations: wording** – There has been much criticism of HMRC’s new recommended wording for gift aid declarations as being too long (with references to Council tax, VAT, etc). The government has announced plans to set up a new working group to “to revise the model Gift Aid Declaration to make it easier to understand, and to develop new promotional material to increase take-up.” We consider this is long overdue, although no timescale is given for implementation. It is especially positive if the government is considering funding a new campaign to support Gift Aid take up.
- **Gift Aid declarations: common declarations for multiple charities** – The idea that donors might just opt in once for gift aid with a central database of such donors seems to have been dropped, but the government is supporting an approach which will allow intermediary organisations (e.g. online giving websites) which handle Gift Aid claims for many charities to take a larger role. In particular, the Autumn Statement suggests that such organisations might be allowed to accept a single declaration for all charities supported by a given donor (so people wouldn’t have to opt in for Gift Aid every time they give to a new charity). However, this requires changes to legislation, and the government hasn’t listed this for inclusion in the Finance Bill 2014, so it could well be 2015 before the change is implemented.
- **Stamp duty on joint charity/non-charity purchases** – Charities do not pay stamp duty land tax (SDLT) when buying property, but at present there is no relief when a property is bought partly by a charity and partly by a non-charitable purchaser (e.g. when a property is bought to house a charity worker where the charity and the employee each buy a 50% share). This will be amended in the Finance Act 2014, so that relief from SDLT will apply on the proportion of the purchase attributable to the charity. (Note that in Scotland, stamp duty will be replaced by a Scottish Land and Buildings Transaction Tax from 2015, which will have its own charity reliefs.)

## Community Amateur Sports Clubs

The status of a Community Amateur Sports Club (CASC) sits in some ways mid-way between a charity and a non-charitable organisation. Many charity-type tax reliefs such as gift aid are available to CASCs.

Following a recent consultation, the government has agreed to extend some of the reliefs – but also to clarify the definitions of a CASC, especially in relation to charging. (This has close parallels to the issue of public benefit and fee-charging by charities.)

However, charities have a difficult time deciding what level of charges they can make to service users before problems are raised in relation to the public benefit requirement (this was the big issue in the Independent School Council case in 2011 – the Tribunal concluded that a charity must make *more than token or “de minimus” provision for poorer people to access its services*, but did not specify thresholds.

By contrast, in the case of a CASC, the government’s conclusion from consultation was that a fee of £520 or more per year (£10/week) was likely to create significant barriers for public participation. To continue as a CASC, clubs that charge more than £520 a year will have to make special provisions for members on a low or modest income to participate for £520 or less, subject to an upper membership fee threshold of £1,612 (£31/week). Other rules will be introduced regarding paid players (payment will be allowed up to £10,000 a year across all players concerned). These changes will be implemented by Regulations which are expected to go through Parliament in the next six months.

[Source: *Community Amateur Sports Clubs - Summary of Responses – HMRC November 2013*].

The Autumn Statement makes a further announcement that corporate gift aid will be extended to CASCs – this will allow a CASC to establish a trading subsidiary company in the same way as a charity which will be able to gift-aid its profits to the club.

*Comment:* For voluntary sector sports organisations, the advantages of CASCs are growing but they should not be exaggerated. Charitable status also needs careful consideration. We will be pleased to assist in any specific cases. When establishing a new sports organisation there are now three main options:

- a charity for the advancement of amateur sport; or
- a CASC; or
- a not-for-profit organisation which is neither a charity nor a CASC, but possibly structured as a CIC (community interest company).

## Changes to Employer’s National Insurance

The burden of employer’s NI is already set to fall with the announcement of the £2000 “Employment Allowance” from April 2014 to be set against each employer’s NI. Whilst this will not make much difference to large charities, as previously discussed, this has the potential to cut payroll costs significantly for smaller charities which employ staff (provided the staff are paid enough to incur employer’s NI).

However, the Chancellor announced a further relief that from April 2015, no employer’s NI will be payable at all on staff aged under 21 (except in the rare case of younger employees paid over the NI Upper Earnings Limit of £42,285 a year).

This should make it much more attractive for charities (and all employers) to take on younger people, although this has the potential to cause considerable problems in equality law. If an employer favours people aged 18-21 over older workers, the employer could well be guilty of age discrimination under the Equality Act 2010 unless there is an objective justification for the policy. We hope that the government will issue further guidance on this.

See also below on the linkage between employees’ NI contributions and the state pension age.

## Social Investment

The government increasingly recognises the role of businesses established for social aims, and has been looking for some while to create a tax relief to encourage investment in social enterprises. The Chancellor confirmed in his speech that this will move forward into legislation.

The full Autumn Statement book says: “From April 2014, the government will introduce a new and innovative social investment tax relief to encourage individuals to invest in social organisations. The relief will be available for equity and certain debt investments in charities, community interest companies and community benefit societies to help them become self-sustaining in the long term.” It adds, “The UK leads the world in the development of social impact bonds. The government has also decided to provide tax relief on investment in social impact bonds where the special purpose vehicle is structured as a company limited by shares.”

This looks like good news both for charities and for non-charitable social enterprises seeking to attract social investments, but at this stage the details are very unclear and the government will have a huge amount of work to get this implemented in the 2014 Finance Act (with the changes backed to April 2014).

The Statement just says that the government “will publish a road map for social investment in January 2014 setting out its next steps. These include seeking state aid clearance for a larger tax relief scheme, looking at options for supporting indirect investment and making changes to regulations for community interest companies to make them more attractive to investors and social organisations.”

## Changes relevant to charities in specific fields

It is impossible in a newsletter of this kind to discuss the impact of all policy changes included in the Autumn Statement on charities working in specific fields, but a few issues may be worth highlighting.

- **Charities working with armed forces and emergency services** are to benefit from £100M which the Treasury received in LIBOR fines (as imposed on banks which rigged the LIBOR lending rates).
- **Welfare cap** – For the first time, the government is to impose a cap on overall welfare spending. This means that if demand for benefits goes up, the most vulnerable in society will face benefit cuts over and above the current cuts. Government spending on welfare will only be allowed to exceed the cap with a specific vote in the House of Commons.

The level of the cap will be announced for the first time in the March 2014 Budget, though for the first year it will be advisory only, so it appears that it will take full effect from 2015-16, i.e. after the next General Election. The government is excluding state pensions and short term allowances to job seekers from the cap, but around £100bn of welfare spending will be included.

The impact of this will depend heavily on the level at which the cap is set and the way it is calculated, but for charities working with people on low incomes this could raise a huge range of new issues.

- **State pension age** – Whilst the state pension will be excluded from the welfare cap, the costs will be restrained by increasing the age at which it becomes payable. The government announced that in future it the pension age will be adjusted on the broad principle of expecting people to work for two thirds of their adult lives and only spend one third in (state) retirement. The state pension age has already risen to 66 for many people and 67 for those retiring from 2028. It will now rise faster than previously announced to 68 in the 2030s and 69 in the 2040s. (This also has implications for many other charges and benefits linked to state pension age – for example, those in work continue to pay employees’ national insurance until they reach state pension age.)

This clearly has many implications for charities working with older people. It may also seriously reduce the availability of early retired people to take on voluntary roles with charities.

- **Married couples transferable allowance** – People who are married or in civil partnerships will be able to transfer up to £1000 of their personal tax allowance to their spouse from 2015/16 provided neither is subject to higher rate (40% tax). This will mean that for a couple where just one spouse is in paid work that person will only pay tax on earnings over £11,000 (rather than earnings over £10,000 for a single person). This will save them £200 in tax (20% of £1000).

Charities will have very different views on this. Some charities have been very critical of such a move on the grounds that it does not target those with children or those in the greatest need. However, pro-marriage charities have long suggested that the tax system should recognise the benefits of marriage. But the measure will have no impact on those where one spouse is paying 40% tax (even if the other has no earnings at all) nor on couples where both earn over the personal allowance (even though their total income could still be very modest).

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