

## Charities and corporation tax

**HMRC is asking 3,000 charities and a random sample of community amateur sports clubs to send in a corporation tax return, likely motivated by its concerns over the extent of incorrect Gift Aid claims.**

**Susan Shi** explains the background and how affected charities and CASCs should respond.



**Susan Shi** Associate

T: 020 7551 7902  
s.shi@bateswells.co.uk

Susan is an associate in our Charity and Social Enterprise department, working on a mix of charity and charity tax matters. She completed her training contract at another city firm and qualified in their Tax department in September 2016. She joined Bates Wells in February 2018.

Earlier this year, HMRC officials stated that they would be writing to 3,000 charities to request that they complete a Company Tax Return for the tax year running from 6 April 2018 to 5 April 2019. HMRC will be targeting the 3,000 charities with the largest Gift Aid claims, in order to assess whether to conduct a Gift Aid audit. It will be sending the same request to a random group of several hundred CASCs (community amateur sports clubs).

Some charities have already received this letter, and the Charity Tax Group has provided an example on its website (<https://www.charitytaxgroup.org.uk/news-post/2019/charities-notified-hmrc-future-tax-return-requests/>).

The effect of the letter is to notify the charity that it should expect to receive a formal request for a Company Tax Return from HMRC in the near future. The letter is not a formal request in itself.

Charities do not often pay tax, as their income streams are generally tax exempt. However, charitable companies, charitable unincorporated associations and charitable incorporated organisations (CIOs) are required to complete and submit corporation tax returns if: (1) they have non-exempt taxable income on which corporation tax would be due, or (2) HMRC issues a request for a Company Tax Return.

In the tax return, the charity will need to state what tax exemptions they currently claim, and whether they have any non-exempt income on which corporation tax is due. Any income that has not been applied for qualifying charitable purposes will also need to be disclosed.

The deadline for filing this tax return will be the later of:

- the date which is 12 months after the end of the charity's accounting period for corporation tax; or
- three months after the date on which HMRC sends the formal request for a tax return.

### Background

While HMRC has not given detailed reasons for making these requests, the likely background is HMRC's general concerns over Gift Aid. HMRC estimates that £180m of Gift Aid is being incorrectly claimed in respect of non-taxpayers.

We also have a number of recent examples of HMRC writing to charities to query their overseas expenditure. HMRC seems to be focusing in particular on religious charities with operations overseas. Under tax legislation, charities which spend money overseas must ensure that they have taken steps that HMRC would consider are reasonable in the circumstances to ensure that those funds are spent for exclusively charitable purposes. Failure to do so means that the charity stands to forfeit charity tax reliefs on an equivalent amount of its income, for which the trustees can be personally liable. HMRC's guidance on this point is at <https://www.gov.uk/government/publications/charities-detailed-guidance-notes/annex-ii-non-charitable-expenditure#payments-to-overseas-bodies>.

### What this means for your charity

We would recommend that if your charity receives a letter about the Company Tax Return from HMRC, you should speak to your advisers.

### FIND OUT MORE

Guidance on how to complete the Company Tax Return is available here: [https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment\\_data/file/799330/CT600\\_Version\\_3\\_guide\\_19\\_V3.pdf](https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/799330/CT600_Version_3_guide_19_V3.pdf).

The Charity Commission also provides useful guidance here: [https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment\\_data/file/353108/Charities\\_and\\_corporation\\_tax\\_returns.pdf](https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/353108/Charities_and_corporation_tax_returns.pdf).