



INFORMATION SHEET

DO YOU NEED TO BE A CHARITY?



Do you need to be a charity?

It is not necessary for your community group or voluntary organisation to register as a charity. You may not be eligible if you are not doing good works for those outside your membership or you are involved in political or controversial activity.

If you wish to call yourselves a charity the minimum requirements for registration are that a charity must have one or more of the following:

- An income of more than £5000 a year, or
- The use or occupation of any land or buildings, or
- Assets which constitute permanent endowment (ie where there is a restriction on the expenditure of the capital and (normally) only the income can be spent on the charity's purposes)

Set out below in brief are the advantages and disadvantages of achieving charitable status, which for most practical purposes means achieving registration with the Charity Commission as a charity.

Advantages

Tax

There is a double advantage in that registered charities enjoy certain tax exemptions, and there are tax reliefs for taxpayers who make donations to charity.

Relief from Income Tax

- Tax exemption for income derived by a charity from its investments (eg property, shares, securities) where the income is applied for charitable purposes;
- Tax exemption for profits derived from certain types of trading activity namely where either;
 - (i) The trade is exercised in carrying out a primary purpose of the charity, or
 - (ii) The work in connection with the trade is mainly carried out by beneficiaries of the charity and in either case the profits are applied solely for the purposes of the charity. This tax exemption must be claimed

Relief from Capital Gains Tax

A charity is exempt from CGT on gains accruing to it which are applied for charitable purposes.

Relief from Corporation Tax

A charitable corporation enjoys the same tax exemptions as those enjoyed by trustees of unincorporated charities in relation to its income and gains.



INFORMATION SHEET

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Relief from Inheritance Tax

Gifts and undervalue transfers to charity are exempt from IHT subject to anti-avoidance provisions.



INFORMATION SHEET

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Relief from Stamp Duty

Exemption from stamp duty applies to any conveyance, transfer or letter to a charity.

Donations

Individual and corporate donors to a charity may be entitled to tax relief for donations made.

Business Rate Relief

Charities are entitled to 80% business rate relief on any premises they occupy. This can be extended to 100% at the discretion of the local authority.

VAT

Charities do not enjoy any special exemptions from VAT by virtue of their status.

Other Advantages

- Being registered as a charity demonstrates that the organisation is a charity in law and therefore subject to the Charity Commission's jurisdiction. This may enhance in the public a sense that the organisation is reputable. It will also enable the trustees to seek advice and assistance from the Charity Commission.
- Charities can apply for grants from trusts/donors who have a policy of giving only to charities. A registered charity has more chance of gaining access to and securing funds from central government, local government, and EU and grant-making charities.

Disadvantages

- Charities must comply with charities legislation (imposing, for example, strict requirements on the keeping and filing of accounts).
- Most charities are subject to the jurisdiction of the Charity Commission. The Charity Commission can institute formal enquiries in cases of misconduct/mismanagement and has wide powers including the removal and replacement of trustees.
- Charities must produce an annual report and annual return. In practice this is little different from the requirements for companies, but very different to those for any other non-charitable organisation.



INFORMATION SHEET

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- Charity trustees may not generally benefit personally, whether through receipt of a salary or of profits or otherwise.
- Personal liability of charity trustees for misappropriation of funds.
- Charities are restricted in that their objects must be exclusively charitable and they cannot, except in certain circumstances, carry out or fund activities or undertake permanent trading which falls outside those objects. To overcome this, a separate non-charitable subsidiary company is often established to carry out such activities, and covenants its profits to the parent charity.

Further information can be found at: www.charity-commission.gov.uk – guidance sheet CC21

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