



- adding to your ministry

NEWSLETTER

NOVEMBER 2013

The political winds of change: -The new Government, prior to the election, made public statements announcing their intention to make significant changes to the Australian Charities & Not for profit Commission (ACNC). There has not been clarity pre- or post the election as to the nature of those changes.



What is clear (and this has been confirmed by the ACNC Commissioner) is that the ACNC ACT and the Charities Act have the endorsement of Parliament and Royal Assent. Accordingly her commission is clear until such time as the Parliament approves any changes. The Senate as presently constituted is most unlikely to approve any significant changes to the ACNC's operation. The Charity Sector is also unlikely to welcome any significant changes given the major adjustments all charities have needed to make over this past 12 months.

Self-Assessment Rules change: - Some religious charities, predominantly small charities, have previously relied on self-assessment in respect to their exemption from income tax. Changes to Tax Law recently have removed this self-assessment option. A transitional provision has been provided in the amending legislation. This enables religious charities to apply to ACNC for registration as a charity provided the application is lodged before 2 December 2013. Unless such application is made the religious charities will **lose entitlement** to income tax exemption effective from 2 December 2013.



The deadline is fast approaching. If your organisation is not recorded on the ACNC website, you should apply for registration promptly.

Charities Act 2013: -The Charities Act was approved as one of the final actions of the former Labor Government. This Act comes into force on 1 January 2014. The primary intent of the Act was to amend, for the purposes of all Commonwealth Laws, the definition of "Charity" and "Charitable Purpose". The present four categories of charity increase to twelve categories. In doing so the principles of the Common Law status of the initial four heads of charity are retained. They were: -

- Trusts for the relief of poverty;
- Trusts for the advancement of education;
- Trusts for the advancement of religion; and
- Other purposes beneficial to the community.

Under the new Act there has been some changes to the wording.

The Act also introduces a greater emphasis upon a **Public Benefit Test**. Charities may be called upon to clarify how their objects and their activities benefit the wider community.

Public Ancillary Funds: - The majority of Public Ancillary Funds (PAFs) are endorsed with ACNC as charities. Some PAFs are not registered with ACNC but have been approved as Income Tax Exempt Funds (ITEF) with ATO. Either class of PAFs enjoy income tax exemption. There are some minor variations in the category of beneficiaries that the two different types of PAF can provide for. The new Charities Act provides that effective from 1 January 2014 a PAF that has ITEF endorsement with ATO will be automatically transitioned under the new arrangements to ACNC and endorsed as a charity. In the future it will need to provide ACNC with an Annual Information Statement (AIS). All Public and Private Ancillary Funds continue to have an obligation to lodge an annual information return with ATO.

Private Ancillary Funds & ACNC: - The Commissioner of ACNC has the power to withhold information from the ACNC Register upon an appropriate request being made. The Commissioner has advised that she is open to all Private Ancillary Funds making a request for information to be withheld from the ACNC Register. No information will be published for such Funds until 31 March 2104 to enable the 630 Funds registered with ACNC an opportunity of making an appropriate submission.

New DGR Category: -The Income Tax Assessment Act has been amended to include a new category of Deductible Gift Recipient (DGR) for ethics classes. The amendments enable an eligible provider of ethics education in Government schools to receive tax-deductible donations. This facility would be similar to the provision of Christian education in Government schools.

Annual Information Statement (AIS) 2013: - Charities with a balance date of 30 June are reminded that the deadline for lodging their first AIS is 31 December 2013. Those charities that have not already completed their AIS should note that the deadline is fast approaching.

ACNC will have forwarded a letter providing password information to all charities regarding the 2013 AIS. If you have not received such a letter it is probable that ACNC have not as yet received confirmation information from your charity. Form AB "Confirm your Registered Charity Details" is available on the ACNC website at www.acnc.gov.au. We recommend that you lodge the Form AB with ACNC as soon as practicable. We also suggest you send an e-mail to ACNC advising of an appropriate email or postal address so that they can forward you the letter in respect to the 2013 AIS. For charities established for the advancement of religion we recommend that at Question 7 and Question 11 in the AIS, you only mark the box related to 'Religious activities'. This is because religious institutions are a specific sub-type of charity and some taxation concessions or exemptions are reserved specifically for such entities.

Governance Standards: - All charities need to apply the new Governance Standards in the management of their charity. These Standards are principles-based and follow generally accepted principles of governance practice. However they are now spelt out in some detail under five headings. More information is available on the ACNC website under "Tools & Resources". You will find there a guide entitled "Governance for good". These Standards include a requirement that all serving members of governance bodies (committee, board, council etc) need to make a regular annual

declaration that each member of the governing body is a fit and proper person to participate in the governance of the charity.

For a sample form [click here](#).

Financial Reporting Standards: - The 2014 AIS will introduce additional information requirements, particularly in respect to financial matters. More information in regard to the financial reporting requirements is available on the ACNC website under the “Manage my charity” tab. It provides the different areas of information required for the three different sizes of charities.

Approximately 80% of charities are in the small category – revenue less than \$250,000 annually. The financial information for small charities is modest and allows for either cash or accrual reporting.

For medium and large charities, ACNC will accept financial reports that are presented as either General Purpose or Special Purpose Financial Reports.

Medium size charities (revenue between \$250,000 – \$1M annually) are required to have their accounts either audited or subject to a review.

Large charities need to be audited. We encourage you to clarify the requirements for your particular charity.

New additions to Add-Ministry website: - Fringe Benefits for Churches – An introduction to Fringe Benefits Tax and also potential effective ways of implementing a useful programme for churches.

Helpful GST tips: - A useful reference tool for Treasurers. [Click here](#)

Fringe Benefits for Churches: - [Click here](#)

Fringe Benefits for PBIs: - An overview [Click here](#)

ABN changes: - As mentioned in the June newsletter, there will be changes to the Australian Business Register (ABR) taking place on 1 July 2014. These changes provide that Trading Names will no longer be recorded on the ABR unless the name has been registered as a Business Name.

Australian Securities & Investments Commission (ASIC) is now the controller of Business Names on a national basis. All business names were transferred to ASIC from the various State and Territory Governments in 2012. The changes to the law have brought about some significant issues. In summary they include:

1. Where an entity applies for a Business Name they also must have an ABN. It can either be a new ABN or it can be linked to an existing ABN. It is not possible now to obtain a Business Name without an ABN.
2. From 1 July 2014 any Trading Name details that are recorded on the ABR will be removed. The ABN registration itself will remain undisturbed. This means any Search facility connected with the Trading Name as against the actual ABN recorded name will no longer be possible. If that Trading Name

is important to your organisation we recommend that you register a Business Name and link it to your organisation's ABN.

3. The ABR record of each individual ABN has been expanded recently in respect to charities. It will now record where the charity has been registered with ACNC as a separate matter to recording the tax concessions that are available to the charity. It will also record under a separate section Trading Names, and separately again, Business Names. In 2014 the Trading Name details will be removed.
4. The cancellation of a Business Name is now a more complex procedure. When the cancellation is lodged with ASIC, the name cannot normally be accessed again for a period – currently that appears to be six months.
5. When a new company is to be incorporated with ASIC or an existing company with ASIC wishes to change its name to a name that is related to an existing Business Name, there is a process established to enable the transfer of the Business Name, as opposed to a cancellation arrangement that previously applied with Dep't of Commerce.
6. Under the WA Business Names Act, a religious institution could not register a Business Name. With the new Act with ASIC, a religious institution can obtain a Business Name.



New ABNs for DGRs: - Some Deductible Gift Recipient (DGR) entities have endorsement as a division of its 'parent' entity. In some instances the DGR and the parent entity have the same ABN. ATO are currently reviewing these arrangements and are either issuing a new ABN for the DGR or asking the DGR to review its legal structure. The requirements will vary depending on which category of DGR is affected.

ATO now need to clarify whether the DGR is a separate entity. If they conclude that it is, a new ABN and endorsement of the DGR with ACNC is needed. It is possible that new Rules for the DGR will also be required.

Special provision has been made for Public Benevolent Institutions and Health Promotion Charities. They will be provided with a new ABN and ACNC registration automatically.

If you have a DGR endorsement, it may be appropriate to get advice on the legal structure and potential issues relating to these changes.

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Publications available:

Voluntary Treasurers' Handbook — Hard copy — 59 pages\$50.00

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