

New charity start up information pack



Who are Azets?

Overview

Azets is one of the UK's fastest growing accountancy firms with over 80 offices across the country. We have worked with a wide variety of organisations for nearly 50 years.

Our service is centred around your objectives and we pride ourselves in working in partnership with clients helping them to add value by helping you achieve your business and personal goals. It's about listening, being an appropriate challenge and being there when you need us. We choose to deliver our services at a local level with the insight that only comes from being part of local communities.

Our promise

- To consistently deliver fully compliant accounting, audit and taxation services in line with your timetable and regulatory requirements.
- Provide impartial opinions based on experience and current best practice.
- Direct access to the relationship partner throughout the engagement period.

Experience: charities

Each office of Azets is part of its local community and Azets have worked with charities for many years. We currently act for more than 1,000 charitable and not for profit organisations. These charities operate within a variety of areas, including cultural, education, leisure, benevolent, religious and grant making. As part of our support for our charity clients, we produce regular briefing papers and we host a annual Charity Conference which covers a wide variety of charity-related topics, attracting between 120 and 180 representatives from charities each year.

Corporate social responsibility

We are committed to our corporate social responsibility. In addition to KickStart, a national campaign to support young entrepreneurs, individual offices undertake a variety of fundraising and volunteering activities to support the work of local charities. Where possible we also encourage members of the team to hold positions within local organisations, for example as charity trustees or school governors.

We participate in a number of careers events and offer work experience placements to encourage those considering accountancy as a long term career. Some offices have also been recognised for the environmental work they have done, winning a number of awards.

Introduction

There are many things to think about when setting up a new charity. This document sets out some of the questions that may need to be asked and some information about the possible options.

It is important to take appropriate advice at the right time, and for some of you that may mean legal advice. This document gives an outline of some of the key issues to consider, but should not be taken as being fully comprehensive.

There are potential advantages to being a charity, for example:

Financial Benefits

- a) exemptions from income and corporation tax on most types of charitable income;
- b) potential for Gift Aid on donations made by UK taxpayers;
- c) charities pay no more than 20% of normal business rates on occupied buildings; and
- d) special VAT treatment in some (limited) circumstances.

Perception

Being a registered charity generally makes it easier for your charity to:

- a) raise funds from the public, grant-making trusts and local government;
- b) represent and help the needs of the community; and
- c) give donors and beneficiaries confidence that your charity is legitimate and working within a regulatory regime.

What is the right legal structure for our new charity?

There are a number of possible options for the legal entity that can be used for a charity. Key questions to be asked in choosing the right structure for you are:

- a) do the Trustees want the benefit of limited liability status?
- b) will the Trustees be the same as the Legal Members of the charity?
- c) Is the charity ever likely to want to borrow money?

Below is a summary of the main forms of charity, together with some of their key features:

	Unincorporated	Charitable Company	Charitable Incorporated Organisation (CIO)
Registered with	Charity Commission (unless excepted, exempt, small)	Charity Commission and Companies House	Charity Commission
Members	N/A	Members and Trustees, which may be the same group of people, depending on your Articles of Association	Members and Trustees, which may be the same group of people, depending on whether you have a 'Foundation' Model or 'Association' Model
Property	The charity cannot hold property directly	The charity can hold property directly	The charity can hold property directly
Trustee Liability	Unlimited	Limited	Limited
Accounts	Must be filed with Charity Commission if income is above the threshold	Must be filed with Companies House and Charity Commission	Must be filed with Charity Commission
Register of charges (security for lenders)	N/A	On public record at Companies House	No public record
Other comments			This is the only legal structure where the governing legislation was written specifically for charities

Why setup a charity?

This may sound like a silly question, but why do you want to set up a charity?

What are you trying to address?

- a) Can you define what you are going to provide?
- b) Is that help covered by one of the Charitable Objects defined in Charity Legislation?
 - the prevention of relief or poverty
 - the advancement of education
 - the advancement of religion
 - the advancement of health or the saving of lives
 - the advancement of citizenship or community development
 - the advancement of the arts, culture, heritage or science
 - the advancement of amateur sport
 - the advancement of human rights, conflict resolution or reconciliation or the promotion of religious or racial harmony or equality and diversity
 - the advancement of environmental protection or improvement
 - the relief of those in need, by reason of youth, age, ill-health, disability, financial hardship or other disadvantage
 - the advancement of animal welfare
 - the promotion of the efficiency of the armed forces of the Crown, or the efficiency of the police, fire and rescue services or ambulance services;
 - other purposes currently recognised as charitable and any new charitable purposes which are similar to another charitable purpose.
- c) Can you define who you are going to help (the charity's beneficiaries)?
- d) Will you be carrying out those Charitable Objects for the 'Public Benefit'? (see notes opposite)

Who else is trying to address those needs?

- a) The Charity Commission would encourage you to consider whether it would be in the best interests of your beneficiaries, if you worked alongside an existing organisation.
- b) The project may be more sustainable if the work is joined up with someone else - both for you and the other organisation.

Operating two charities

If you are already running a charity, and you are considering a new one to do something slightly different, consider whether the existing charity can be used, or maybe whether your Charitable Objects can be expanded to cover the new piece of work?

There is additional work involved in running two charities, for example: separate financial records, separate year end accounts, insurance cover, payroll etc. and you have to ensure there are clear lines of separation.

Is what you're considering financially viable?

Becoming a charity is unlikely to mean that you are suddenly going to attract income. Funders and donors are generally inundated with requests for money - and often they may favour an existing organisation with a proven track record over a newly established one.

Is charity definitely the right type of entity?

You may wish to consider whether a charity is the right form of entity at all. Charitable status brings with it a number of benefits, but there are also a number of restrictions that come with those benefits. So, it is important to consider whether, for example, a Community Interest Company, or even a normal trading company is more appropriate. Here is a summary of the key features of each type:

	Charity	Community Interest Company (CIC)	Company
Registration	Charity Commission (& Companies House)	Companies House & CIC Regulator	Companies House
Trading	Charitable purpose	Community benefit	No restrictions
Who benefits?	Community	Members investors, community	Members
Entity type	Limited by guarantee	Limited by guarantee / Limited by shares	Limited by shares
Assets	Assets can only be used for charitable purposes	Asset lock for the community	No restrictions
Remuneration	Trustees remuneration is limited	Reasonable remuneration for directors	No restrictions

What is Public Benefit?

There are two principles to the concept of public benefit as follows:

- 1) There must be an identifiable benefit or benefits
 - It must be clear what the benefits are
 - The benefits must be related to the aims
 - Benefits must be balanced against any detriment or harm
- 2) Benefit must be to the public or a section of the public
 - The beneficiaries must be appropriate to the aims
 - Where benefit is to a section of the public, the opportunity to benefit must not be unreasonably restricted by geographical or other restrictions or by ability to pay fees charged
 - People in poverty must not be excluded from the opportunity to benefit
 - Any private benefits must be incidental.

It is important to note that just because you have a charitable objective, that does not automatically mean that you can be a charity. That charitable objective must be being delivered for the 'Public Benefit' and if you are unable to demonstrate Public Benefit then you cannot be a charity.

It is also important to note that if you are a charity for the advancement of education, that charity cannot also advance religion, as that would be outside of its objects. It could however have 2 charitable objects, one for advancing education and another for advancing religion.

What is the process?

If having read the previous questions, you are satisfied that a charity is the right path to take, what happens next?

Firstly you need to work out whether you do actually have the register with the Charity Commission.

A charity must register with the Charity Commission if its income is greater than £5,000 unless it is exempt or excepted from registration. The exemptions generally relate to charities that are governed by another body or “Principle Regulator”, for example Academy Schools are exempt charities as they are governed by the Department for Education. Excepted charities include some churches within mainstream denominations and organisations like Scout groups, that are overseen by another body that has been approved by the Charity Commission

Assuming you do have to register, the Charity Commission have tried to make the process as easy as possible, providing lots of guidance and model documents for you to use. This means that in many instances you do not need to involve a lawyer or accountant and potentially incur cost. You do however need to ensure that the model documents are appropriate to your particular circumstances and there may be occasions where you need to take professional advice

Agree what the name of the charity will be

This is often the hardest decision! It is worth considering whether there is another company / charity / website that already uses that name.

Define your charitable objects

Once set, these cannot be changed, without permission of the Charity Commission, and that permission will only be granted if they are not changed significantly or any funds held at the time of the proposed change are restricted to the original objects.

Example charitable objects can be found at:
www.gov.uk/government/publications/example-charitable-objects

Decide on what legal structure you require

If you are an incorporated charity, decide on who the Legal Members of the charity will be, or if they will always be the same as the Trustees.

Decide on who the Trustees of the charity will be

As a minimum, your charity should have 3 trustees. There is no upper limit to the number of trustees you can have, but having too many may make it difficult to make decisions. Ultimately, the number of trustees should reflect the skills and diversity required to lead your organisation effectively.

There are restrictions on who can be Trustees (see next page) and you can add Trustees after the charity has been formed.

Online registration

You will need to register online via the Charity Commission website. This will include questions such as:

- Describing how the organisation's purposes are for the 'public benefit' e.g:
 - who will benefit?
 - how will they benefit?
 - is there any detriment or harm resulting from the purpose?
- Describing how the Trustees will carry out the purpose for the public benefit.
- Describing how the Trustees will manage risks of harm to the public / beneficiaries.
- Describing how the Trustees will make decisions about who can benefit.
- Describing how the Trustees will ensure that personal benefits are no more than incidental.
- Describing how, if the organisation charges for its services and facilities, those unable to pay can still benefit.
- Provide evidence of income in excess of the £5,000 limit and potentially details of a bank account.

Once you have submitted your application, the Charity Commission will consider the information and if they are satisfied that you meet the criteria for being a charity, they will issue a Certificate of Registration and you are officially a charity.

It is common however, for the Charity Commission to come back with questions to clarify information submitted or to ask for additional information. If everything runs smoothly this process should take between 2 and 8 weeks, but can take longer if there are many questions.

Additional note for charitable companies

If you have opted for the charitable company legal structure, before finalising the Charity Commission's online registration process, you will need to have agreed your Articles of Association and incorporated the company at Companies House. There are a number of online agents who can do this for you, or you can use your accountant.

This can mean, that if the Charity Commission reject the charitable objects set out in your Articles of Association, you would need to amend them with Companies House prior to the Charity Commission registering your charity.

Trustees

The Charities Act now defines Trustees as being “the persons having the general control and management of the administration of a charity”. Some charities call this group something different, for example management committee, but anyone fulfilling this role, is a Trustee for the purposes of charity law.

Who can be a Trustee?

You cannot serve as a charity Trustee if you are on this list:

- Under 18 years old (age 16 if you are a charitable company)
- Unspent conviction involving deception / dishonesty
- Insolvent / undischarged bankrupt
- Convicted of a serious offence involving children
- Removed from Trusteeship by Court or Charity Commission
- Disqualified from being a Company Director
- Unable to manage their own personal business affairs

How do you confirm a Trustee appointment?

You will need signatures from Trustees on various documents for the registration process, including confirming they are willing to act as a Trustee.

It is good practice for charities to obtain a declaration from new Trustees that they are eligible to act i.e. that they are not on the above list.

There may of course be additional requirements for Trustees, for example DBS checks for those dealing with children or vulnerable adults.

What do Trustees have to do?

Trustees have 3 core duties:

- A duty of compliance i.e. to ensure that you comply with charity law and other relevant regulatory requirements, for example safeguarding and with your governing document.
- A duty of prudence i.e. to protect the charity’s assets and to use them ONLY for reasons consistent with your charitable objects. It is also important to ensure that financial procedures and controls are adequate and appropriate to your charity.
- A duty of care: Trustees are collectively responsible for what happens and they have to act with ‘reasonable’ care and skill at all times, and consider taking (and acting on!) professional advice where appropriate.

What skills to look out for

There are many aspects to life as a charity, and so it is advisable to get a good mix of skills on your Board of Trustees, for example:

- Those who understand the sector you are working in.
- Maybe representatives of beneficiaries, although there are issues and potential conflicts of interest to be considered.
- Representatives from other organisations you may be working with, although again, beware that there can be potential conflicts of interest.
- People with particular skills, for example financial, legal, HR...

Can we pay Trustees?

‘Yes’ - and ‘No’. A basic premise for charities is that Trustees should not benefit from their work as Trustees and therefore Trustees should not be paid. However, your governing document, may allow payment to be made for other duties that they perform, for example someone may be allowed to be an employee with other responsibilities as well as being a Trustee.

Trustees are allowed to be reimbursed reasonable expenses, which, unlike for employees, includes travelling from home to the charity. Whether your charity has a policy of paying such expenses is a different matter.

Whatever payments are made, care must be taken to ensure that there is a transparency to the arrangement – and indeed it may require disclosing in your annual accounts, which go on public record.

Can Trustees get sued if something goes wrong?

This is a common question, and does cause Trustees some anxiety. There is a legal separation between the Directors as individuals and the company, for example if one of your company’s products brings harm, the action from the third party will generally be against the company.

However, Directors may incur personal liability, both civil and criminal, for their acts or omissions in directing the company. Examples include:

- Where you are aware, or should have been aware, that the company is trading while insolvent. However, you will not be made personally liable in circumstances where you can show that you took every reasonable step prior to the liquidation to minimise the potential loss to the company’s creditors.
- Where you are found to be guilty of wrongful or fraudulent trading
- Health and safety law places duties on organisations and employers, and Directors can be personally liable when these duties are breached
- A failure to comply with companies legislation regarding the filing of documents with Companies House

The incidence of Trustees being sued is very low, however, there are a number of ways in which it is wise to protect yourself:

- Ensure that you follow the ‘key duties’ noted above.
- Incorporate your charity – if your charity is ‘unincorporated’, consider converting into a charitable incorporated organisation or charitable company in order to put legal separation between a charity and its Trustees.
- Insurance – your policy should be relevant to your organisation, and you may wish to include Trustees indemnity insurance.

New legislation is also expected that will provide further protection to those acting in the best of their ability for the benefit of others. Of course, if you are deliberately fraudulent, you will not be protected!

What will the Charity Commission expect from us?

In 2017 a Charity Governance Code was published. The code is not a legal or regularity requirement, but it sets out principles and recommended practice for good governance within charities. The code is deliberately aspirational and therefore a tool to be used for continuous improvement towards the highest standards.

Foundations

The Code's starting point is that all trustees:

- are committed to the charity's cause
- recognise the need to meet the ongoing public benefit
- understand their roles and legal responsibilities (and have read CC3: The Essential Trustee and the charity's governing document)
- are committed to good governance and want to contribute to the charity's continued improvement

Principle 1: Organisation purpose

The board is clear about the charity's aims and ensures that these are being delivered effectively and sustainably. Recommended practice includes:

- A periodic review of charitable purposes to ensure they remain relevant and developing a strategy to achieve those purposes.
- Being able to explain the charity's public benefit and evaluate impact and outcomes.
- Consideration of financial sustainability, partnership working and the broader responsibilities towards communities and stakeholders.

Principle 2: Leadership

Every charity should be headed by an effective board that provides strategic leadership in line with the charity's aims and values.

Recommended practice includes:

- Clarity of roles of trustees and the Chair.
- Recognising and respecting diverse and conflicting views of trustees, while taking collective responsibility for decisions.
- Proper arrangements for the recruitment, support and supervision of staff and volunteers

Principle 3: Integrity

The board acts with integrity, adopting values and creating a culture which helps achieve the charitable purposes and is aware of the need for public confidence and trust in charities. Recommended practice includes:

- Adopting a code of conduct and expected standards.
- Considering how the charity is perceived by others and managing potential conflicts of interest and conflicts of loyalty

Principle 4: Decision making, risk and control

The Board makes sure that its decision making processes are informed, rigorous and timely and that effective delegation, control and risk-assessment and management systems are set up and monitored.

Recommended practice includes:

- A documented delegation framework and terms of reference for committees.
- Regular review of third party suppliers and key policies and procedures.
- Financial monitoring.
- Actively managing risks.

Principle 5: Board effectiveness

The board works as an effective team, using the appropriate balance of skills, experience, backgrounds and knowledge to make informed decisions. Recommended practice includes:

- The Board work as an effective team and regularly review their skills, knowledge and experience.
- Clear and transparent procedures for the recruitment of trustees.
- Appropriately resourced induction of trustees.

Principle 6: Diversity

The Board's approach to diversity supports its effectiveness, leadership and decision making. Recommended practice includes:

- Positive effort to prevent obstacles to people being trustees.
- Regular review of skills, experience and diversity of the Board.

Principle 7: Openness and accountability

The Board leads the organisation in being transparent and accountable.

The charity is open in its work, unless there is good reason for it not to be.

Recommended practice includes:

- Communicating and consulting effectively with stakeholders.
- Developing a culture of openness within the charity.

Other key messages from the Charity Commission include:

Conflicts of interest

Charities have to be transparent when it comes to potential conflicts of interest, and they should have a policy setting out how they deal with this issue.

Trustees should be asked to complete a declaration of interests so that the charity can identify whether there are any potential conflicts between the charity and other business interests of Trusteeships that you may have. It is important to note that conflicts can and do arise and in most circumstances there is nothing wrong with that (and indeed it is often inevitable), but the charity must have procedures to ensure that the potential conflict does not affect the Trustees acting in the best interests of the charity.

Investigation reports

The Commission undertake investigations into a number of charities each year. Some of the common themes are as follows:

- Accounts on time: accounts must be filed with the Charity Commission within 10 months of the year end. Increasingly the Commission is taking action against those charities that fail to do so.
- Conflicts of interest: unfortunately, a number of trustees do not adhere to the strict rules regarding the boundary between charity and private. One of the key aspects of charities is that the Trustees should not benefit from their role, and where they do the Commission will act.
- Undue influence: where one party, for example an individual Trustee or funder, exerts undue influence over the charity, the Commission will act.
- Safeguarding issues.
- Lack of proper governance.
- Financial indicators: the Charity Commission will occasionally look at a specific issue and advise relevant charities of action that may need to be taken, for example:
 - Net current liabilities - where current liabilities exceed current assets on your balance, this may indicate that you are struggling to pay your creditors as they fall due. Charities are advised to actively monitor this and report and corrective action that is being taken in their trustees' report.
 - Pension deficits - some charities participate, or used to participate, in final salary pension schemes. For some this means there is a potential liability to cover the cost of those pensions, and charities need to plan how they may address that.

Financial information

Forecasts: income and expenditure

It is good practice for any organisation to plan ahead when it comes to finances, and the same is true for charities. Each year a charity should set a budget for the coming year, and if circumstances change significantly during the year a revised forecast should be produced.

Management accounts

It is important to monitor a charity's finances during the year, and not wait until the end of the year. Sometimes, one of the factors leading to the failure of a charity, is a lack of reliable monthly financial information.

A series of checks should be undertaken each month to ensure that the accounts balance. Specific checks may vary between organisations, but some of the key ones are:

- A reconciliation of the bank balance per the statement to what is recorded in the accounts, for all bank accounts.
- A review of debtors to ensure that they remain valid, and to be able to chase any older debts.
- A review of creditors to ensure that they remain valid.
- A review of accruals and prepayment to make sure that timing differences are dealt with appropriately.
- A reconciliation of PAYE/NIC due to HMRC to the balance in the accounts.
- A reconciliation of VAT due to HMRC to the balance in the accounts.

The format of management accounts is very important, and particular factors to consider are:

- Comparison against budget.
- Comparison against the prior year.
- How are timing differences between when income arrives / expenditure is paid and the period to which it relates dealt with?
- What are the trends in income and expenditure over a period of time?
- What are the balances on individual funding streams? Do all restricted funds still have a positive balance? Is there a danger of underspending a restricted grant and having to repay it to the funder?

Be prepared to work with the person producing the financial information to ensure it is meaningful to the other trustees – and be prepared to ask 'silly questions' when things do not look quite right.

Many charities use online accounting software to maintain their financial records. This can bring a number of efficiencies into the process; for example linking bank accounts and scanning in supporting invoices and receipts.

Year end accounts

Charities must prepare annual accounts, although smaller charities may be entitled to prepare simplified accounts on a 'receipts and payments' basis and they may not have to file them with Charity Commission. Generally,

however, charities have 10 months within which to prepare and file their accounts.

Your accounts may also need to be checked by someone else: this may be an external audit, by a Registered Auditor, of if your income is below £1,000,000 you may be able to opt for a lower version of scrutiny, called an Independent Examination. This can be done by a firm of accountants, or by someone who has the appropriate level of experience and knowledge. Very small charities may have no obligation for external scrutiny.

Charity accounts can be complex, and it is important that whoever is helping you, has the appropriate skills to do the work properly. At Azets, we try to explain them as simply as possible, while making sure that Governors are aware of the numbers that are important.

External audit/independent examination

Different types and sizes of charities have different requirements in respect of external scrutiny. Smaller charities do not need anyone external to look at the accounts, although some still choose to.

Larger charities require a full external audit by a firm of accountants who are also Registered Auditors. This is a detailed review, governed by set Auditing Standards where the auditor gives an opinion on whether the accounts give a true and fair view.

A lower level of scrutiny is the independent examination. This should be undertaken by someone with the appropriate level of skills, but instead of giving a positive opinion, they effectively say that they have not come across anything that would suggest the accounts are wrong. Many charities who are eligible choose this option, as generally it is cheaper than a full audit.



Financial information

Types of funds

One of the key numbers for charities is the level of reserves (or funds), as this is an indicator of how sustainable the charity is, or how long you have to survive / adapt if a funding stream ceases. Indeed charities are required to have a reserves policy i.e. what level of reserves do the Trustees believe is appropriate to retain, balancing the need to spend what has been given for the purposes for which it has been given against the need to be prudent and being prepared for the 'rainy day'. And there are different types of reserves:

- Unrestricted: available for any use within your charitable objects.
- Designated: money that the Trustees have set aside for a particular purpose – which they can choose to 'un-designate' if circumstances change.
- Restricted: where the person giving the money has said you must spend it on a particular purpose. This restriction cannot be undone by the Trustees, and can only be changed with the permission of the donor or the Charity Commission.
- Endowment: funds of a more permanent nature.

So, it is important to keep an eye on the balance on the different types of funds and ideally make sure that they all remain positive and that you are not 'borrowing' cash from restricted funds to cover unrestricted expenditure.

The surplus or deficit in a year on the different types of funds will show which funds are increasing and which are declining.

Year end timetable

A typical year end time table will be as follows:

- **1 month before the year end**
Agree the timetable with your trustees and your accountants
- **At the year end**
Undertake stocktake if applicable
- **1 month after year end**
Year end management accounts and reconciliations to be prepared
- **2 months after year end**
Submit papers to your accountants / auditors
Draft the Trustees' Report to accompany the accounts
- **3 - 4 months after year end**
Trustees to approve the accounts

- **5 – 6 months after year end**
AGM
- **9 months after year end**
Accounts to be filed at Companies House
- **10 months after year end**
Accounts to be filed at Charity Commission
Annual return to be filed at Charity Commission

Charity Commission annual return

In addition to filing accounts with the Charity Commission, you are required to complete an annual return. The number of questions will depend on the size of your charity but could include:

- a summary of income and expenditure
- some details about the sources of income, including overseas income
- arrangements with professional fundraisers / commercial participants
- some details about expenditure and in particular, the method of payment and monitoring controls for overseas payments
- whether certain policies and procedures exist, in particular risk management, financial procedures and safeguarding
- details of remuneration and other transactions with trustees
- some salary information
- whether there have been any serious incidents in the year.



Employees

Will the charity employ people?

If yes, you will need to set up a payroll scheme with HMRC.

How do I manage a payroll?

Every time you run a payroll, information needs to be submitted electronically to HMRC (called Real Time Information).

To do this you will need to use payroll software (HMRC do offer free, fairly basic, software that can cope with a limited number of employees) or outsource to a payroll provider.

Do I need a pension scheme?

Most likely, yes.

All employers have to comply with the requirements of auto-enrolment, where eligible employees are automatically enrolled into a pension scheme, unless they opt out. The rules are complex and you will need to take advice to ensure that you are compliant.

Can I provide extra benefits to employees?

Yes, but generally these have to be reported annually to HMRC via forms P11Ds and the employee will incur a tax liability, and the charity, a national insurance liability.

Can I pay people, not through the payroll?

Generally, no!

HMRC look carefully at the issue of employment status and if they believe that an individual being paid to do work is not genuinely self-employed, they may require you to treat them as an employee and pay them through the payroll, and you have the risk of HMRC requesting PAYE / NIC for previous periods.

Just saying that someone is 'self employed' is not enough – HMRC have a number of tests or indicators that they use to determine the status.

If the individual you are using operates through a limited company, generally the tax risk is on them, although there are circumstances where the risk will fall on you.

What do I have to disclose in our accounts?

The following items have to be disclosed in your annual accounts:

- Total staff costs.
- The number of people employing more than £60,000 in £10,000 bands.
- The total remuneration paid to key management personnel, which is often just the chief executive in smaller charities but can include others in larger organisations.
- Any remuneration paid to individuals who are also trustees.
- Expenses reimbursed to trustees.

Can I pay volunteers?

Generally, no!

If you pay volunteers for the work that they do, they are likely to fall into employment legislation and therefore you would have to comply with minimum wage legislation, holiday pay etc. which can lead to significant complications.

Honoraria are sometimes paid to people in certain posts. Where this is done routinely or payment is expected, again, this is likely to be deemed to be an employee / employer relationship.

You are able to reimburse expenses to volunteers, and unlike with employees, this can include the cost of travelling from home to the charity. However this should be actual expenses incurred supported by an expense claim and receipts.



Charities and tax: the basics

If your organisation is recognised as a charity for UK tax purposes, it may qualify for a number of tax exemptions and reliefs on income and gains, and on profits for some activities.

However, this doesn't mean that charities never pay tax.

How does your charity apply to be recognised by HMRC for tax purposes?

Your organisation can apply to HMRC for recognition as a charity for tax purposes. To do this you need to complete form ChA1.

Charity trustees and anyone involved in the day-to-day running of your organisation should also read the basic guidance on 'Fit and Proper Persons'. This guidance explains the need for charities to ensure that their managers are suitable to hold such posts and, in particular, that they haven't been involved in tax fraud or disqualified from being a charity trustee. It also includes a model declaration managers can sign.

Once HMRC Charities recognises you as a charity for tax purposes, they'll set up a record so that any repayment claims you make can be processed. HMRC will give you a reference number to use on all claims and correspondence. You will only be able to claim relief from the date from which HMRC recognises your organisation became eligible to claim UK charity tax reliefs, subject to meeting any time limits for making a claim. This date is known as the effective date. HMRC Charities will tell you what this is when they send you the reference number.

Income Tax and Corporation Tax exemptions and reliefs for charities

Most of the income and gains received by charities are exempt from Income Tax and Corporation Tax provided that the money is used for charitable purposes only. You may sometimes have tax deducted at source from some forms of income, for example bank interest, but you should be able to either get the financial institution to correct that or complete a tax return to trigger a repayment

Tax relief on trading profits

Any profits that your charity makes from trading activities - selling goods and services to customers - may be taxable. However, there are some exemptions, depending on the nature of your trading activities.

If your profits from trading activities aren't exempt from tax you'll need to tell HMRC Charities about them and pay any tax that's due through a tax return. However, if your trading activities aren't covered by a tax exemption, your charity may want to consider conducting all or part of these activities through a subsidiary trading company and transferring some or all of the profits of that company back to your charity as a donation.

Gift aid

If you receive donations from UK taxpayers, you may be able to get an extra tax repayment from HMRC. This can be very valuable, but you must get the paperwork right, otherwise they may ask for it back when they come to inspect! The tax repayment can be claimed using the HMRC online facility via their website.

There are special rules for gift aid in the following circumstances, and specialist advice will be required:

- Admissions to view charity property
- Charity events
- Charity auctions
- Adventure fundraising events
- Selling goods on behalf of individuals
- Church collections
- Gift Aid for School Charities
- Voluntary workers' expenses
- Membership subscriptions

Underlying all the gift aid rules is that the amount given must be a genuine donation, and there should be little or no benefit back to the donor.

VAT

VAT was introduced as a 'simple tax', but that is far from the case.

Some of your income may be subject to VAT and other bits may not be. The trouble is it can be very difficult to ascertain with certainty what the right answer is, so it is important to take advice at an early stage, as the amounts can be very significant.

The allocation of income then has a knock-on effect to how much input VAT on expenditure that you may (or may not) be able to reclaim.

If your income that falls within the scope of VAT exceeds the VAT registration limit, you will be required to register and submit quarterly VAT returns to HMRC. This has to be done electronically under the 'Making Tax Digital' rules.

If you are not VAT registered you will suffer VAT on some of your costs. There are some reliefs from this but in fairly narrow circumstances.

Rates

Charities are entitled to an 80% mandatory reduction on rates for property used for the purposes of the charity. The Local Authority also has discretion to grant additional relief on the remaining 20%. The Local Authority will want evidence that the property is actually being used for charitable purposes.

Charity Stamp Duty Land Tax relief

When buying a property, your charity won't have to pay Stamp Duty Land Tax as long as the property is used for charitable purposes or held as an investment. This also applies when buying a lease where Stamp Duty Land Tax would normally be due.

Tax relief on income from land and property

Your charity is exempt from tax on income received from renting out land or property (whether in the UK or overseas) that it holds for charitable purposes, as long as the income is used for charitable purposes only. This includes profits from letting out furnished property.

There is no exemption from tax for any profits made from developing land or property, for example if your charity converts an office building into flats for sale, or enters into a contract for a builder to develop and sell charity property.

Capital Gains Tax relief for charities

Your charity is exempt from tax on capital gains providing the proceeds of the disposal are used for charitable purposes only.

Anything else?

What else do I need to think about?

There will be many other things to consider, some of the common ones are:

Insurance

- Public liability
- Employers liability
- Trustees liability

Appointing an accountant

You will need to choose an accountant that is right for you and has sufficient experience of charities to bring the right expertise that you need. It is important to feel that you can ask them questions, and that they also challenge you with appropriate questions.

We often hear of charities where someone has promised to do something for free or at a low price, but then says at the last minute that they have not got the time.

Once appointed, your accountant will issue you with a formal engagement letter setting out the standard terms and conditions. They will also need to formally identify some of the trustees and key individuals in the charity in order to comply with the money laundering regulations, and will need home addresses and dates of birth in order to do this. At Azets we try to do this electronically, but occasionally we have to revert to seeing copies of passports / utility bills etc. where the electronic checks fail.

- **Charity Commission**

Visit www.charity-commission.gov.uk for a whole host of guidance on charities and to set up your own charity.

- **HMRC**

Visit www.hmrc.gov.uk/charities for details on the impact of tax on charities

- **Azets**

Visit azets.co.uk for a variety of fact sheets and tax tips.

Sign up to our charity briefings by emailing sarah.price@azets.co.uk

Action plan

Actions and key dates to start

Action Steps What will be done?	Responsibilities Who will do it?	Timeline By when? (day/month)	Resources What do we need?

Ongoing key targets and dates

Targets What will be done?	Responsibilities Who will do it?	Timeline By when? (day/month)	Resources What do we need?



Follow us



azets.co.uk

Contact Us



Azets is a trading name of Azets Holdings Limited. Registered in England & Wales. Registered No. 06365189. VAT Registration No. 320 5454 37. Registered office: Churchill House | 59 Lichfield Street | Walsall | West Midlands | WS4 2BX. Regulated by the Institute of Chartered Accountants in England & Wales for a range of investment business activities. The term 'Board Director' is used to refer to a statutory director and principal of the company as registered at Companies House. Any other designations that include the term 'Partner' or 'Director' or 'Licensed Insolvency Practitioner' are not registered statutory directors or principals of the registered company.