

# SCFDG News

a newsletter of the Scottish Charity Finance Directors' Group



With the extreme weather challenges of the winter now hopefully behind us, we look forward to a fruitful year ahead and hope to be able to deliver some exciting and stimulating events during 2011 for all SCFDG members.

It was with regret that the Employment Law Seminar had to be cancelled in mid February, particularly on the back of an earlier postponement in December of the AGM. The decision was not taken lightly, but with the event appealing only to a few of our members (and perhaps an error in timing and scheduling as the date co-incided with school half-term) economics and common sense prevailed.

The year did, however, finally kick off on 24 February with our AGM, Seminar & Networking Event which proved very popular with members. A report on the AGM can be found later in this e-newsletter. Please take note of our plea for topic suggestions for 2011 seminars and, indeed, the one-day conference we are tentatively planning for November. David Manion's presentation on the theme of **Mergers & Acquisitions** was most informative and entertaining indeed providing an insight into the challenges of bringing together the two charities—Help the Aged and Age Concern—to form Age Scotland. The key points made in his presentation are available to download from the website archives ([www.scfdg.org.uk](http://www.scfdg.org.uk)).

Our first Network Lunch followed on 15 March. Chest Heart & Stroke Scotland has recently relocated to Rosebery House at Haymarket and I was pleased to host the lunch and discussions. Network lunches are a great opportunity to meet up with peers and colleagues and share issues of concern or simply catch up with what's happening in the sector. We hope to hold further events during the year—both in Glasgow and Edinburgh. Offers of premises would be very welcome.

As the financial year draws to a close our request for membership subscriptions for the coming year will shortly fall on your desk and we encourage you to continue your support of SCFDG. At a cost of only £75 for four seminars, network lunches and reduced registration at conference, this surely is best value for money!



SCFDG Secretariat  
PO Box 2781  
Glasgow, G61 3YL

T/F: 0141 560 4092  
E: [icameron@a-m-s-online.com](mailto:icameron@a-m-s-online.com)

Registered Scottish Charity No.  
SC022533

**Please send your suggestions for  
seminar themes, topics and  
speakers to:**

**Irene Cameron**

**[icameron@a-m-s-online.com](mailto:icameron@a-m-s-online.com)**

**T/F: 0141560 4092**

**For all the latest news  
and information on  
SCFDG, including full  
details of seminars and  
network lunches,  
visit our website at:**

[www.scfdg.org.uk](http://www.scfdg.org.uk)

## News from the AGM

Our AGM for 2010, having been postponed due to the extreme weather conditions during December, was held at The Royal Scots Club in Edinburgh on 24 February.

Convener, Paul Bannon, reported on the Group's activities over the year which had been reasonably well supported by members and some guests. Seminar topics had been chosen following recommendations from members and we would propose to follow a similar strategy for 2011, so please do e-mail Irene (icameron@am-s-online.com) or any of our Executive Committee members with ideas and suggestions for themes for future events.

Two network lunches were held during the year, hosted by Sense Scotland and Central Scotland Forest Trust. Again, we propose to continue these events in the coming year and our first in 2011 was held at the new Chest Heart & Stroke Scotland offices in Haymarket Terrace earlier this month. Two further lunches are planned over the coming months. If any members would like to host a lunch please contact Irene who will be happy to take your offer forward and make any or all arrangements on your behalf.

Discussions are at an early planning stage for a one-day conference in late November. However, for such an event to be viable we need to ensure that we have a stimulating programme that provides value for money and meets the needs of our delegates— that's **YOU!** So do please contribute to the discussions at an early stage by e-mailing suggestions for topics or workshops that are of relevance and importance to you. It may be you've attended an event recently and heard a really good speaker or touched on an interesting topic that you'd like to explore further. Let us know and we can perhaps take that forward at conference!

Presenting the accounts for the year to 31 March 2010, Mike Crerar reported a surplus for the period of £1087. Whilst subscription income has increased by 30%, this is offset by expenditure primarily in relation to the purchase of CFDG yearbooks which many of our members choose to receive at the discounted rate. Membership numbers, however, are reducing by around 5% per annum so it's important we endeavour to reverse this trend by inviting and encouraging new members to join the Group. To this end we've produced an introductory flyer which can be circulated to new or potential members and which we'll use over the coming year to promote the Group and its activities.

All Executive Committee members have agreed to serve for a further year and we are grateful for their enthusiasm and support. Succession planning is important, however, and we are actively seeking new members to take the Group forward over the coming years, so do please give some thought to supporting SCFDG in this way. Have a word with the current committee—they will be happy to assuage any fears you may have in terms of time and commitment. It's not an onerous task—a simple willingness to attend and contribute to four meetings each year!

In closing the meeting, Paul Bannon thanked all members for their support at our events throughout the year - the date for the 2011 AGM will be announced shortly.

### Executive Committee 2011/12

**Paul Bannon, Finance Director, Chest Heart & Stroke Scotland (Convener)**

**Mike Crerar, CA, Geoghegans (Treasurer)**

**Tim Hencher, Director of Finance, SCVO**

**Fiona Mackersie, Finance Manager, Children 1st**

**Simon Maclaren**

**Lorraine Nichol, Finance & IT Team Leader, Central Scotland Forest Trust**

**paul.bannon@chss.org.uk**

**mike.crerar@geoghegans.co.uk**

**tim.hencher@scvo.org.uk**

**fiona.mackersie@children1st.org.uk**

**simon.maclaren@compuserve.com**

**lorraine.nichol@csft.org.uk**

# TAX MATTERS

## Employed or self-employed? That is the question!

The question of whether individuals are employed or self-employed from a tax perspective can be problematic for charities and care must be taken to ensure that a decision to treat someone as self-employed rather than employed can be defended to HM Revenue and Customs (HMRC). Where an individual provides his/her services through a limited company then the charity can make payments without worrying about the tax consequences as the limited company must take responsibility for its own tax status. Where an individual provides his/her services as a self-employed consultant then the charity must be clear that the individual is genuinely self-employed before entering into a contract with the consultant.

There are many examples of employers who have obtained the tax reference number for the self-employed consultant and used this to form the basis for the self-employed status of an individual. Unfortunately it is not quite that simple.

The starting point for HMRC in respect of employment status is to look at the contract between the charity and the consultant. HMRC will review the contract but they will always ask for more information to understand exactly how the relationship between the two parties works in practice. There are various tests that have to be met for true self-employment for tax purposes and one of those tests is the ability to send along a substitute when the consultant is unable to provide his/her services. I have seen various examples of contracts that include a substitution clause but the reality of the situation is that neither party actually expects a substitute to be used in practice and the consultant would not be able to name a substitute, if asked. Therefore the inclusion of a substitution clause in a contract is not at all useful unless it reflects what happens in practice. On a more positive note, where the substitution test is met then this is a very strong indicator of self-employment.

There are other employment status tests which have to be considered as follows:

- ◆ Control - who controls how and when the work is carried out?
- ◆ Mutual obligations - is the charity obliged to offer work and is the consultant obliged to carry out work?
- ◆ Financial risk - does the consultant provide equipment etc at his/her own expense and do they get paid regardless of the quality of the work done?
- ◆ Exclusivity - does the consultant provide services to other organisations?
- ◆ Integration - is the consultant seen to be "part and parcel" of the charity?

Once the various tests have been considered a decision must be taken as to whether the consultant is employed or self-employed. On the HMRC website there is something called an Employment Status Indicator (ESI) tool which is meant to assist with this decision-making process. Various questions have to be answered (the questions vary depending on the responses) and then the tool will state if the consultant is employed or self-employed. In some instances more information may be required by HMRC before a decision can be made. I would like to issue a warning about this ESI tool as it is heavily caveated by HMRC in terms of garbage in garbage out. If HMRC disagrees with how a question has been answered then the status decision can be overturned. The substitution clause in a contract that does not apply in practice would be a good case in point.

It would be good practice for one person or one department within a charity to take responsibility for the employment status of consultants. Some form of question and answer session should take place before a consultant is engaged and any additional notes in relation to the employment status decision should be kept on file along with the Q&A details to help defend the decision to HMRC at any point.

The risk for the charity is that HMRC can seek to obtain outstanding tax and NIC in respect of payments made to consultants who are deemed to be employees. Any tax and NIC that has been paid by the consultant can be set off against the total amount due but if the consultant has not paid tax and NIC then the charity could be left paying the total tax and NIC bill for the last 4 tax years. In addition the consultant will be immediately reclassified as an employee and any payments made by the charity will have to be subjected to tax and NIC through payroll. I should point out that it would be prudent to take professional advice to decide if an appeal should be lodged with HMRC in respect of an employment status decision and to help with decision making process where the employment status is not clear cut.

In conclusion, this is an area that is not always straightforward and it is an area that is always being scrutinised by HMRC. A bit of effort at the outset might reduce the possibility of a tax and NIC liability further down the line.

## IT'S VAT TIME OF YEAR AGAIN!

This is the time of year that annual partial exemption, business, non-business calculations and capital goods scheme adjustments are required to be made.

VAT returns allow the provisional recovery of VAT incurred on expenses and where exempt or non-business activities take place an element of input tax is normally blocked from recovery. This provisional recovery must be averaged and confirmed once a year. These annual adjustments can now be made on the final return of the VAT year being March, April or May. Simplifications to the partial exemption rules have been phased in over the last 2 years so this is a good time to check whether you're benefiting from any of the new rules.

Whilst the calculations are compulsory many fail to perform them. This results in an exposure to assessment from HMRC and the risk of unbudgeted costs.

This is also an excellent time to consider some basic VAT questions:

- Have associated VAT rules changed?
- Has VAT been correctly accounted for on all income?
- Where VAT has been incurred on expenditure was this correct?
- Do existing calculations reflect the activities undertaken?
- Could the recovery of VAT be improved?

Changes to funding arrangements and the diversification of activities can often increase the value of recoverable VAT.

Finally don't forget capital items. If you have purchased, constructed or renovated property in the last 10 years (and incurred costs exceeding £250,000 per project) or have purchased an individual item of computer equipment (valued in excess of £50,000) you should review the VAT recovered on these items at the end of each VAT year. VAT recovered on property should be reviewed for 10 years, VAT on computer equipment 5 years. An adjustment to the amount of VAT originally recovered will be required where the taxable use or activity changes. This could result in additional VAT claims or repayments to HMRC.

Scott Craig  
Scott-Moncrieff

## iXBRL ... Are you Ready?

Inline eXtensible Business Reporting Language (iXBRL) is an IT standard designed specifically for business financial reporting.

From 1 April 2011, for accounting periods ending on or after 1 April 2010, Company Tax Returns must be filed online. A Company Tax Return comprises not just the CT600 form but also the accounts, computation and other supporting documentation.

Where a Company Tax Return is filed online, the computations must be in iXBRL format.

For most companies and organisations, accounts forming part of the return must also be in iXBRL format, but there are exceptions.

HMRC provides free software to submit Company Tax Returns online, which is suitable for most small companies with less complex affairs but at the moment the accounts template may not be suitable for smaller charities. In recognition of this, **HMRC will continue to accept accounts from smaller charities in pdf format**. Computations must be filed in iXBRL format but the free HMRC software should be suitable for these.

Smaller charities, for this purpose, are charities where, together with any wholly owned subsidiaries (companies owned by the charity), the combined income does not exceed £6.5 million for the accounting period.

## TRUSTEE VACANCY

### SCOTTISH LANGUAGE DICTIONARIES LTD

A vacancy exists on the board of Scottish Language Dictionaries Ltd for a trustee with a business or financial background.

SLD is a small independent organisation based within the University of Edinburgh whose business is making dictionaries of the Scots language. Funding is principally derived from the Scottish Government, supplemented by royalties, private sector grants, donations and membership subscriptions. Further information on SLD and its activities is available at [www.scotsdictionaries.org.uk](http://www.scotsdictionaries.org.uk).

The Board meets four times over the year in Edinburgh. Duties are mainly advisory; trustees are not paid but may claim reasonable expenses. An interest in the Scots language is a requirement, but no expert knowledge or record of activity in relation to Scots is expected. SLD does not engage in campaigning or political activity.

To apply or obtain further information contact

**Ruth Martin**

T: 0131 560 4149 E: [ruth.martin@scotsdictionaries.org.uk](mailto:ruth.martin@scotsdictionaries.org.uk)

### *New OSCR Guidance on Control and Independence in Scottish Charities*

Clarity over the control of a charity is a key element of good governance and is central to charity trustees ensuring that they meet legal requirements.

Having identified independence and control as an issue in several prominent cases, OSCR believes that such concerns may increase as charities' activities and relationships with other organisations become more complex.

In response, OSCR has now published new guidance on the issue of independence and control in Scottish charities.

The new guidance sets out key principles and potential risk areas, and provides real life examples as illustrations. It also sets out the duties of charity trustees and explains how the principles of the charity test dictate the way in which those running a charity must behave.

To view the new publication, visit the OSCR website at  
<http://www.oscr.org.uk/publicationitem.aspx?id=0c9211ae-4107-410b-a59e-e4161e9ef1f8>

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