



- *adding to your ministry*

NEWSLETTER - SEPTEMBER 2015

AGM Matters: There are always matters requiring attention with your AGM. All Board Members need to complete an annual 'Responsible Persons Declaration'. This should preferably be retained with the AGM Minutes or Reports. Also, when Board changes occur ACNC need to be advised of all changes shortly after the AGM.

2015 Annual Information Statements: For those charities with a financial year ending on 30 June their 2015 Annual Information Statement (AIS) is due to be lodged with ACNC no later than 31 December. If your reporting date is at a different date, the deadline is 6 months after the end of your financial year. Charities have differing reporting obligations dependent upon whether they are categorized as: –

- Small- revenue up to \$250,000;
- Medium – revenue between \$250,000 and \$1,000,000 and;
- Large – revenue in excess of \$1,000,000.



The AIS for 'Small' category charities does not require a financial report to be provided but does require, within the AIS, some basic financial information. For Medium and Large charities, a financial report in addition to the AIS is required. With a Medium charity, the financial report needs to be accompanied by an audit report or a review report, whereas Large charities need to be audited, - the review option is not available. As the transition period with ACNC is now past, the format of these financial reports needs to comply with the relevant Australian Accounting Standards. The minimum relevant Standards nominated by ACNC are AASB 101, 107, 108, 1031, 1048 and 1054. More specific details on these Standards can be obtained by searching the Internet at Australian Accounting Standards Board; Quick Links; Table of Standards.

Medium and Large charities also need to determine whether your financial reports need to be presented as General Purpose Financial Reports (GPFR) or Special Purpose Financial Reports (SPFR). The majority of charities in the Medium category will be only obligated to prepare SPFR. Where GPFR is required all applicable Standards will apply and you will need to verify whether or not the Reduced Disclosure Regime provisions are available to you. (It is probable that many Medium and Large charities will need the assistance of an accounting firm with experience in the Charity Sector to ensure they comply with the matters identified above).

Basic Religious Charities (BRC): Churches that qualify as BRC do not need to provide ACNC with a financial report – irrespective of their revenue size. They also do not have to comply with the Governance Standards, but should nevertheless ensure they meet the conventional guidelines for the prudent administration of a not-a-profit/charity entity.

If your church is incorporated under the Associations Incorporations Act or the Corporations Act of the Commonwealth, you are not eligible to claim the Basic Religious Charity concessions. There have been a number of churches that have misunderstood this issue. Where a church is a part of a denomination which is in itself incorporated under an Act of Parliament, it is probable that the church would qualify as a BRC. If you are unsure on this matter you should refer to your denominational administration. Another issue that needs to be considered is where an unincorporated church has received a Government Grant in excess of \$100,000 in the current financial year or in either of the past two financial years, it is **not** eligible to claim the BRC concessions. Also, the BRC concession is **not** available to a church if it administers one or more DGR funds under the same ABN as the church, and has a total revenue from those DGR funds exceeding \$250,000 in the relevant financial year.



Change of Auditor: ASIC have recently released the final version of "Regulatory Guide 26" which provides for the change of auditor. This would apply not only to public companies such as a Company Limited by Guarantee but to certain other situations where ASIC's consent for the change of auditor is required.

Until now ASIC has normally required the change of auditor to occur at the time of the Annual General Meeting. They have now indicated they are willing to consider granting consent to change in the auditor arrangements at an alternative date. This would be subject to their being satisfied that there is no adverse reason in respect to the change. It would also be subject to the requirements of the entity's Constitution. More details can be obtained from reference to Regulatory Guide 26 itself on the ACNC website.

WA Tax Law Change for Charities: The WA State Parliament has approved the passage of Taxation Legislation Amendment Act (No. 2) 2015. This Act amends relevant parts of the Duties Act 2008, the Payroll Tax Assessment Act 202 and the Land Tax Assessment Act 2002, to remove exemption from taxation certain categories of charity.

The changes affect charities that come under the fourth Head of the Definition of Charity as identified in Pemsel's case, where the charity is undertaking commercial activities. The four Heads of charity in Pemsel's case are:

- Relief of the aged, impotent and poor;
- The advancement of education;
- The advancement of religion; and
- Other purposes beneficial to the community.

Where a charity is claiming taxation exemption under the fourth Head and the charity is undertaking commercial activities, it will need to be able to satisfy the State Commissioner of Taxation that it is not a "relevant body". A "relevant body" is defined in the Act as an entity that has as its main purpose the promotion of trade, industry or commerce or the improvement of agriculture. These changes to the tax concessions will not apply if you can satisfy the Commissioner that your charity comes under one of the first three Heads. They arise as a direct response of the Chamber of Commerce & Industry of WA 2012 case before the State Administrative Tribunal, where the Chamber of Commerce was held to be a charity within the meaning of the law. Most charities that claim tax concessions under the fourth Head will continue to be eligible for exemption. The revenue ruling issued by the Commissioner identifies that the tax concessions will **probably** continue to be available for: – not-for-profit hospitals, not-for-profit aged care providers, organisations providing disability employment, community housing providers and certain not-for-profit organisations conducting scientific research.

These law changes break significant ground as they remove a charity's right to appeal to the Courts or to SAT and replace them with a right of appeal to the relevant Minister. This appeal is to ask the Minister for a 'beneficial body' determination in favour of the charity. It also appears that a new application will be required in each instance where a dutiable transaction occurs.

Changing Administrators/Treasurers: ATO have developed a useful Handbook checklist. It provides many helpful prompts, and also includes references to supplementary information. It is available by searching "Handover checklist : not-for-profit administrators."



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