



Is Tax on Your Radar? Considering the Tax Implication of Strategic Plans

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Whether or not you have to charge VAT is not just a question of whether it suits you to.



It is a common misconception that charities have a blanket exemption on tax, whether that be direct (corporate/income) or indirect (VAT) tax and therefore it is often not even considered until it is too late.

Historically, HMRC have rarely asked charities to file a tax return and so as they have started to issue more notices to file returns, more than one charity has 'filed it' in the bin on the basis that they don't pay tax.

However, failure to consider or even be aware of tax can be costly, in terms of missed opportunities, shortfalls in contribution or even fines and penalties.

As the funding environment has changed, charities have had to adapt. Funders have sometimes changed the way in which they fund and in seeking to mitigate over-reliance on grant funding, many charities have put in place strategic plans which look to introduce charges for services or goods or to extend further into trading and enterprise activities.

In developing new opportunities and even in delivering the same services under different arrangements, tax needs to be on your radar. On more than one occasion a charity has stalled in a building project because suppliers assume that the charity can recover the VAT and so the charity has underestimated the total cost of the project to the tune of 20% VAT!

On the direct tax side of this, there is perhaps a little more awareness of the potential for a tax liability on 'trading' activities, but some trading activities will fall within the exemptions from tax available to charities, whilst other activities which you might not consider to be trading could cause a problem. Sometimes a subtle change to what you do could shift the activity into a different category. For example just hiring the room out to an organisation wouldn't be trading, but if you start to offer different layouts or provide refreshments that could fall into trading.

Often as soon as the word "trading" is mentioned, there is a presumption that the solution is to put this in a subsidiary company, but that may not always be the most beneficial.

With a little forethought however, some detailed discussion and sometimes a little professional advice, new and creative plans for development can often be structured in a way that furthers the charitable purposes and either minimises the impact of tax or at least factors in the impact of tax. There is no point looking at a new income generating idea to find that unforeseen tax implications render it a cost to the charity. For existing activities, a regular review of what has changed could help identify if adjustments are needed.

Direct tax – what, why, how and who

Broadly speaking, provided that a charity is applying their income for charitable purposes and it falls within one of a number of exemptions then there will be no tax arising from trading. The exemptions cover profits from trade which is directly in furtherance of charitable purposes, closely related to charitable purposes, mainly carried out by beneficiaries of the charity or carried out at small levels.

When did you last consider your activities and if they are trading? Do they fall within the exemptions?

What is it that you are charging for? Is it directly related to your charitable purposes or carried out by your beneficiaries?

Why are you doing it? If it is not directly furthering your charitable purposes, is it closely related or is it intended to be a source of fundraising to support other charitable activities? Fundraising activities would generally be expected to generate a contribution. ➔



➤ **How** much income is expected to be generated from the activity? Is it sufficiently small scale (lower than £50,000 and either 25% of total income or £5,000, whichever is higher) to fall within the small trade exemption?

Who should carry out the activity? Is it possible to incubate the activity within the charity and tax exemptions or should you be spinning it out into a trading subsidiary. Remember that a separate entity can bring with it additional costs (financial and time) and meet legal and accounting obligations.

Indirect tax – who, what, and how

Detailed considerations of VAT can be found in Month 11 on page 24.

It is important to remember that you need to be aware of VAT as part of the complete picture when structuring activities

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Who carries out the activity can be particularly important. Although there is not a blanket exemption for charities, certain activities carried out in a charity (e.g. education) have a different treatment in a non-charitable entity.

What you are doing will generally dictate whether or not the activity is a taxable supply (i.e. you have to charge VAT). If this is the only activity which falls in that category and you are not already registered for VAT then you would need to monitor whether you breached the registration threshold.

How you structure your activities can assist in the extent to which you can recover VAT on purchases.

Joined up thinking – joined up result

Remember in your planning and review, that a holistic consideration of proposed activities is more beneficial. There is no point in looking at one tax in isolation, to then find that it creates a bigger impact from the other tax.

Think ahead too, as putting the right steps in place is not always a quick exercise.



Checklist for the month

- ✓ Review your activities – are they in furtherance of your charitable purposes and are they trading?

- ✓ Might there be a potential tax or VAT implication?

- ✓ Does this impact on whether the activity becomes viable?

- ✓ Can this be addressed by how we structure what we do?

- ✓ Should we seek professional advice?

Always think ahead – give yourself time to implement tax efficiently and properly



Where can I get more information?

A Charity and Tax overview by HMRC

www.gov.uk/charities-and-tax/overview

A list of exemptions from tax available to Charities

www.gov.uk/government/publications/charities-detailed-guidance-notes/annex-i-tax-exemptions-for-charities

How Charities can lawfully trade – HMRC guide

www.gov.uk/government/publications/trustees-trading-and-tax-how-charities-may-lawfully-trade-cc35

What a Charity is and how VAT affects charities' income and purchases

www.gov.uk/government/publications/vat-notice-7011-charities

If you would like to gain our input and expertise, helping you to assess or provide any further support required, we would be delighted to discuss any points arising with you. Please get in touch with your local MHA member firm.