

# Charity News

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## A personal view of risk management, and a plan for 2009

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In these hard times I have been wondering about “silver linings”. There is one certainty in life that catches my attention – it is that the unexpected will happen. That, perhaps, is what makes risk management a winner. This is dear to me; when I was four years old (1940!) my father died and that was not on the risk register. This left my mother in straightened circumstances with two young boys. The silver lining, albeit with clouds attached, saw us in a charity boarding school for the next ten years, fed, clothed and educated with a real experience of being a charity beneficiary.

Although we had no choice, there was, and is, no embarrassment and I am grateful for an unexpected start in life and now am the proud chairman of the foundation which followed when the school closed.

This led me to think about what individuals could do in the sector while all the gurus concentrate on helping charities survive. There will be an increasing resource of highly skilled people with professional skills and experience that may be under-used.

How about offering to mentor new entrants to the sector? This does not have to be through agencies that advertise. Just ring around; many charities find it difficult to accept help, so be persistent.

How about dropping the excuses many of us use and becoming a trustee, treasurer or whatever? Many just need the prompt and there is a real need for your services.

If already a trustee, how about being less demanding, if this then saves resources, and or even offer other voluntary effort in your own charity? This is much easier to spot and arrange on your own turf. The fundraising department is almost bound to welcome help, either with administration or “doing the ask”.

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You may be a staff member, not a trustee of your charity – this may bring the need for job-sharing, part-time work, consultancy or greater flexibility over hours or even retraining for something else. If you lose your job, or fear this may happen, it may be important to do some personal risk management and plan for a new approach.

How about evaluating some of the things you do? Assess the impact of stopping doing them and freeing time (and perhaps money) for more productive and maybe rewarding activity in helping others.

I have not forgotten about the plight of the organisation. Indeed, my

thoughts are of how to help them. But I continue to ask if all charities need to or deserve to exist for ever. Many desperately need to continue, but there is no divine right for charities to enjoy a life in perpetuity, when the private sector does not enjoy such a privilege. Woolworths comes to mind. The economic crisis is an excellent opportunity to rethink this question. The answer may not be oblivion, rather a merger, particularly one born of emergency. Collaboration is a different but important option but one that must be better explored.

I nearly forgot my second failure to have an adequate personal risk

management framework. As the last recession developed, in 1990, I prepared my employer's first strategic plan, in the circumstances a euphemism for a survival plan. I was the first to be made redundant and then spent a year unemployed. The silver lining (for me!) was that I joined WWF-UK and have enjoyed nearly two decades as poacher and gamekeeper in the charity and public sectors.

Perhaps now is the time to look again at the risks which can be turned into opportunities. There are many at Grant Thornton who can help you transform ideas into action.

## Budget 2009 – what it means for charities

On the face of it, Budget 2009 provided little for charities to get excited about. The ongoing review of the gift aid regime received only a passing mention, the anticipated re-drafting of the substantial donor rules failed to materialise (although we are promised further informal consultation on relaxations to the rules) and the additional funding promised to support the third sector would seem to be no more than a drop in the ocean.

The Budget may, however, mean that tax finds its way up the agenda of many finance directors, especially those within larger organisations. These larger charities are likely to be required to appoint a senior accounting officer to certify annually whether the accounting systems in operation are adequate for the purpose of accurate tax reporting – whether it be PAYE/NIC, VAT or corporation tax. That senior accounting officer will be personally liable for penalties in the event of a careless or deliberate failure to provide the required certification.

This measure is part of a wider initiative to encourage taxpayers to comply with their tax obligations.

Other measures will include increased penalties for late submission of tax returns and late payment of tax.

If nothing else, Budget 2009 will mean that all charities will need to ensure that their internal tax function is operating as it should be – they risk paying the price if it isn't.



# Opportunities for charities receiving income from overseas

## Tax deductions for donations to charity

Currently, UK tax legislation only allows UK individuals and companies to claim tax deductions for donations to UK charities. No tax deduction is permitted in relation to donations by UK individuals or companies to foreign charities. Similar rules apply in many other jurisdictions.

This position may now change following a European Court of Justice decision in January 2009, in the case of **Hein Persche v Finanzamt Lüdenscheid**. This case considered the donation of various items by a German individual, Hein Persche, to a Portuguese charity that ran a home for children and the elderly. Herr Persche claimed a tax deduction in Germany for the donation that he made to the Portuguese charity. The claim was refused by the German tax authorities on the grounds that German tax rules only permitted tax deductions for donations to German charities.

The European Court ruled that the refusal of the German authorities to allow Herr Persche's tax deduction was contrary to European Union (EU) law on the freedom of movement of capital within the EU. Broadly, the Court ruled that an individual who is resident in an EU member state, and who makes a donation to a charity which is registered in another EU member state, should not be precluded from claiming a tax deduction in relation to the donation if the charity is capable of being registered as a charity in the EU member state of which the individual is resident.

So what does this mean for UK charities? Firstly, it means that

individuals in other EU jurisdictions should now be able to claim a tax deduction in their local jurisdiction for donations made to UK charities. As far as the EU-resident individual is concerned, it would therefore be as tax-efficient for them to donate to UK charities as it would to donate to local charities. The scope for UK charities to secure tax-efficient donations from overseas has therefore increased significantly.

Unfortunately, there may be an associated administrative burden. The European Court ruling suggests that the onus is on the donor to prove that the UK charity is capable of being regarded as a charity under the laws of the EU member state in which the donor is resident. The foreign donor would undoubtedly require assistance from the UK charity in this respect. Clearly, this could be an onerous task, and one which may only be worthwhile if donations from the foreign EU member state are likely to be significant.

There is a further down-side to the European Court decision in that UK individuals should now be also able to claim tax deductions for gifts to charities that are registered in other EU member states. So while UK charities may be able to seek tax efficient donations from within the entire EU, they may also face competition from charities in the EU for donations from UK residents.

While the case of **Hein Persche v Finanzamt Lüdenscheid** involved donations by an individual, there would seem to be no reason why the same principles should not apply to donations by companies too.

## Overseas income from which tax had been withheld

As a result of other European Court decisions there is currently an opportunity for charities to claim refunds for withholding tax suffered on dividends from portfolio investments in various EU countries.

A number of these countries are now reimbursing withholding tax suffered and we would advise charities to review the amounts of withholding tax suffered overseas in order to consider whether to file protective repayment claims.



**Andrew Robinson**  
Director, Head of Charities and Not-for-Profit Direct Tax

# Charities – facing the perfect storm?

It has been stated in the past that the voluntary sector is “immune” from recession. It seems, however, that in the current downturn this is no longer the case. We believe that the charity sector is potentially in the path of a “perfect storm” – a combination of circumstances, any one of which would represent a risk to those operating in the sector, but which taken together could become catastrophic. Not only do the individual elements reinforce each other to worsen the overall situation, but management capacity becomes stretched to breaking point.

## Pressure on income

One of the principal threats to charities is the pressure on income.

For those charities that rely on public donations, the “propensity to give” is likely to reduce as the recession bites. Research conducted by the Prostrate Cancer charity indicated that donors gave up to 45% less when reminded of the downturn. Where donations have been promised, the incidence of default or bad debt is probably going to increase.

Those charities that rely on investment income from endowments have seen their income fall sharply, especially those where deposits held on high rate but fixed term accounts are coming to an end.

Charitable organisations whose income is based on contract income do not escape. Increasing competition, pressure on prices and the cessation of some contracts will all conspire to make life difficult. We have noted that

councils have already started to cut voluntary sector budgets and are bringing those services in-house.

It’s also likely that this will be more than just a short term problem. A long term squeeze on public sector spending seems likely even as the economy recovers, in order to address the deficit created by the measures taken during the recession.

## Increasing demand

At the same time as income is under pressure charities are facing an increase in demand for their services. Global calamities are unpredictable anyway, and those charities who operate in that area will accept that unpredictability. On the domestic front, however, the London Voluntary Service Council is reporting increased demand, especially in those areas dealing with debt, housing, mental health and employment.

The increased costs of meeting pension liabilities are also likely to hit the sector hard. With a number of charities with

staff in final salary schemes, the cost of servicing such pension schemes is becoming prohibitive. One charity has been forced to close part of its regional operation because of the cost of servicing its pension scheme.

Like every other institution and organisation, charities are going to feel the pinch from increasing utility costs and the cost of meeting with the “green” agenda.

## Other issues

On other fronts, hard economic times also mean that charities are likely to suffer from a higher incidence of fraud. Whether this is from fraudulent claims on funds, or an increased incidence of money laundering in a “cash” business, management will need to be vigilant.

The issue of dealing with public benefit requirements will probably prove to be a distraction for most charities rather than a real problem,

as will rumours of an increasingly hard line being taken by HMRC regarding tax exempt status.

The compound effect of all these issues, whether real or a distraction, will be the demand on management time. There is only a finite “bandwidth” that the most professional of management teams are able to bring to bear, and the ability of many management teams in the sector will be sorely tested over the months to come in dealing with the storm.

### **What can you do?**

There is little you can do to avoid the storm, which is likely to impact every type of organisation across the world.

There are, however, a number of things that you can do that will minimise the impact of the storm on your operation, and ensure that you emerge from the other side in the best possible shape.

### **Management information**

There is no substitute for good management information. Identify clear Key Performance Indicators (KPIs) that reflect the fundamental drivers of the business. Don't rely on solely financial indicators, and try and select those that are leading rather than lagging.

### **Understand the detail**

Understand where the value is created in your operation, which activities that are

making a positive contribution, and which are draining resources. Identify those activities that you should stop, and those projects that should be delayed.

### **Risk management and scenario planning**

Think about what could happen and prepare some business models that will reflect the impact of those occurrences. Identify the actions that you could take if any of the eventualities arose. Risk management is not being negative – it's being prepared.

### **Act swiftly**

The speed of decision making is important. Once you have identified what needs to be done, act swiftly to implement the decision. Don't delay the tough decisions. Make sure that the structure of your organisation does not form a barrier to the decision making or implementation process.

### **Manage costs**

In a downturn you will need to control your cost base in order to continue to function. However, cost cutting that adversely impacts the levels of service that you provide (both internally and

externally) will be self defeating. Think about how to deliver the best value from the resources that you have, and try to avoid “salami slicing” i.e. unfocused, across the board, cuts.



**David Edwards**  
Director, Charities and Not-for-Profit

# Avoiding the pinch

Tightening of taxpayer's belts has led to a significant reduction in the level of donations made to charities. This article sets out some practical 'top tips' for charities to reduce their employment costs and avoid the credit crunch pinch.

On 17 March 2009, the Charity Commission announced that more than half of charities were feeling the impact of the current economic challenges, with 58% experiencing a decrease in donations. Many charities have or are considering cutting services or making redundancies in order to survive, however, there are a number of very simple tax planning ideas which can yield significant PAYE and National Insurance savings.

Our employer solutions specialists have established some 'top tips' for charity employers to remain compliant, pay the right amount of tax, utilise tax efficient planning opportunities and, most importantly, ensure that charitable funds are spent where they are most needed.

## 1 Employing foreign nationals in the UK

Many UK charities have individuals working in their UK offices, who have been sent from an overseas entity. In this scenario, it is likely that the UK charity will have a responsibility to operate PAYE, even if they are not physically paying the individual. There are opportunities, however, to reduce this burden, for example:

- agreeing that the overseas 'home country' will make voluntary payments of PAYE
- setting up a Short Term Business Visitors Agreement with HM Revenue & Customs (HMRC)
- gaining the agreement of HMRC that the individual is taxed only on their UK workdays

## 2 Sending employees overseas

Sending employees overseas can be fraught with difficulties, from a UK and international perspective. The process can, however, be simplified by adopting a more efficient approach to potential assignments:

- assess the most tax efficient remuneration package for employer and employee in a particular area/country and establish an assignment policy. A uniform policy will avoid protracted employee negotiations as well as costly tax fees for advice on separate remuneration packages for each separate assignment
- ensure continuing communications with the employee regarding their assignment, the remuneration package, etc.
- outsourcing of administrative payroll tasks to specialised tax advisors, tasks such as gaining NT codes and

certificates of coverage, plus any domestic and international tax returns required

## 3 Cross borders transfers

There has been a dramatic increase in penalties imposed by overseas jurisdictions on all entities who fail to operate withholding schemes or pay employment taxes/social security contributions. The penalties can be significant but ultimately avoided if advice is sought by the employer at the outset.

## 4 UK housekeeping

All UK entities should hold a dispensation from P11D reporting to ease administrative end of year reporting burdens. A dispensation allows employers to ignore certain expenses when preparing forms P11D if HMRC are satisfied that no income tax would arise, such as business travel and subsistence.

In addition, a PAYE Settlement Agreement (PSA) is advised where an employer may wish to meet the income tax and social security costs (on a grossed up basis) arising on certain benefits or expenses provided to its employees. For HMRC to approve such a request, the benefits or expenses

must be minor, irregular or impractical to operate PAYE on, such as staff entertaining.

### **5 Salary sacrifice arrangements**

We understand that many charities were thinking of implementing a salary sacrifice scheme until the economic downturn, when they decided that the up-front costs would be too onerous. It can therefore come as a surprise that if done at the same time as changing the pension provider, a salary sacrifice arrangement can often be implemented at very little cost.

Combining a reduced up-front cost with employer National Insurance savings and Corporation Tax deductions on employer pension contributions can make all the difference, particularly if the alternative is reducing staff numbers or even services in a particular area.

Whilst there are many other ways in which savings can be made and compliance can be administratively streamlined, these 'top tips' give a flavour of the current best practices in the charity sector. Increasing a charity's savings to allow them to spend the money on worthwhile causes must be the most important priority for charities and their advisors.

## **Fraud and the Charity Sector**

Nick Marcar, a senior manager in our Forensic and Investigation Services Department, is just completing a six month secondment, split between the Charity Commission and the police.

Nick's role has been to advise on the financial aspects of investigations into allegations of links between charities and terrorist activities. Prior to joining Grant Thornton, Nick worked with a number of investigation agencies in the public sector and has been using this experience to assist the Commission in dealing with some of the complex and high profile cases which it approaches from a 'zero tolerance' standpoint.

Charities face many difficulties on the ground in seeking to help those in the world's most dangerous trouble spots. In turn the Charity Commission faces a challenge in ensuring charities comply with good practice whilst not being discouraged from involvement in areas where they may be the only source of assistance to local people. We will be happy to use our first hand experience to discuss with clients whether their procedures are likely to be sufficient to address their regulatory responsibilities.

### **Fraud Advisory Panel publishes "Fraud in the charitable sector"**

In these difficult times everyone is having to tighten their belts to try and make income go further. This is particularly so in the charitable sector where corporates, public bodies and indeed the public at large are looking closely at whether they can continue with making grants and donations to the same degree as previous years. It may be tempting for charities to think that expenditure on anti-fraud policies and procedures can take a back seat.

The recently published report by the Fraud Advisory Panel on fraud in the sector is therefore a timely reminder of the danger of such a strategy.

A double-edged statistic from the report is that only seven per cent of respondents to the survey had suffered fraud in the last two years with half reporting their loss as less than £1,000. This might, however, indicate that charities are suffering more fraud than is being detected. This is especially so as fraud was considered to be a major risk to the charity sector with the main reason given being its reliance on goodwill and trust. Perhaps unsurprisingly, half of those who had been the victims of fraud felt that they had contributed in some way to it taking place, generally by being too trusting or operating inadequate risk management systems. A quarter of those affected reported negative consequences for the organisation including damage to their reputation and an inability to fund projects.

Despite these serious consequences it is worrying that 60% of charities were found not to have implemented anti-fraud measures and a statistic that only improved to 50% for those charities who had experienced fraud. This suggests that the Charity Commission still has some way to go in persuading charities of the merits of protecting the income they work so hard to obtain, particularly since only 10% of victims reported their loss to the Commission.

As the Panel point out, the sector needs to appreciate that fraud does not just happen to other organisations. The report will hopefully be a catalyst for this, and the knowledge that assistance is readily available to those who are looking to protect themselves against its consequences.

Our programme of seminars continues for 2009. If you would like to attend any of the seminars or receive any additional information, please contact **Louise Truswell** on **020 7728 2695** or [louise.truswell@gtuk.com](mailto:louise.truswell@gtuk.com)

Date	Location	Seminar
Wednesday 20 May	London	Tax/VAT/PAYE update
Tuesday 9 June	Manchester	Cost Reduction
Tuesday 16 June	Leeds	Cost Reduction
Wednesday 17 June	Oxford	Cost Reduction
Wednesday 23 September	London	US Non Profits
Wednesday 21 October	London	Investments
Wednesday 4 November	London	Tax/VAT/PAYE update
Tuesday 8 December	London	Topical update

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If you would like to find out more about how Grant Thornton can assist you, please contact one of our Charity and Not for profit specialist partners. Alternatively, visit our website at [www.grant-thornton.co.uk](http://www.grant-thornton.co.uk) or contact **Carol Rudge**, Head of Charities and Not-for-Profit, directly on **020 7383 5100**.

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