

# TAX GUIDANCE NOTES

## INTRODUCTION

These notes are drafted solely in regard to the Groups raising funds for The King's Trust and the principles may not be applied elsewhere. These notes are provided for general guidance only and are not intended to provide you with professional advice. Should you have any further queries in respect of the advice provided in these Guidance Notes or require further information in respect of the specific tax implications of your particular activities, The King's Trust recommends that you seek independent tax advice. HM Revenue & Customs operates a dedicated Charities Helpline (08453 02 02 03) for dealing with specific queries. Any corporate tax or VAT responsibility which arises as a result of a Group's fundraising activities will be the sole responsibility of the Group which should ensure one of its members deals with any tax compliance responsibilities.

## DIRECT TAX

For corporate tax purposes, the enterprise group ("the Group") will be determined to be an unincorporated association. Consequently, it is important the profits of the Group's fundraising activities are transferred to The King's Trust appropriately in order that the Group has no corporate tax obligations. The main obligations would be to notify HM Revenue & Customs of the tax liability, to complete a corporation tax return and to pay corporation tax on the profits made. Your Group will not have these tax obligations if a number of conditions are met. These conditions are dependent on the type of income that is generated by the Group. These different types are outlined below.

## FUNDRAISING ACTIVITIES (EXEMPT FROM CORPORATION TAX)

Certain activities organised by the Group for the primary purpose of raising money for The King's Trust (when the activity is promoted as such), should qualify for exemption from corporation tax. Outlined below is a non-exhaustive list of examples of the different types of events that would qualify for this exemption:

- A ball, dinner dance, disco or barn dance
- A performance – such as concert, stage production, and any other event which has a paying audience.
- The showing of a film.
- A fete, fair or festival.
- A horticultural show.
- Sporting participation (including spectators), such as a sponsored walk or swim (except where monies raised from sponsorship are paid to the Charity by Gift Aid).
- A bazaar, jumble sale, car boot sale, or good-as-new sale.
- An exhibition – such as art, history or science.
- A dinner, lunch or barbecue.
- A game of skill, a contest, or a quiz.
- Participation in an endurance event.
- A sporting performance.
- A fireworks display.
- An auction of goods.

If the Group raises money by arranging these activities, no corporate tax obligation should arise. Monies raised by the Group through events such as these should then be paid to The King's Trust, together with the repayment of the initial loan due to The King's Trust.

There is no requirement for this payment to be made under Gift Aid. Consequently, no special documentation is required to be drafted in regards to the payment, although records should be kept of the amounts raised and the amounts paid to The King's Trust.

The final accounts of the Group should then be prepared – these should reflect that the Group has no retained profits, as all profits have been paid to The King's Trust.

Should the Group's activities extend beyond 12 months, please contact your King's Trust representative for further guidance and details in respect of additional requirements that will need to be fulfilled.

Please note that the Group is restricted to conducting 15 events of the same type in the same location during the financial year in order to qualify for the exemption. If the Group undertakes 16 or more of the same type of activity in the same location, none of the activities undertaken of the same nature will qualify for the exemption

## **FUNDRAISING ACTIVITIES (NOT EXEMPT FROM CORPORATION TAX)**

Should any of the activities not qualify as exempt, (as outlined above) for example an ongoing trading activity, potentially the Group will have a tax liability. If all its profits are quickly donated to The King's Trust and certain conditions are met there will not be any tax liability or compliance obligations. The conditions are these:

(a) Normally the activities will continue for less than 12 months. In this case, the profits of the Group's fundraising activities must be paid to The King's Trust under the Gift Aid provisions immediately before the Group ceases to undertake further activities (i.e. wind-up of the programme). If the activities extend beyond 12 months, please contact your King's Trust representative for further details of how the Group's profits should be paid; and

(b) To pay the profits to The King's Trust under Gift Aid, it is important that documentation exists (e.g. correspondence, minutes, accounting records) which states that the payments made by the Group to The King's Trust are made under Gift Aid<sup>1</sup>. The order in which payments are made to The King's Trust discussed further below.

We would recommend that the Group pays these profits to The King's Trust by way of Gift Aid on a regular basis to minimise the risk that the profits of the Group are "stranded" and do not avoid a tax liability under the above principles.

<sup>1</sup> The payment of donations under Gift Aid by a corporate body does not result in the charity being able to reclaim tax (as is in the case for gifts received from individuals). However, payments made by the corporate body should still be made under Gift Aid to ensure the amount is deductible by the corporate body when computing its profits chargeable to corporation tax.

# DONATIONS AND SPONSORSHIP RECEIVED ON BEHALF OF THE TRUST

Should the Group raise donations from members of the public on behalf of The King's Trust, the Group should ensure, where possible and appropriate, that Gift Aid<sup>2</sup> declaration forms are completed by the individuals in question and forwarded to The King's Trust together with the relevant donation. These requirements are discussed further below.

Should the Group receive payments under Gift Aid as a result of individuals being sponsored to participate in an event, a sponsorship form should be completed. The King's Trust can provide suitable sponsorship forms, if required, for this purpose.

If either the donations or sponsorship proceeds are received from individuals by way of cash or cheque, this should be deposited into the Group's designated bank account. When the group then transfers these funds to The King's Trust, a list of the donors and their respective donations/sponsorship proceeds should be provided, together with the Gift Aid declarations obtained. The final accounts of the Group should reflect that all donations and sponsorship funds collected by the Group have been paid to The King's Trust.

If the Group collects donations or sponsorship through the JustGiving website there will be no requirement to collect Gift Aid declarations or sponsorship forms.

## INTEREST

Should interest accrue on the Group's bank account as a result of having the proceeds of their activities on deposit at a financial institution, this amount will need to be paid to The King's Trust by way of Gift Aid. This payment will need to be made immediately prior to the cessation of the Group's activities, or within 12 months of commencement of its activities (whichever is earlier).

## PAYMENT OF PROCEEDS TO THE KING'S TRUST

As discussed above, the order in which payments are made to The King's Trust is important. By making the payments in the following order, this minimises the opportunity for the proceeds received by the Group as a result of their activities to be subject to corporation tax.

Payments should be made to The King's Trust as follows:

- transfer of any funds received by way of sponsorship or donation on behalf of The King's Trust
- payment of non-exempt profits to The King's Trust as Gift Aid payments by the Group;
- payment of interest earned on funds on deposit to The King's Trust under Gift Aid by the Group;
- transfer of funds received from exempt fundraising activities to The King's Trust;
- repayment of the seed finance loan to The King's Trust

<sup>2</sup> Gift aid is a mechanism for increasing the value of the benefit that a charity receives when an individual gives money to a charity. Provided that the individual tax payer pays UK tax at the basic rate of income tax, and the individual provides a declaration to the charity confirming this, the charity may reclaim from HMRC the basic rate tax on the individual's gift plus an additional 3% transitional relief. This calculates to be: Amount of gift x 22%/78%.

For Gift Aid payments intended to be made by individuals to The King's Trust, a declaration should be completed by the individual and it should accompany the payment collected by the Group stating that the donation should be treated as a Gift Aid donation. It is important that these completed declarations are forwarded by the Group to The King's Trust (your King's Trust representative) for record-keeping, in conjunction with the transfer of the donations and sponsorship monies collected.

This declaration should including the following information:

- the donor's full name and full home address,
- the tax payer is a UK tax payer
- the name the charity (i.e. The King's Trust)
- the gift or gifts to which the declaration relates, and #
- confirmation that the identified gift or gifts are to be treated as Gift Aid donations.

The donor must be advised that they are liable to reimburse HMRC the relevant amount involved if they have not paid an amount of Income Tax and/or Capital Gains Tax equal to the amount reclaimed by the Charity.

The King's Trust can provide suitable declarations to cover these requirements.

## VAT

For VAT purposes, the Group will be determined to be an unincorporated association.

If the Group makes supplies of goods and/or services for a charge it will be considered to be pursuing a business activity for VAT purposes and potentially be liable to normal VAT accounting requirements. If the value of the Group's taxable supplies exceeds a specified limit (currently £79,000) in any 12 month period, it must register for VAT. Voluntary registration is also available to Groups with taxable turnover below the registration limit, should this be considered beneficial.

The Group will need to identify what types of activity fall within a 'supply for consideration' to enable them to determine if the Group have any VAT obligations. The type of activity that would be treated as a supply for consideration would be a dance/ball, book/cake sale, car boot sale, car wash etc. where something is provided in return for payment. If a supply for consideration does take place then:

- if there is only one event this would be ignored for VAT purposes on the basis that it was not a business activity (only a one off supply);
- if there is more than one event in the period in which the Group operates or the Group carries out a regular ongoing business activity but the value of the consideration (gross income before expenses are deducted) is below the current VAT registration of £64,000, the money would be ignored for VAT purposes;
- if there is more than one event in the six to eight month period or the Group carries out a regular ongoing business activity and the value of the consideration raised exceeds the current VAT registration threshold of £67,000, then potentially the Group could be liable to register and account for VAT on the consideration raised. The timing and the value of the consideration that would be subject to VAT will depend on when the VAT registration threshold was exceeded. It may be possible to convince HMRC that VAT registration is not required but this will depend on the type of events and the value of the consideration received.

If the Group only collects donations and does not provide anything in return to those individuals etc that donate the money to the Group, the Group will not be making any supplies for VAT purposes and therefore, the Group would not be required to register and account for VAT on the donations it receives.

The seed funding received from The King's Trust will not come within the scope of VAT. If the Group is not registered for VAT it will not be able to recover VAT on the purchase of goods or services and the VAT will be an additional cost to the Group.

