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Charities & Not for Profit newsletter

Making Tax Digital for corporation tax

On 12 November 2020 HMRC launched a consultation paper on the design of a new Making Tax Digital (MTD) system for corporation tax.

The government started its journey towards MTD in 2016 when it published the consultation "Bringing business tax into the digital age.' The Finance Act (no2) Act 2017 provided the framework for MTD for Income Tax and VAT and MTD for VAT was made mandatory for most registered businesses with a taxable turnover above the threshold of £85,000 from 1 April 2019. Since then HMRC has set out a road map to ensure that MTD will apply to all VAT registered businesses from April 2022, and to businesses and landlords, liable to income tax, with property income over £10,000 per annum from April 2023. Corporation tax (CT) is the next step in its roll out of MTD.

The application of MTD to entities within the charge to corporation tax means that they would have to:

- Maintain their accounting records digitally;
- Use MTD compatible software to provide regular (quarterly) summary updates of income and expenditure to HMRC; and
- Provide an annual CT return using their MTD compatible software.

The paper confirms that MTD for CT will not become mandatory before April 2026 with a proposed voluntary pilot period from April 2024.

It seeks views on extending the scope of MTD for CT to all charities, CASCs and other not for profit organisations that are within the scope of CT and are required to file a company tax return; it also invites comments on how the MTD requirements might best be tailored to work for them. The consultation closes on 5 March 2021 and HMRC is holding a number of consultation events via Microsoft Teams. The session for charities is being held on 9 February from 10:30am to 12pm. If you wish to attend, email makingtaxdigital.consultations@hmrc.gov.uk

A full copy of the consultation can be found here.

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Charity Governance Code

The Charity Governance Code received a refresh in December 2020 following a consultation process with the charity sector that received over 800 responses.

Respondents to the consultation commented that diversity has moved on significantly since 2017 and therefore Principle 6: Diversity has been replaced by a new Equality, Diversity and Inclusion (EDI) Principle. The new principle is framed around the potential journey that a charity board could make to meet its diversity challenges:

- Assessing understanding, systems and culture;
- Setting context-specific and realistic plans and targets;
- Taking action and monitoring EDI performance; and
- Publishing performance information and learning.

The code highlights a number of practical steps that charities can take to embed the EDI principle within their governance structures.

Principle 3: Integrity has also been updated to emphasise the importance of a charity's values, ethics and culture, with reference to the NCVO's Charity Ethical Principles.

The new Integrity principle includes the right to feel safe and asks trustees to:

- Understand their safeguarding responsibilities;
- Establish and review appropriate safeguarding policies and procedures; and
- Ensure that anyone working with the charity knows how to speak up and feel comfortable raising concerns.

The Charity Code of Governance is recognised by the Charity Commission as the standard for effective charity governance and boards of larger charities are expected to review their own performance annually and have an external evaluation every three years.

Full details of the updated Charity Code of Governance can be found here.

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Time limit for use of COVID-19 funding

A question has been raised for the Chancellor of the Exchequer about what deadline there is, if any, on spending of COVID-19 grant support funding.

The reply that has been given by Kemi Badenoch MP is: "The latest that grants must be spent is 31 March 2021.

The £750m funding package was made available to address the immediate impacts of the pandemic, so that charities and other civil society organisations, including those at risk of financial hardship, can continue their vital work during the COVID-19 outbreak. The government keeps all sector support packages under review."

Gift Aid & cancelled events

Following representations by the Charity Tax Group and others last year, in April 2020 HMRC relaxed the Gift Aid rules on donating refunds due on charity events that had been cancelled due to COVID-19.

This made it easier and quicker to Gift Aid donations back to charities.

HMRC have now confirmed that it will be making this change in view permanent, so that any such waivers of refunds (including waivers of loans to charities) can count as donations to which Gift Aid can apply, provided the agreement to waive the loan/right to a refund is clear and irrevocable. Updated HMRC guidance will be issued shortly, but this is great news for charities having to deal with cancelled events as the charity no longer has to physically refund the ticket price for the individual to re-donate.

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Consultation on International Financial Reporting for Non-Profit Organisations (IFR4NPO)

A consultation Paper was issued at the end of January 2021 on the development of International Financial Reporting for Non Profit Organisations (NPOs).

It is widely acknowledged that, with no common international accounting standards for NPOs, reporting by NPOs may be poor, inconsistent or unhelpful in demonstrating the outcomes of its activities . To counter this, additional layers of bureaucracy have developed to enable, for example, donors obtain the information and surety they need.

Only a few countries have developed accounting standards for NPOs which address the unique characteristics and types of transactions they undertake.

The IFR4NPO seeks to address these issues by developing internationally applicable financial reporting which will strengthen NPO governance and financial management.

The intention is to develop the guidance over a five-year period with the following objectives:

1. To improve the quality, transparency and credibility of NPO financial reports.
2. To support the provision of NPO financial information that is useful for decision making and accountability, balancing the needs of preparers and users.
3. To address specific NPO issues, which will promote the comparability of NPO financial reports.

As the first step towards common international financial reporting, this paper is intended to raise awareness and understanding of the project; the issues it will address; and enable structured feedback to specific issues. The consultation includes an executive summary, an introduction and then divides into 2 sections. Part 1 looks at broad financial reporting issues such as why the guidance is needed, who is it for, and what readers of financial reports want.

Part 2 covers sector specific accounting issues such as when to recognise grant income. Responses to Part 1 must be submitted by 30 July 2021 and Part 2 must be submitted by 24 September 2021. A link to the Paper and online survey may be found here.

Religious charities - exception from registration

Under the provisions of the Charities (Exception from Registration) Regulations 1996, as amended, the congregations of certain denominations in England & Wales with income less than £100,000 are not required to register with the Charity Commission.

Those regulations were due to lapse on 31 March 2021, however they have now been extended a further 10 years, until 31 March 2031, unless there is a chance of decision by the House of Lords or House of Commons before 31 March.

It is expected that at some point in the future the Charity Commission will introduce a phased registration, but there are no immediate plans to do so.

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Charity Commission to consult on revised guidance on responsible investments

The Charity Commission issued a press release in January on its intention to consult on revised guidance on responsible investments.

This follows a listening exercise it carried out last year which identified that the current guidance is not giving some trustees the confidence to consider this approach to investments and which the Charity Commission would support. 'Responsible investments' refers to financial instruments that align with a charity's mission and purpose.

Draft guidance, supported by a fresh interpretation of the law in this area, is expected this Spring for public consultation with final updated guidance following in the Summer.

ACF calls for simplification of financial reporting for small charities

The Association of Charitable Foundations has published results of a survey held last year, where they surveyed 36 charitable foundations across the UK.

In a third of cases, the accounts are central to any funding decision that is made. The respondents collectively estimate that they review 2,500 sets of accounts as part of applications for funding, of which about three quarters are SORP compliant. On average they spend just under 30 minutes reviewing each set of accounts, sometimes spending up to 90 minutes. Generally, they found the Trustees' Annual Report to be the most useful part of the accounts document, including the reserves policy and information on major sources of income.

The cash flow statement was found to be the least useful part of a full set of statutory accounts (relevant where income > £500,000).

48% of respondents consider that there is unnecessary complexity in the SORP that makes their decision-making process more difficult and 59% said that would like to see more simplification for smaller charities.

COVID-19 VAT considerations for Charities

Almost a year has passed since the beginning of the first lockdown and the effects of prolonged restrictions have been felt acutely by the charity sector.

Many charities have complex VAT positions and are required to carry out business/non-business apportionments and/or partial exemption calculations.

The COVID-19 pandemic has resulted in the reduction of taxable supplies by many charities. Charity shops have been forced to close, events have been cancelled and sales of merchandise and supplies of catering have all been dramatically reduced. This has led to an inevitable reduction in the amount of recoverable VAT.

HMRC is sympathetic to the pain endured by charities but until now has not offered a blanket solution, particularly in relation to partial exemption.

For charities carrying out business/non-business apportionments, HMRC has said that if the current apportionment method, for example an income based method no longer produces a fair result, then it is acceptable for the charity to choose a different method, for example a time based method, without seeking HMRC's approval.

However, such an approach does not work for those charities which make exempt supplies. The rules around partial exemption are more rigidly defined than those for business/non-business apportionments. The default method is the standard method, which is an income-based method. The alternative is to agree a special method with HMRC, and this can be both time consuming and costly. However, there is reason to hope that in the light of the current crisis, HMRC will be more willing to agree a temporary special method.

One other area which has been significantly impacted by the pandemic is the supply of conferences by charities. Most conferences to be held in 2021 have been moved to a digital platform. This will have an impact on the place of supply of the services connected to the event and care needs to be taken.

If you are concerned about the impact the Coronavirus pandemic has had on your VAT recovery or would like advice on the VAT implications of running an online conference, please get in touch.

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Links to further advice

Additional information and guidance can be found from the following sources:

- PEM Knowledge Hub
- NCVO Practical Support
- CFG coronavirus guide
- Charity Tax Group coronavirus information
- COVID-19 funders
- GOV.UK
- Action Fraud

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