Charities and Non-Profit
Update

There have been a number of recent changes affecting charities and Non-Profit organisations which are summarised below

Gift Aid

Gift Aid and income tax changes

The 2009 Budget highlighted some future changes to income rates and bands which will have positive implications for both the charity and the donors.

With effect from 6 April 2010, taxable income exceeding £150,000 will be taxed at 50%. This will effectively reduce the 'cost' of Gift Aid donations.

The Charity and Voluntary Sector Group have issued the following useful table illustrating the implications of the change:

	2009/10	2010/11
Donation	£1,000	£1,000
Gross donation £1,250(ignoring transitional supplement)		
Higher rate tax relief		
(40% - 20% basic x £1,250)	£250	
(50% - 20% basic x £1,250)		£375
Net cost to donor	£750	£625

Futhermore, basic personal allowances will be reduced by £1 for every £2 where an individual's "adjusted net income" exceeds £100,000.

[NB. Adjusted net income is total income less specified deductions such as trading losses, payments made to pension schemes (grossed up if necessary) and grossed-up gift aid contributions.]

For incomes between £100,000 and £112,950, there will be a marginal rate of 60%. Since net adjusted income is after deduction of gift aid contributions, a gross donation of £1,250 will cost the donor £500.

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Time Limits

At present, a charity must submit gift aid claims to HMRC no later than 6 years after the end of accounting period to which the claim relates.

With effect from April 2010, gift aid claims to HMRC must be made within 4 years after the end of the accounting period to which the claim relates.

Fraud

The Fraud Advisory Panel commissioned research into the extent and nature of fraud within the charitable sector. The research, which was published in February, focused on over 1,000 registered charities.

Although less common in charities than other businesses, the impact of fraud on an individual charity can be detrimental to the future of the Charity, and the research showed that charities were generally poorly equipped to deal with fraud.

Key findings

Fraud prevention

- 60% of all charities had no anti-fraud measures
- Those with anti-fraud measures included whistle-blowing policies, fidelity or crime protection insurance and risk registers that included fraud.
- Two-thirds of charities, had nominated one or more people to be responsible for fraud prevention, usually the Chief executive, finance director or a trustee.

Scale and incidence

- 7% of charities had suffered fraud in the last two years.
- Of these, 50% suffered direct financial losses of less than £1,000 and 2% of more than £100,000.
- Other negative impacts included damage to reputation, inability to fund specific projects, adverse publicity, limitations on activities, loss of trust among staff and redundancy.
- Fraud was more common in larger charities, those with full-time employees and those with trading subsidiaries.
- Most frauds took place in the head office or banking system, and involved theft of cash and cheques.
- Nearly half knew who had committed the fraud- usually a paid employee acting alone.

Frauds were often discovered by internal controls, audit or by the bank.

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The response

- The majority of frauds were reported to the board of the trustees and at least one external body such as the police or the bank.
- Only 10% reported the fraud to the Charity Commission, despite registered charities having a duty to report 'serious incidents' such as fraud.
- Two thirds of charities took action against the fraudster, including referral to the police, dismissal or civil recovery proceedings.
- Half recovered some or all of their money
- Two-thirds changed their procedures or improved controls as a result of the fraud.
- Many recognised that they should have taken action earlier and about half felt that inadequate internal controls had contributed to the fraud taking place.

Action plan

The Fraud Advisory Panel has developed a four-step action plan for charities who want to better protect themselves against fraud.

1. Treat fraud as a business risk

Perform regular assessments of the types of frauds to which your charity is most exposed.

2. Develop an anti-fraud policy
   - Develop a simple and concise statement of your position on fraud
   - Ensure that it is clearly communicated throughout the organisation
   - Ensure that trustees and senior management have a clear understanding of their responsibilities in respect of fraud
   - Establish procedures for staff to report fraud

3. Enhance fraud detection processes and controls

Test the effectiveness of existing systems and procedures against fraud, especially those with a financial element.

4. Develop a fraud response plan

Develop a plan for responding to fraud, including the following:

- How investigations will be conducted
- Who will conduct investigations
- Which people and organisations need to be notified
- The process for handling internal and external communications

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Public Benefit Reporting

For periods commencing on or after 1 April 2008, charity trustees now have a new duty to report on their charity's public benefit in the Trustees' Annual Report.
The new requirements state that the Trustees' Annual Report must now contain the following:

1. A statement confirming that that the trustees have had regard to the Commission's guidance on public benefit.
2. A description of its significant activities undertaken to further its charitable purposes for the public benefit.

Requirement One

This requires a statement in the Trustees' Annual Report that the trustees have given due regard to the Commission's guidance on public benefit.

The guidance referred to here can be found on the Charity Commission's website (http://www.charitycommission.gov.uk/publicbenefit/publicbenefit.asp)

Requirement Two

A charity already explains its activities in the Trustees' Annual Report. However, the trustees now need to put this in context to show how the charity's aims have been carried out for the public benefit.

The Trustees' report needs to show how the charity has addressed the two main principles of public benefit, which have been identified by the Charity Commission as follows:

Principle 1:
There must be an identifiable benefit or benefits

- 1(a) It must be clear what the benefits are
- 1(b) The benefits must be related to the aims
- 1(c) Benefits must be balanced against any detriment or harm.

Principle 2:
Benefit must be to the public, or a section of the public.

- 2(a) The beneficiaries must be appropriate to the aims
- 2(b) Where benefit is to a section of the public, the opportunity to benefit must not be unreasonably restricted.
- 2(c) People in poverty must not be excluded from the opportunity to benefit.
- 2(d) Any private benefits must be incidental.

For examples and more information, see the Charity Commissions website (http://www.charitycommission.gov.uk/publicbenefit/pbreport.asp)

Charity Reporting Regime- Changes

Due to the introduction of the Charities Act 2006, there have been some changes to the reporting regime for charities for periods commencing on or after 1 April 2008.

Further changes to the reporting regime have been introduced for periods ending on or after 1 April 2009.

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Charitable companies

	Period commencing on or after 1 APRIL 2008	Period commencing on or after 1 APRIL 2009
Income	**Assets < £2.8m***	**Assets < £3.26m**
< £10,000	No report	No report
£10k - £25k	Independent examination	No report
£25k -£250k	Independent examination	Independent examination
£250k - £500k	Independent examination by a qualified accountant.	Independent examination by a qualified accountant.
£500k - £5.6m*	Audit under ChA 1993	Audit under ChA 1993
> £5.6m*	Audit under CA85*	Audit under CA85*
	Assets > £2.8m	**Assets > £3.26m**
	Audit under CA85*	Audit under CA85*

Unincorporated Charities

	Period commencing on or after 1 APRIL 2008	Period commencing on or after 1 APRIL 2009
Income	**Assets < £2.8m:**	**Assets < £3.26m:**
< £10,000	No report	No report
£10k - £25k	Independent examination	No report
£25k - £250k	Independent examination	Independent examination
£250k - £500k	Independent examination by a qualified accountant.	Independent examination by a qualified accountant.
> £500k	Audit under ChA 1993	Audit under ChA 1993
	Assets > £2.8m	**Assets > £3.26m**
< £10,000	No report	No report
£10k - £25k	Independent examination	No report
£25k - £100k	Independent examination	Independent examination
£100k - £250k	Audit under ChA 1993	Independent examination
> £250k	Audit under ChA 1993	Audit under ChA 1993

These notes apply to charities in England and Wales; different provisions may apply to charities in Scotland and Northern Ireland.

Specific advice should be obtained before taking action, or refraining from taking action, on any of the subjects covered

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