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Charities & Not for Profit newsletter

Judith's farewell

For several years I have been the editor of this newsletter at PEM. This will be my last as I retire from PEM after almost 35 years at the end of this month.

So much has changed since I joined PEM in 1986. Setting aside the obvious ones – computerisation and the internet and their impact on all organisations including charities – it is worth remembering that the first Statement of Recommended Practice (SORP) was only issued in 1988. Up to this point, there was no standard resulting in inconsistencies and questionable accounting practices. The SORP has been revised and updated several times since then and it is fair to say that its introduction has improved the quality of charity accounting enormously. Consultation is now underway to update the SORP again and any changes are likely to become effective in two to three years.

There have also been various updates to charity law since 1986, the latest being the Charities Act 2011, which consolidated earlier charities legislation. It was the 2006 Charities Act which introduced Charitable Incorporated Organisations and they finally became available in 2013. Charity law is once again under review and further changes are expected (see our update on page 3).

Alongside these major changes, there have been regulatory changes to fundraising practices and expectations in the governance of charities have been raised by the Charity Governance Code which itself was updated in December 2020.

I cannot ignore the pandemic; its impact on the sector and working practices has been far reaching and it is too early to know whether some of these will be permanent. Leila Ong considers the impact on VAT in her article on page 4.



Over this time, PEM has kept you informed through its various publications including the newsletter. PEM now has 200 employees compared to around 90 when I joined and the Charities team has grown too, not just in numbers but in breadth of specialist knowledge. I leave PEM in the certainty that this legacy will continue and grow.

I have tried to make contact with all my clients to say a personal goodbye – it has not been easy with the lockdown so forgive me if it was only by email!

I would like to thank all the charities team at PEM, particularly Caroline Fagence who has been the driving force behind our newsletters; without Caroline they would have been far less frequent and have considerably less content!

Finally, thank you to all our charity clients – it has been a pleasure for me to get to know and work with so many of you. I have been very lucky in my career.

Judith Coplowe

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New charities bill

In the Queen's Speech on 11 May 2021 the Queen announced two important pieces of legislation that will affect the charity sector. These are the Dormant Assets Bill and the Charities Bill.

Dormant Assets Bill

This bill will apply to the whole of the UK however information on the distribution of the money is just within England. The existing scheme will be expanded into the sectors for insurance, pensions, investment wealth & management and securities.

Charities Bill

This bill will implement many of the recommendations that were made in the Law Commission's 2017 report "Technical Issues in Charity Law". Please see the article in our April 2021 newsletter available [here](#).



The Charity Commission believe that the enactments should make "life simpler for trustees" by addressing a range of issues in charity law which hamper charities' day to day activities.

The bill should allow charities to amend their governing documents more easily; will give charities more flexibility to obtain advice when selling land; increase flexibility for charities to use their permanent endowment; remove barriers to merging when that is in the best interest of the entity; and allow litigation costs in a Charity Tribunal to be paid from charity funds.

Charity Shops Survey launched

The 30th charity shop survey has just been launched and the deadline for replies is 9 July 2021. You can access more information [here](#).

The results will be published in October, and if you participate in the survey you can request a copy of the full results

The impact of COVID-19: A VAT perspective

As the vaccination programme continues apace and hope is rising that a return to some form of normality is within sight, it is a good time to press pause and reflect on the changes to the VAT landscape caused by the global pandemic.

VAT Deferral Scheme

When the first lockdown was announced, HMRC acted quickly to introduce a VAT deferral scheme for VAT payments due between 20 March 2020 and 30 June 2020. Although this scheme wasn't extended, the timeframe for paying back the deferred VAT was lengthened to 31 March 2021 and HMRC also introduced a VAT deferral instalment payment scheme.

In addition, HMRC has made it clear that they would be more open to accepting Time to Pay requests for businesses which have been adversely affected by the pandemic. For any charities with outstanding deferred VAT to pay, they must sign up to the deferred VAT payment scheme by 21 June 2021 or contact HMRC by 30 June 2021 to discuss a longer debt payment plan. If the month end deadline is missed, interest and penalties could be due on the outstanding amounts.

Temporary reduced rate of VAT

Last summer, HMRC also introduced a temporary reduced rate of VAT of 5% for supplies of hospitality, holiday accommodation and admission to certain attractions. The reduced rate was initially introduced to last for a temporary period between 15 July 2020 and 12 January 2021. This period was subsequently extended to 31 March 2021. The government announced at Budget 2021 that the temporary reduced rate would be extended for a further six-month period until 30 September 2021.





A new reduced rate of 12.5% will then be introduced which will end on 31 March 2022. For charities, it is important to remember that where admission charges are eligible for the VAT cultural exemption, the exemption will take precedence. However, related supplies of catering and/or holiday accommodation will benefit from the temporary reduced rate of VAT.

Temporary Partial Exemption Special Methods

One of the most helpful measures taken by HMRC to relieve the pain caused by the pandemic was the announcement of the possibility of applying for a temporary Partial Exemption Special Method. Charities can apply to HMRC to ask to use pre-pandemic partial exemption recovery percentages if they can show that their taxable supplies have been impacted by the pandemic.

Charities also need to declare that they expect their taxable supplies to increase when the COVID-19 crisis ends. HMRC has promised that this will be an accelerated process but our experience to date is that there are still several layers of authorisation to be worked through and the team involved is short staffed.

Patience will be required when applying but there is clearly a desire to provide assistance to those who have been badly hit by the pandemic.

Move to digital conferences

Finally, one notable change brought about by the pandemic has been the move from physical to digital conferences. The VAT place of supply rules are different for digital conferences and it is more likely that the place of supply will be where the conference organiser belongs rather than where the conference takes place.

It will be interesting to see whether digital conferences are here to stay or whether the desire to meet and collaborate in person will override the advantages of using online forums. Whichever way it goes, there will be VAT implications and we will keep you updated.

As always, if you would like to discuss any of the above in more detail, please do not hesitate to get in touch.

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Claiming gift-aid on waived refunds & loan payments

HMRC will consider a donation arising from the waiver of a right to either a refund or loan repayment to be eligible for gift aid.

A formal waiver must be held by the charity and all other gift aid rules must be met (e.g. gift aid declaration). The eligible date for gift aid will be the date of the waiver, not the date of the original payment.

Whether the amount being waived is small or large, HMRC expects to see evidence that the taxpayer has been given a choice between receiving a refund or waiving that right. The taxpayer must also make sure that they personally pay sufficient tax to cover their donation, as is the usual case for gift aided donations.

An example given by HMRC is as follows:

- Tickets were purchased for a fundraising event, which has been cancelled.
- The purchaser agrees to forego a refund and instead to donate the money to the charity.
- The charity must keep a copy of the correspondence between itself and the taxpayer confirming that no refund is required and that the amount is to be treated as a donation.
- The correspondence could be in the form of emails, a letter and confirmation by return, or a recorded phone call.



HMRC advise that if the amount being waived is of greater monetary significance, such as the waiver of a loan, then they expect there to be a legally enforceable document in place that gives details of what is being waived, that the lender is giving up all legal rights to any future repayment and confirmation that the amount waived is to be treated as a donation for gift aid.

Again, all other gift aid rules should be adhered to and all correspondence retained.

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HMRC invest in Job Retention Scheme reviews

Many employers, including charities, have used the Job Retention Scheme (JRS) as one of the measures of Government support during the COVID-19 pandemic. Affected employers may still use the scheme until 30 September, subject to certain conditions.

One of the announcements during the March 2021 Budget, was of a major investment into investigations of possible fraudulent or incorrect JRS claims. As such it is important that employers who have used the scheme, check their claims for potential errors and collate the documentation in support of the reasons for using the furlough arrangements. HMRC's JRS guidance has been updated many times since it was first issued and, whilst most claims will have been made accurately and in good faith, due to the urgency with which many claims were made, unintended errors may have occurred in some claims.

HMRC are encouraging employers to review their JRS claims and voluntarily disclose any mistakes or overclaims to correct matters. HMRC has confirmed it is not targeting simple errors, but if significant issues are found during an HMRC review, employers may face penalties of up to 100% of the inaccurate claim, as well as having to repay the amount claimed. In addition, there could be reputational risk if HMRC publish the details of the employers who made such claims.

If you claimed under JRS, we recommend that you review the claims made and ensure that all aspects of the scheme and decision-making is well documented.



Working from 'home' - Tax & social security

International moves by employees used to be undertaken only if necessary, to benefit the charity.

However, both Brexit and COVID-19 have brought about huge changes to how organisations employ their staff and where they provide their services. Charities have not been immune from this. These changes have mainly been driven by personal choice and unforeseen circumstances. Brexit resulted in the movement of many employees to and from the UK ahead of 31 December 2020 to ensure they were in certain locations ahead of the UK's departure date from the EU.

Meanwhile, COVID-19 has continued to upend the traditional approach to workplace location, enabling or forcing many employees, both UK and foreign nationals, to work from the UK or overseas during the pandemic when they would usually be based elsewhere. Many, who would otherwise be cut off from family members during the pandemic, decided to "work from home" with family members outside the UK, rather than stay and work alone during UK lockdowns.

Affected charities are just beginning to realise that these choices have tax, legal, administration and cost implications for them as employers and for the employees, particularly as the period for which the employee has worked elsewhere extends.

Action points for employers – tax and social security

The first action point is for charities to ensure that they know where their employees are working. Some employers have found that employees they thought were working from home in the UK during the pandemic have actually been working overseas for significant periods. Other employees have now requested that they work remotely overseas temporarily or permanently.



If employees are working overseas, the second action point is that charities should ensure that their employees are being treated correctly for payroll, tax and social security in the UK and overseas territories.

There may even be corporate tax implications of an internationally spread workforce, especially if the charity's tax status in the UK does not apply if it is deemed to be operating overseas. Some, but not all, countries have relaxed their "normal" tax rules because of the pandemic, at least at the start when travel restrictions were more onerous.

However, the key message is that each country is different, and it should not be assumed that no tax consequences will arise from employees working overseas.

At PEM, I work with clients and contacts within our international network, Kreston International, to ensure that the UK and overseas tax, social security and payroll issues arising from employees working internationally whether for work reasons or through personal choice, are dealt with correctly and as simply as possible. If you need advice, please get in touch.

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