

FOR CHURCH LEADERS AND OFFICERS TO PULL OUT AND KEEP

Churches and Charity Law

The Government has now published its response to Lord Hodgson's review of the Charities Act. Of particular significance to Baptist churches is the decision to extend the excepting regulations for churches with an income under £100k; these regulations were due to expire in March 2014. This means that churches with incomes under £100k will not be required to register with the Charity Commission in the near future. The Government says:

We are inclined to take the view that now is not the right time to require smaller excepted charities to register with the Charity Commission. Our main concern is that to do so would impose an unnecessary regulatory burden on several thousand small charities at a time when many may be under pressure. We will set out our specific proposals once we have concluded discussions with the excepted charities representative bodies later this year.

The Government has stated that its preferred option is to extend the excepting regulations for a period of seven years, until 2021, but this is subject to consultation.

Other particularly noteworthy comments from the Government include:

- » They agree that the Charity Commission should not charge the charities it regulates
- » They agree that a system of fines for late returns to the Charity Commission should be developed
- » They favour the introduction of voluntary registration for those charities that are not required to be registered and will undertake a feasibility study on this
- » They welcome the Charity Commission's work to develop more effective partnerships with charity sector umbrella bodies

- as a means of supporting and improving compliance
- » Public benefit is best left to case law rather than for Parliament to attempt to define it in statute
- » It should be a matter of best practice rather than a legal requirement for trusteeship to be limited to three terms of no more than three years' service each
- » They agree that individual charities should adopt and publish internal procedures for disputes and complaints and that umbrella bodies are ideally placed to support charities with this
- » They do not agree that unregistered charities should be required to disclose this fact on correspondence and cheques.

The full report can be found here: www.official-documents.gov.uk/document/cm87/8700/8700.pdf

Charity trustees and decision making

The Charity Commission has published new guidance on decision making for charity trustees. This is relevant to the charity trustees of all churches, whether or not they are registered with the Commission. The guidance, *'It's Your Decision'*, explains the key principles of decision making that the courts and the Commission expect trustees to apply when they are making significant or strategic decisions about their charity.

According to the Commission, the principles deal with the important things that trustees need to get right, such as ensuring they have the relevant powers to carry out their plans, managing conflicts of interest, and making informed decisions based only on relevant considerations. The Commission says that following these principles will help to protect trustees if something goes wrong:

'Some decisions don't work out as the charity trustees intended but if the trustees can show that

they have applied and followed the principles in making their decision then it is unlikely that the courts or the Commission would hold them personally responsible to the charity for what went wrong.'

The guidance can be found here: www.charitycommission.gov.uk/detailed-guidance/trustees-staff-and-volunteers/its-your-decision-charity-trustees-and-decision-making

Charity trustees and financial responsibility

Charity trustees are reminded that they share legal and financial responsibility for the church. Financial tasks may be delegated to the treasurer but the other charity trustees need to retain oversight of the church's finances. They should be regularly updated on the church's financial position in order to take appropriate decisions. Accounts must be prepared on an annual basis and these need to be independently examined.

It is not appropriate for the treasurer, or anybody else, to count the weekly cash offering alone. This needs to be done by two people and the charity trustees must be sure that the cash is being banked. Cheque payments should require two signatories. These basic safeguards are important for all our churches.

Registered charities – submitting annual returns

Churches that are registered with the Charity Commission have to submit an annual return each year. This includes a formal statement of accounts, an annual report and the required level of external verification (eg an audit or independent examination).

You must submit your annual return no later than 10 months after your church's financial year ends. The Charity Commission has indicated

Investment returns and Christian faith are not mutually exclusive

If your Baptist church or charity is fortunate enough to hold investments, then you will know how important it is for them to return as much as they can. Most investment portfolios will hold company shares, but this is where it can become complicated for a Christian investor, for how can a church ever be confident that their investments reflect their own Christian faith?

Epworth's mission is to achieve above average investment returns whilst using Biblical principles to guide us in our investment decisions.

Call Christophe Borysiewicz **020 7496 3636** for a brochure or to discuss your Baptist church or charity's investment and ethical requirements.

Visit www.epworthinvestment.co.uk/ethics

Telephone **020 7496 3636**



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that in future it intends to take a harder line with charities that fail to do this.

Registered charities and public benefit

It is a legal requirement that every organisation set up for charitable aims must be able to demonstrate that its aims are for the public benefit. Churches that are registered with the Charity Commission have to explain to the Commission how they benefit the public and the Commission has written detailed guidance on this topic which charity trustees have a legal duty to read. This guidance has just been updated by the Commission and is available online here: www.charitycommission.gov.uk/detailed-guidance/charitable-purposes-and-public-benefit/charities-and-public-benefit/

There are three publications:
Public benefit: the public benefit requirement (PB1)
Public benefit: running a charity (PB2)
Public benefit: reporting (PB3).

However churches should note that neither the Baptist Union nor the Charity Commission expect any Baptist church to have any difficulty in being able to meet the public benefit requirements for religious charities.

Further information is available in BUC guideline leaflet C09 *Registered charities and public benefit* which can be found on the Baptist Union website.

Extension of the Listed Places of Worship Grant Scheme

The Government recently announced changes to the scope and operation of the Listed Places of Worship grant scheme; these changes came into effect on 1 October 2013. From this date, works to pipe organs, turret clocks, bells and bell ropes are eligible for claims under the scheme. More importantly, professional services directly related to eligible building work such as architects' and surveyors' fees are also eligible.

The changes to the scope of the scheme will be accompanied by administrative changes to simplify claiming:

- » In any 12 month period, each place of worship may submit one claim using eligible invoices with a value of less than £1000, but more than £500 (excluding the VAT paid). This is in addition to an unlimited number of claims where the value of eligible work carried out (excluding VAT) is £1000 or greater
- » Scanned or photocopied invoices are now accepted to support claims
- » The scheme will process payment runs each week to deliver a smoother flow of payments to applicants. This will result in most applicants receiving their grant more quickly.

Full details of all changes and how they will apply are detailed here: www.lpwscheme.org.uk

Food Standards Agency advice on food preparation by charity groups

The Food Standards Agency (FSA) has recently published 'Community and charity food provision - guidance on the application of EU food hygiene law'. The guidance offers two examples which will be of particular interest to churches where the FSA suggests that food provision is unlikely to require registration with the local authority:

- » **'A one-off event such as a church or school fete, or a street party is deemed not to have sufficient 'continuity'. However, organisers of large community events are advised by the FSA to contact their local authority for practical advice. Where several large events might be organised within a year, especially with complex food safety controls, then a 'degree of organisation' could be involved which might trigger a need for registration.**
- » **Daily small-scale provision of low-risk foods by charity volunteers is not deemed to have a 'degree of organisation' as it is low-risk and small-scale provision. However it does have 'continuity' and registration would be necessary if complex food safety controls are required or high-risk foods are served or if food is served to vulnerable people'.**

The FSA has also posted on its website a series of FAQs on food preparation at charity events. These are helpful and we have added them to the food hygiene section of the BUC guideline leaflet L10 *Health and Safety and Fire Precautions*, which can be found on the BUGB website.

Banking Receipts

We have been advised by our bankers that with effect from 2014, we will have to pay bank charges.

In order to help reduce our bank charges, we request that donations and subscriptions are paid by standing order or by bank transfer to our Home Mission account wherever possible.

Also to reduce postage costs could you indicate if you require an acknowledgement or receipt by post or email for any cheque donations sent to Home Mission.

Thank you for your support.

For further details, please email supportservices@baptist.org.uk.

New Baptist Pension Scheme Website and Pensions Newsletter

The new Baptist Pensions website went live on 25 November 2013. It's full of useful information about the pension scheme, with separate sections for Members and Employers. You'll also be able to download all the forms and documents you may need. You can find the site at www.baptistpensions.org.uk.

And we've just issued the first edition of *PensionWatch*, our new annual newsletter keeping you updated on the scheme and general pensions news. There are separate versions of the newsletter for Members and Employers and copies were posted out at the beginning of November. If you want extra copies, they can be downloaded from the new website or hard copies can be requested from the Pensions Office.

2013 Annual Returns and Disability Forms Reminder

Thank you to all churches who have returned their forms. For those who are yet to return, please do so as soon as possible by post to:

Annual Returns
Baptist Union of Great Britain
FREEPOST (SCE7366)
DIDCOT OX11 8BR

We are sorry that there is no facility to complete the Annual Return Forms online this year.

If you have lost your form, or do not recall receiving one, please email dmoore@baptist.org.uk as soon as possible, giving the name of your church, and a replacement form will be sent to you.

The Annual Return Forms will be added to the Extranet only for those Associations who request them. If you have not already requested Extranet access to the returns for the churches in your Association, please email rtole@baptist.org.uk.

Safeguarding Issues

DBS Forms are no longer available from the Didcot offices; please contact your local association office to obtain supplies.



Taxation Topics

Gift Aid Relief and Small Donations top-up payment

Treasurers need to refer to document FGA04 *Making a claim for a 'Top-Up' payment for small cash donations* on the Baptist Union website for important guidance on the completion of online claims. At the time of writing this column we are waiting to hear whether HM Revenue and Customs (HMRC) has retracted its astonishing contention that all Baptist churches are under 'common control' and therefore 'connected'.

HMRC's view is completely without legal foundation and at variance with its previous acknowledgment of the autonomous nature of each Baptist church. Whilst I am certain that HMRC will eventually correct its misunderstanding it is important that care is taken in the way that claims are submitted and reference should be made to document FGA04. Updates will be posted on the website.

Renting manse accommodation

If a church does not have its own manse it may choose to lease a property (either from a third-party landlord or the minister) or to pay a housing allowance. When a property is leased from a third party landlord it is essential that the agreement be in the name of the church, not the minister, and that the rent be paid directly by the church to the landlord. In these circumstances the tax exemption on the benefit of provided accommodation will apply as it does in the case of a church-owned manse. Payments of council tax and water charges made by the church will also be exempt from tax.

If, however, a housing allowance is paid to the minister, or rent payable by the minister is paid or reimbursed by the church, the exemption will not apply and the housing allowance or rental payment must be treated as additional pay for tax and national insurance contribution (NIC) purposes.

Application for a form P11D dispensation

Applications for a P11D dispensation can now be made online but treasurers may find the draft form set out in document FTG02 *Gift Aid Declaration Form from Churches* on the Baptist Union website a helpful guide in making application.

Manse accommodation provided for a minister in training

Churches are reminded that where a church provides manse accommodation for a minister in training, the benefit is exempted from tax in the same way as accommodation provided for a minister. Please refer to section 1 of F06 *Taxation Guidelines for Churches and Ministers* on the Baptist Union website for further information.

Student and intern training

Where a church provides an unpaid training opportunity for a student or intern it will usually be possible to pay a tax-free bursary to assist with living expenses, but only if it is clear that the individual is not being paid for services rendered to the church. A training contract should be prepared, a draft form of which can be provided on request.

Reimbursed manse lighting and heating expenses

For the avoidance of doubt, where a church reimburses all or part of the manse lighting and heating expenses paid by a minister, there is no liability to NIC, either Class 1 or Class 1A. The reimbursement will give rise to a taxable benefit (unless stipend and any taxable benefits total less than £8,500 pa) which has to be reported (at section N) of form P11D, but the minister is able to claim in his or her tax return a deduction for church-business use of up to 25% of the total expenses incurred.

Pre-retirement course

Some years ago HMRC indicated that the expense borne by a church on behalf of a minister attending our Union's pre-retirement course could be treated as an exempt welfare

benefit and I am not aware of any reason why this view should have changed.

Relocation costs

It needs to be emphasised that it is only specific qualifying relocation costs (up to a limit of £8,000) which may be reimbursed to a minister without giving rise to a taxable benefit. A round-sum payment or allowance will be taxable. Qualifying expenses include legal and agent's costs, stamp duty, replacement of soft furnishings and fittings not suitable for transfer, in addition to the actual costs of removal.

Premature termination of a ministry

Occasionally it becomes necessary for a ministry to be prematurely terminated in the best interests of church and minister. Provided the termination arrangements are properly structured and evidenced, any resultant payment of compensation ought not to give rise to income tax or NIC.

PAYE Real Time Information

Having received few enquiries or pleas for help since RTI came into operation it would seem that the system is working pretty well. There are extra reporting requirements in relation to the submission of the final end of tax year FPS and helpful information can be found in HMRC's guidance notes: *What payroll information to report – End of Year information* – the link to which is: www.hmrc.gov.uk/payerti/reporting/what-to-report.htm#9

Treasurers' page on the Baptist Union website

Following the redesign of the Baptist Union of Great Britain website, a new area specifically for treasurers has been created. Please check here for relevant updates and guidance between issues of *Transform* www.baptist.org.uk/treasurers

[If you have questions on these Taxation Topics, please email the author at philipjcooke@aol.com stating under 'Subject': Tax query and the name of the church.]

These notes are offered to provide general information for Baptist churches. We hope they will be helpful in highlighting new guidance and providing reminders about other important matters relating to the life of a local Baptist church. Although every effort is made to ensure that the information is correct at the time of publication, we make no representations, warranties or guarantees (whether express or implied) that the information is accurate, complete or up-to-date. Further, these summary notes are not intended to amount to advice on which you should rely and cannot be a substitute for formal professional or specialist advice. We do not assume and will not be liable to any party (who has either taken or refrained from taking action in reliance on these notes) for any loss or damage caused by errors or omissions, whether resulting from negligence or any other cause. If you want to ask detailed follow-up questions, please contact us through the Baptist Union website.