



# Charities update

## Summer 2010

These guidance notes are part of the regular updates produced by MacIntyre Hudson LLP to advise staff and clients of current issues of importance or interest.

In this edition, you will find information on:

- Reporting thresholds
- Gift aid
- Pensions Act 2008
- iXBRL
- Reporting serious incidents
- Anti money laundering
- The vetting and barring scheme
- Legacy disputes
- Employment status
- Expenses disclosure

## Charities Act - Reporting thresholds amended

Periods commencing on or after 1 April 2009:

### Accruals accounting:

The accruals accounting threshold for non-company charities has increased from £100,000 gross income to £250,000.

### Audit and independent examination thresholds:

An audit is required for non company charities where the gross income exceeds £500,000 (previously £100,000), OR the gross income is over £250,000 and the gross assets are over £3.26m (previously £2.8m).

An independent examination is required for all audit exempt charities where the gross income exceeds £25,000 (previously £10,000).

### Reporting on public benefit:

**For smaller charities**, below the audit threshold, trustees are required to include a brief summary in their Trustees' Annual Report of the main activities undertaken in order to carry out the charity's aims for the public benefit.

**For larger charities**, above the audit threshold, trustees are required to provide a fuller explanation in their Trustees' Annual Report of the significant activities undertaken in order to carry out the charity's aims for the public benefit, as well as their aims and strategies.

If you would like any further information on Public Benefit, we have produced a full guide which you can find on our website: [www.macintyreHUDSON.co.uk/sectors/not-profit/publications](http://www.macintyreHUDSON.co.uk/sectors/not-profit/publications)

Or simply request a copy by emailing: [charities@mhllp.co.uk](mailto:charities@mhllp.co.uk)

## Gift aid

The six year time limit for claiming gift aid has now reduced to four years. The standard gift aid documentation of most charities refers to "donors' gifts over the last six years". This should now be changed to refer to four years.

## Pensions Act 2008 - Are you planning for pension changes: 2014-2016

### National Employment Savings Trust (Personal Accounts)

The national pension scheme previously referred to as 'Personal Accounts' has been rebranded as the National Employment Savings Trust, (NEST). All employers, including charities, will be legally obliged to offer a workplace pension, phased in from October 2012.

Employers will be required to automatically enrol all eligible staff in a qualifying workplace pension scheme and to make a contribution. A minimum employer contribution of 3% will eventually be required, with a total minimum contribution for eligible workers of 8%. This is made up of employer contributions, worker contributions and tax relief. The minimum employer contribution will be phased in from 1% to 3%.

### Eligible Employees

All employees aged between 22 and State Pension Age, who work (or ordinarily work) in Great Britain or Northern Ireland and earn more than £5,034 and not more

than £33,540\* a year, are eligible to be automatically enrolled into their employer's pension scheme. These people are known as eligible jobholders. Their employer has to make a minimum contribution.

Other individuals will have the right to be enrolled into their employer's pension scheme if they are:

- Jobholders aged between 16 and 22, or aged between State Pension Age and 75, with earnings in the qualifying earnings band. If these individuals ask to be enrolled, their employer has to make a minimum contribution
- Workers aged 16 and 75 who do not have earnings in the qualifying earnings band. If these individuals ask to be enrolled, their employer does not have to make a minimum contribution, but can if they choose.

### Minimum contributions to be phased in:

Trustees will need to consider how their charity will be affected and plan accordingly.

**For advice on this matter please contact Bianca Silva, on 01494 441226 or email:**

**[bianca.silva@mhllp.co.uk](mailto:bianca.silva@mhllp.co.uk)**

\* 2006/07 figures, which will be updated in due course.

	Minimum employer	Minimum total
October 2012 to September 2016	1%	2%
October 2016 to September 2017	2%	5%
October 2017 onwards	3%	8%

# Charities update

Summer 2010

## iXBRL - inline eXtensible Business Reporting Language

iXBRL is a language written specifically for business reporting. It facilitates the electronic exchange of business and financial data, which should allow HMRC to automatically collate and analyse the numbers submitted. Accounts produced in Microsoft Word or Excel are not currently iXBRL compliant and work will be required to prepare them in the required format.

The new rules apply for accounting periods filed from 1 April 2011.

Charities which prepare accounts under the Companies Act 2006 and all charities that pay tax will have iXBRL involvement. However, non-company charities which do not pay corporation tax will not need to submit a corporation tax return and therefore will not have any iXBRL issues. Those charities may continue to submit accounts in PDF format. Non-company charities which pay tax have the option of submitting accounts in PDF but their tax computation must be in iXBRL.

Currently only HMRC have mandated iXBRL filing. Accounts filed at Companies House can still be submitted in PDF format.

There are a number of external agencies that can convert your accounts into the required iXBRL format and if you need any guidance on this issue please contact a member of our charities team or email: [charities@mhllp.co.uk](mailto:charities@mhllp.co.uk)

## Annual Returns - Reporting serious incidents

As part of the charity's Annual Return, trustees must now confirm that there are no serious incidents or other matters which they should have brought to the attention of the Charity Commission and have not already done so. Failure to report will be regarded as a breach of legal requirements.

The serious incidents to be considered by trustees that may cause a significant loss of funds or pose serious risks to a charity's beneficiaries, resources or reputation include the following:

- Fraud, theft, significant loss of funds or other property
- Significant sums of money or other property donated to the charity from an unknown or unverified source
- The charity has a known or alleged link to a proscribed (banned) organisation or to a terrorist or other unlawful activity
- A person disqualified from acting as a trustee has been or is currently acting as a trustee of the charity
- The charity does not have a policy for safeguarding its vulnerable beneficiaries
- The charity has no vetting procedure to ensure that a trustee or employee is eligible to act in the position he or she is appointed to
- There are suspicions, allegations or incidents of abuse of beneficiaries
- The charity has been subject to criminal investigation

*Deciding whether you are an employer or hiring a self employed person or contactor is a very tricky subject which has been contested in the courts many times over the years.*

## Anti money laundering

Charities should have a written policy on the maximum sum that the charity can receive from any donor, without the requirement to carry out due diligence checks on the identity of the donor and revert to the trustees. This policy must be understood by all charity staff and the policy recorded in the charity's Office Manual. Charity employees must also be aware of the issues arising if they are asked to return donations.

## The vetting and barring scheme

All charities that work in a sector that deals with children or vulnerable adults must comply with the Vetting and Barring Scheme, launched in October 2009. This scheme implements safeguards to help to reduce the risk of abuse.

From July 2010 all employees and volunteers working with vulnerable groups were due to be registered with the Independent Safeguarding Authority (ISA), responsible for checking the records of individuals and ensuring they are suitable for working with such groups. However, the new government has announced its intention to review the scheme which has now

been put on hold. Registrations are still due to become mandatory from this November for new employees and job-changes, with existing employees and volunteers expected to follow in 2011. The regulations that were introduced in October 2009 will continue to apply.

## Legacy disputes

The recent, well publicised legacy dispute involving the RSPCA has highlighted the difficulties relating to wills, and the implications and costs arising for charities in such disputes. Charity trustees should be aware of the potential for legacy disputes and could consider insurance cover for the associated legal costs as well as the steps that can be taken to minimise the risk of loss of such income.

In the case of the RSPCA a £2.3m estate was left to the charity, which was contested by the daughter of the deceased. The High Court ruled in favour of the daughter after they agreed that the mother was coerced into signing the will by the father.

## Employment status

It can often be a misconception that non profit making societies or charities are sheltered against any form of taxation but there are circumstances where there are tax obligations regardless of the

# Charities update

Summer 2010

activities that are being carried out.

One of these obligations is the deduction of Pay as You Earn ('PAYE') and National insurance ('NI') on wages or salaries paid to employees.

Broadly speaking, you are an employer, if you hire workers and they are:

- Required for a set number of hours per day, week or month
- Under your control or under the control of a manager/supervisor
- Paid an annual salary or hourly rate
- Paid overtime payments above basic wage entitlements
- Entitled to holiday pay, sick pay, pension scheme contributions and benefits
- Not subject to any financial risk from the work carried out

## Employee or self employed individuals

The difficulty can be in

determining which workers are employed, self-employed or solely volunteers; and those who could potentially be deemed as an employee.

Deciding whether you are an employer or hiring a self employed person or contactor is a very tricky subject which has been contested in the courts many times over the years. HMRC have provided an employment status indicator tool which can be found at: <http://www.hmrc.gov.uk/calcs/esi> - to help determine the employment status of an individual.

If you feel that this is an issue for your organisation, professional advice should be sought as this is a specialist and complex area. Failure to do so could lead to unexpected liabilities for PAYE and NI plus late payment interest and potentially penalties should HMRC decide that the organisation has not taken reasonable care over the status of their workers. Of course the other concern is in

your legal obligations to members of staff and those deemed employed by you.

## Expenses Disclosure

Following the MPs' expenses scandal, the Charity Finance Directors Group and National Council of Voluntary Organisations set up a charity group to consider the reporting and disclosure of Trustees' expenses. The group concluded that there was no evidence to suggest any significant abuse of Trustees' expenses and no cause for concern or greater disclosure.

However, it was emphasised that under the Charity Corp, charity accounts must include not only the disclosure of amounts claimed by Trustees, (for example amounts reimbursed for travel expenses), but also amounts incurred on behalf of the Trustees and paid directly by the charity. The group concluded that only around 50% of the charities fully complied with this disclosure.

The group recommended that all charities should have a policy for the expenses of trustees, staff and volunteers. Although the majority of the larger charities had such a policy, several of the smaller charities reviewed by the group had no formal policy.

Another recommendation is that Trustees should claim all of the expenses that they incur. If they do not want to retain these amounts, they should consider gift aiding these back to the charity. This recommendation is to promote diversity in the Trustee base, by avoiding any disincentives to the role that may be perceived by some volunteers.

The full report can be downloaded from the Charity Finance Directors Group : [http://www.cfdg.org.uk/cfdg/influencing\\_inthenews.asp](http://www.cfdg.org.uk/cfdg/influencing_inthenews.asp)

**For information on this or any other article in this update, please contact a member of our Charities team below or email: [charities@mhllp.co.uk](mailto:charities@mhllp.co.uk)**

## How to contact a member of our Charity sector team

email: [charities@mhllp.co.uk](mailto:charities@mhllp.co.uk) web: [www.macintyreHUDSON.co.uk](http://www.macintyreHUDSON.co.uk)

### High Wycombe

Bianca Silva, Principal  
T: 01494 441 226  
[bianca.silva@mhllp.co.uk](mailto:bianca.silva@mhllp.co.uk)

### Leicester

Robert Nelson, Principal  
T: 0116 289 4289  
[robert.nelson@mhllp.co.uk](mailto:robert.nelson@mhllp.co.uk)

### London North

Heather Rayner, Manager  
T: 020 8446 0922  
[heather.rayner@mhllp.co.uk](mailto:heather.rayner@mhllp.co.uk)

### Northampton

Elaine Olson-Williams, Principal  
T: 01604 624 011  
[elaine.olson-williams@mhllp.co.uk](mailto:elaine.olson-williams@mhllp.co.uk)

### Chelmsford

Jonathan Cope, Principal  
T: 01245 353 177  
[jonathan.cope@mhllp.co.uk](mailto:jonathan.cope@mhllp.co.uk)

### London City

Rakesh Shaunak, Senior Principal  
T: 020 7429 4100  
[rakesh.shaunak@mhllp.co.uk](mailto:rakesh.shaunak@mhllp.co.uk)

### Milton Keynes

Silvia Vitello, Principal  
T: 01908 662 255  
[silvia.vitello@mhllp.co.uk](mailto:silvia.vitello@mhllp.co.uk)

### Peterborough

Sarah Whytock, Manager  
T: 01733 568 491  
[sarah.whytock@mhllp.co.uk](mailto:sarah.whytock@mhllp.co.uk)

This publication is designed for information purposes only. Whilst every effort has been made to provide accurate and up to date information, it is recommended that you consult us before taking or refraining from taking action based on matters discussed. MacIntyre Hudson is the trading name of MacIntyre Hudson LLP, a limited liability partnership, registered in England. Registered number: OC312313. Registered office: 201 Silbury Boulevard, Milton Keynes MK9 1LZ, where a list of Principals' names is available for inspection. Represented at Bedford, Chelmsford, High Wycombe, Leicester, London EC4 and N20, Milton Keynes, Northampton, Peterborough and Rochester. UK member of Morison International with independent member firms worldwide. Registered to carry on audit work and regulated for a range of investment business activities by the Institute of Chartered Accountants in England and Wales. Principals acting as administrators or administrative receivers contract as agents and without personal liability. MacIntyre Hudson Corporate Finance Ltd is authorised and regulated by the Financial Services Authority (FSA). Financial advice is provided in association with Carrwood MacIntyre which is an independent advisory firm and is a trading name of LighthouseCarrwood which is an appointed representative of LighthouseXpress Limited which is authorised and regulated by the FSA. Further information and links to the respective regulators can be found via our website [www.macintyreHUDSON.co.uk/information.html](http://www.macintyreHUDSON.co.uk/information.html) © 2010 MacIntyre Hudson. All rights reserved.