

charity accounting, registration and tax relief in Scotland

June 2006

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1 Introduction

Trustees of Scottish charities will by now be aware of The Charities and Trustee Investment (Scotland) Act 2005 which received Royal Assent in July 2005.

Several new Regulations have been published under the Act which will be relevant to trustees and treasurers. These cover charity accounting, registration and tax relief.

2 Charity Accounting in Scotland

2.1 New Accounting Regulations

The Charity Accounts (Scotland) Regulations were published on 2 May 2006 and will apply to all charities to be entered in the new Scottish Charity Register, for financial years beginning on or after 1 April 2006.

Church denominations that are 'Designated Religious Bodies' under existing law will have until 31 October 2007, or until those bodies become Designated Religious Charities, within s65 of the new Charities and Trustee Investment (Scotland) Act 2005.

The Regulations require unincorporated charities to:

- Submit accounts within 9 months of the end of their financial year
- Prepare accruals accounts where gross income is £100,000 or more. Accounts need to follow SORP (The Charity Commission Statement of Recommended Practice "Accounting and Reporting by Charities", published in 2005). This requires (amongst other things) a Trustees' Annual Report, Statement of Financial Activities and notes to the accounts in prescribed format and with specified content.
- Prepare receipts and payments accounts where gross income is less than £100,000 (unless other requirements such as the charity's constitution mean accruals accounts are required). A 'Statement of Balances' on the last day of the Financial Year together with notes to the accounts and an annual report, each in accordance with the regulations is also required. Note, that the 'Statement of Balances' does not fully equate to the Statement of Asset and Liabilities used by charities in England and Wales. The format of the Receipts and Payments accounts are also more prescriptive than for England and Wales.

Incorporated charities must prepare accruals accounts in compliance with SORP regardless of their income level.

2.2 Audit and Independent Examination requirements – unincorporated charities

If gross income is £500,000 or more, or if gross assets (before liabilities) exceed £2.8 million, the accounts and annual report are required to be audited by a registered auditor. An audit may also be required if the charity's constitution, funding bodies or other requirements demand an audit to be undertaken.

Where a full audit is not a requirement, the trustees must arrange for the accounts to be 'independently examined'. Whilst English and Welsh charities with a gross income of under £10,000 are exempt from the independent examination requirement, there is no corresponding lower income threshold for Scottish charities.

Where an independent examination is required under the above regulations, trustees should satisfy themselves that a proposed examiner "... is reasonably believed to have

the requisite ability and practical experience to carry out a competent examination of the accounts”.

For accruals accounts, the examiner must be a member of one of the professional accountancy bodies listed in Regulation 11(2).

Stewardship’s independent examination team are all qualified to act under the Regulations. Details of the service can be found at:

http://www.stewardship.org.uk/accounts_examination.htm

or by calling Stephen Mathews on 020 502 8588.

2.3 Audit etc requirements - Company charities

Company Charities do not follow the same regime as unincorporated charities as far as audit, examination etc. is concerned. This is because company charities are subject to the requirements of Company Law rather than Charities Law.

The Westminster Parliament is currently debating a new Charities Bill for English and Welsh charities. Once passed, it is expected that Company Law thresholds will fall into line with those for charity law. At that point, it is expected that further Regulations will be published in Scotland to align the requirements for Scottish charitable companies with those for unincorporated Scottish charities.

For now, company charities with a gross income of under £90,000 are not, by law, required to have any form of external scrutiny although many have a voluntary independent examination, thus providing a measure of comfort to the charity’s trustees.

Where gross income is between £90,000 and £250,000, a report by a Reporting Accountant is required under Section 249 A – D of Companies Act 1985. The Reporting Accountant must be qualified to act in accordance with the Act.

If gross income exceeds £250,000, a full audit by a registered auditor is required.

Where the charity has received a Reporting Accountant’s report on its accounts, it is not required to have a separate audit if it has sent a copy of that report to OSCR (Office of the Scottish Charity Regulator).

Stewardship’s accountancy team are qualified to undertake Reporting Accountant assignments. Please call Stephen Mathews on 020 8502 8588 to discuss your requirements.

3 Charity registration and tax relief in Scotland

With effect from April 2006, responsibility for the award of charity status transferred from HM Revenue & Customs to OSCR (Office of the Scottish Charity Regulator). However, entry on the OSCR Charity Register does not automatically qualify an organisation for charitable tax relief. That decision remains with HMRC, applying rules in the Taxes Act 1988 rather than the new Scottish Charity law.

Both bodies intend to liaise closely with each other and expect that, in the vast majority of cases, they will reach the same conclusion on status.

Transitional provisions now provide that unregistered charitable bodies may continue to refer to themselves as charities until 23 February 2007. OSCR now has until 23 August 2007 to complete the compilation of the Scottish Charity Register.

4 Further help

Further help and assistance can be obtained from:

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tel: 08452 26 26 27

e-mail: enquiries@stewardship.org.uk

web: www.stewardship.org.uk

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