



# East Riding Voluntary Action Services (ERVAS) Limited

## Community Accountancy Service

Delivering quality accounting services and training to the voluntary sector

### Good Practice Guide:

## 7 – Trading and Fundraising



**East Riding Voluntary Action Services (ERVAS) Limited**  
Morley's Cottage, Morley's Yard, Walkergate, Beverley, HU17 9BY  
Tel: (01482) 871077 Fax: (01482) 887574



**LOTTERY FUNDED**

## Introduction

This Information Sheet gives information about the legal requirements on trading, VAT and fundraising for charitable organisations.

## General points

Whether or not your group is a registered charity, before embarking on any kind of fund-raising or income generating activity you should check the following:

- ⊗ Is the activity authorised by your constitution? If there is a 'powers' clause that enables the organisation to raise funds or to do 'any other lawful thing to further the objects or aims', then this should be sufficient.
- ⊗ Is your group adequately covered by insurance for its staff, trustees, volunteers and any members of the public who might be involved in the activity?
- ⊗ Will the cost of the activity justify the funds likely to be raised?
- ⊗ Do you need any permissions or licences e.g. to use the premises or the site for a particular purpose or a licence for a lottery, a street or house to house collection or for 'gaming' activities, if planned?
- ⊗ Have you taken adequate precautions to ensure you can account for all the money you collect?
- ⊗ Will the income generated by the activity be liable to VAT or corporation tax?

## Trading and the law

Trading is basically any activity whose purpose is to make money. Under charity law, there are three types of trading:

- ⊗ **Primary purpose trading** – that is, activities done in direct pursuit of the charity's objects or mainly by its beneficiaries – which is free of corporation tax
- ⊗ **Taxable or ancillary trading** – activities not in pursuance of the objects – which can attract corporation tax.
- ⊗ **Mixed trading** – partly primary purpose and partly taxable: e.g. sales of goods or services some of which are primary purpose and some not.

NB Corporation tax is income tax payable by organisations on their profits or 'surplus' income. Both primary purpose and taxable/mixed trading income may be liable to VAT.

## Examples of primary purpose trading:

- ⊗ The sale of books or courses on a particular subject by an educational charity specialising in that subject area
- ⊗ Entering into a service level agreement with another body which will pay the charity for its services where these are provided as part of its objects
- ⊗ Charging users for services
- ⊗ Selling goods made by a charity's users as part of the charity's work with them

## Examples of taxable or ancillary trading:

- ☉ Buying in and reselling 'promotional' goods (e.g. pens, mugs, T-shirts)
- ☉ Charity shops selling other than purely donated goods
- ☉ Running a café open to the public, even if not intended to be profit-making, unless done as part of primary purpose trading (see above)
- ☉ Renting out commercial property to business tenants at a full commercial rent

## Important exemptions for charities:

- ☉ Selling **donated** goods does not count as taxable trading
- ☉ 'Small lotteries' (raffles) held as part of a charity fund-raising event do not need a lottery licence under the Lotteries and Amusements Act 1976 where the prizes cost less than £250 (and no cash prizes) and the tickets are sold and the winners announced at the event. The income from charity fund-raising events is now exempt from VAT **provided** that the public are aware the event is for charity **and** no more than 15 events of the same type, in the same location are run each year **or** the gross takings do not exceed £1000 in any one week. The income from ALL taxable trading (including charity fund-raising events) is now exempt from corporation tax **provided** the total **turnover** each year is:
  - ☉ less than £5000 or
  - ☉ the lesser of £50,000 or 25% of the charity's total gross income.

The income from the non-primary purpose part of mixed trading will be exempt from corporation tax if it does not exceed £50,000 during the financial year **and** non primary-purpose element has a turnover which is less than 10% of the turnover for the whole trade (including the primary purpose trading element)

**But note that if the turnover or income exceeds any of the limits above, then the whole of the income becomes taxable.**

## The Trading Arm

A charity wanting to run a taxable trading business that cannot take advantage of the above exemptions should set up a trading arm. This is a self-sufficient limited company whose shares are wholly owned by the charity **but** is run and financed independently. A trading arm can gift aid its profits back to the charity, but the charity should not use any of its money or resources to support or manage the company. So, although the charity's trustees can be directors of the trading arm, they should not be paid for this or allowed to be its employees or provide services to it in exchange for payment. If the trading arm occupies the charity's premises, it should be charged a full commercial rent for the space and pay full business rates. It should not borrow money from the charity on less than full commercial terms or buy goods or services from it at reduced prices.

In order to set up a trading arm, the charity must have a clause in its constitution giving the trustees a general power of investment, as a trading arm is potentially quite a risky form of investment. You should get independent legal and financial advice before you go ahead.

## Charities and VAT

VAT is charged on **taxable** supplies. There are five categories of VAT supplies but only standard-rated, reduced rate and zero-rated are **taxable** supplies:

- ⊗ standard rated (20%)
- ⊗ reduced rate (e.g. 5% on supplies of fuel and power)
- ⊗ zero-rated
- ⊗ exempt
- ⊗ non-business (outside the scope of VAT)

This means you can only register for VAT if you make **taxable** supplies. If the value of your **taxable** supplies exceeds certain levels in any 12-month period you **MUST** register for VAT.

For 2012/2013 this is £77,000.

### Examples of standard-rated supplies (1):

- ⊗ sales of goods or services
- ⊗ service charges for commercial properties let out to tenants
- ⊗ admission charges to premises or events

### Examples of zero-rated supplies (2):

- ⊗ protective clothing
- ⊗ food
- ⊗ publications and books
- ⊗ some types of aids for disabled people
- ⊗ from April 2000, charity advertisements in newspapers etc

### Examples of exempt supplies (3):

Non-profit or charitable supplies of:

- ⊗ welfare services
- ⊗ medical treatments
- ⊗ education and training
- ⊗ registered residential and care homes
- ⊗ Nurseries, crèches and playgroups provided under section 1 of the Childminders and Nurseries Act 1948
- ⊗ Non-profit-making transport for the disabled
- ⊗ Qualifying charity fund-raising events (see section on exemptions)

## Examples of non-business supplies, which are outside the scope of VAT (4):

- ⊗ Grants received or made
- ⊗ Donations
- ⊗ Free voluntary services
- ⊗ Below-cost supplies to relieve poverty or illness or disability

So, if you make supplies under 1 and 2 you may need to register for and charge VAT but not if you make supplies only under 3 and/or 4.

## What happens when you register?

- ⊗ You begin to charge VAT on all your **taxable** supplies
- ⊗ You make quarterly returns to HM Revenue and Customs of all the VAT you charge (**Output Tax**) and all the VAT you pay (**Input Tax**)
- ⊗ If the output tax is more than the input tax (you are collecting more VAT than you are paying) you pay the difference to HM Revenue and Customs.
- ⊗ If the input tax is more than the output tax (you are paying out more VAT than you are collecting), you can claim a refund of the difference from HM Revenue and Customs, in relation to your taxable supplies.

## Charities and Fundraising

The main types of fundraising used by charities apart from applying for grants:

- ⊗ appeals for donations including public appeals on TV and radio
- ⊗ jumble sales and fêtes including raffles
- ⊗ lotteries
- ⊗ using professional fundraisers
- ⊗ using commercial participators (e.g. Christmas cards and affinity credit cards)
- ⊗ trading through a trading arm
- ⊗ sale of donated goods in a charity shop

It is a criminal offence to fundraise for an organisation that is NOT a registered charity, by claiming or implying it is registered and to fail to state that you are a registered charity on fundraising, appeal and financial documents if the charity's income is more than £10,000 a year.

A charity can get an injunction (Court order) to prevent unauthorised fundraising.

## Using professional fundraisers

Professional fundraisers can only be paid for their efforts if the charity has signed a special form of written contract protecting it against exploitation. The Charitable Institutions (fundraising) Regulations 1994 set out what the contract must contain. Reputable fundraisers can register with the Institute of Fundraising which produces a model contract.

A professional fundraiser when soliciting for money or goods for a charity must state:

- ⊗ the 'notifiable amount' of their remuneration; and
- ⊗ the method by which their remuneration is to be calculated.

The 'notifiable amount' is:

- ⊗ the actual amount the charity will pay, if it is known, at the time the statement is made: or
- ⊗ if the actual amount is not known an estimate of the amount to be paid

They cannot deduct their expenses or fees from donations before they pass them on to the charity and they must produce full and proper accounts for all money raised.

## Commercial Participators

These are defined as businesses engaged in a promotional venture that involves fundraising for a charity. This might include selling goods or services where a proportion of the price or fee goes to a charity or co-sponsoring a charity event where the business's goods or services are also being sold. Again, there must be a proper contract in place in the correct form that requires the participator to deal openly and fairly with both the charity and the public. The public must be informed of:

- ⊗ how much (% or precise amount eg 10p) of the price paid for each product or service by consumers will be given to the charitable institution(s) concerned; or
- ⊗ how much of any other proceeds from a promotional venture will be given to the charitable institution(s) concerned; or
- ⊗ the sum of the donations given by the commercial participator to the charitable institution in connection with the sale or supply of the relevant goods or services.

## Paid Trustees or Paid Employees

Paid trustees and paid employees of charities are required to make a statement if they are soliciting for funds on behalf of a charity. These statements must include:

- ⊗ the position of the collector within the organisation;
- ⊗ that they are paid to be in that position;
- ⊗ the name of the organisation for which they are collecting.

These requirements do not apply to individuals who are paid less than £5 a day or less than £500 per annum. These requirements do not apply to unpaid trustees or volunteers.

## Public collections

These are regulated by the Charities Acts, and the House to House Collections Act 1939 and Regulations of 1947 and 1963. If conducted in a public place, public collections licences are administered through the police and local licensing authorities. They include telephone and radio appeals, newspaper appeals and mailshots, street and door-to-door collections and placing collecting boxes in shops etc. Before embarking on a public collection you should make sure:

- ☉ You have all the necessary licenses and permissions
- ☉ The cost of conducting the appeal justifies the funds you are likely to raise
- ☉ Your collectors all have proper identification and information for donors
- ☉ You have adequate security procedures for handling and accounting for the money raised.

## Organisations that can advise and help

### *On licensing matters:*

#### **Licensing Department**

East Riding Council  
County Hall  
Beverley  
East Riding of Yorkshire  
HU17 9BA  
Tel: 01482 39(3204)

### *On professional fundraisers*

#### **Institute of Fundraising**

Park Place  
12 Lawn Lane  
London  
SW8 1UD

#### **Telephone**

Main switchboard **020 7840 1000**  
Membership **020 7840 1010**  
Events **020 7840 1040**  
Press **020 7840 1044**  
Professional Development **020 7840 1020**  
Policy Helpline **0845 402 4771**  
Tax-Effective Giving helpline **0845 458 4586**

#### **Fax**

020 7840 1001

## ***On VAT – H.M. Revenue and Customs:***

National advice line (Lo-call) 0845 010 9000  
Textphone advice line Lo-call) 0845 000 0200  
Vat registration enquiries: 01472 245900  
Website: [www.hmrc.gov.uk](http://www.hmrc.gov.uk)

## **Useful publications**

- ***CC20 Charities and fundraising***
  - ***CC 35 Charities and Trading***
- both free from the Charity Commission.  
Tel: 01823 345427  
website: [www.charity-commission.org.uk](http://www.charity-commission.org.uk)
- ***Voluntary Sector Legal Handbook***
  - ***The Fund-raisers Guide to the Law***
  - ***Fundraising for Charities***
  - ***A Practical Guide to VAT for Charities and Voluntary Organisations***

Directory of Social Change  
Tel: 020 7209 5151 Fax: 020 7209 5049  
Website: [www.dsc.org.uk](http://www.dsc.org.uk)

- ***Trading by Charities (IR 2001)(free)***
- ***CS2 Trading by Charities***



For further information please contact:

Sian Broughton ACMA, CGMA, DChA, MAAT – Community Accountant  
East Riding Voluntary Action Services (ERVAS) Limited  
Telephone: (01482) 871077  
E-mail: [sian@ervas.org.uk](mailto:sian@ervas.org.uk)

Reviewed and Updated: 14/01/13