# Crowdfunding and charities

Crowdfunding is an increasingly common method of on-line fundraising for individuals, businesses, not-for-profits and charities. There are commonly three parties to a crowdfunding activity: -

- The initiator – the person who is seeking crowdfunding for a particular project or organisation;
- The organiser – the organisation that provides the on-line facility for a crowdfunding arrangement. This is commonly a commercial business; and
- The donor – the person or organisation who is making the crowdfunding contribution.

There are four different types of crowdfunding, each with its own strategy to attract funding and each having potentially different tax consequences for the parties involved: -

- Donations-based crowdfunding is where a donor makes a donation to the project without anticipating anything in return.
- Reward-based crowdfunding is where the promoter provides for goods, services or rights to the donor in return for their payment.
- Equity-based crowdfunding is where the donor is buying a share in an activity with the expectation of receiving the right to future profits, voting rights and potentially a return of capital. The Federal Government is currently finalising an appropriate legal framework for proprietary and public companies to guide in such circumstances.
- Debt-based crowdfunding is where the donor lends money to the promoter or a group of promoters who in return agree to pay interest and repay principal on the loan.

## Charities and crowdfunding:

ACNC has now released guidance relating to crowdfunding and charities. A precis of their paper includes emphasizing the need for a charity to do its homework before committing to such a matter. It is important to look carefully at the proposed organiser to make themselves familiar with the cost and conditions in regard to the crowdfunding activity. It is also important to take into account the reputation of the charity and considering whether there are better ways to approach fundraising.

An important issue is to consider what happens to the funds if a nominated crowdfunding target is not reached? Will the project fail or is there some alternative subsidiary project in mind? It is important in putting forward a proposal for crowdfunding that there needs to be a clear explanation about what happens to the money. The charity will retain responsibility for what is happening so it is important to be careful about your reputation as a charity.

There are legal obligations to be considered. There are obligations under the Charitable Collections Act of WA and those obligations may extend to other States and Territories. If the fundraising crowdfunding is a national programme going beyond WA's boundaries there may be an obligation to have a fundraising licence in each State and Territory.

If an individual is the initiator of the crowdfunding project on behalf of a charitable organisation, the initiator needs to give careful consideration to what their obligations are under the various taxation laws. The question arises as to whether any donations made represent income to the initiator and therefore become a part of the initiator's taxable income. There is also the question of whether there are GST obligations, depending on whether it is a donation of cash or an acquisition of goods.

What seems to be a wonderful idea free of regulatory obligations is an issue where careful forethought is required.

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