Add-Ministry Inc.

- Adding to your ministry

NEWSLETTER JULY 2021

DGR changes

Deductible Gift Recipients (DGR) that are not already registered as charities will soon be obligated to become registered as a charity under changes now before the Parliament. These changes will have modest impact as there are only a small number of DGRs affected. Most are registered through an agency other than ACNC, such as the Register of Environmental Organisations (REO) or the Register of Cultural Organisations (ROCO) that weren’t obligated to register with ACNC as they were established prior to the introduction of the ACNC Act. The changes are a part of the move for greater consistency in both governance and reporting. ACNC will become the reporting base for them through the AIS in lieu of the present obligations. It is anticipated this will reduce compliance costs for those entities affected.

Community Sheds

The Government extended DGR eligibility for Community Sheds in October 2020. We understand there has been a very low take-up for this new DGR category, perhaps influenced by COVID restrictions on the holding of meetings. Eligible Sheds need to have “open membership” requirements so not all will be eligible. They will also need to meet normal ACNC charity registration requirements. More information is available at ato.gov.au/communitysheds.

Modernising Business Registers (MBR)

New laws have been approved by the Federal Parliament to approve this new program which will unify a number of Commonwealth registers, including –

- Companies,
- Business names,
- Australian business numbers (ABN),
- Australian Registered Body numbers (ARBN), and
- Other registers, mainly administered by ASIC.

It is anticipated the changes will make it easier for businesses, including charities, to meet the compliance requirements and also improve the efficiency of the registry. It will be administered by the ATO. The existing registers will continue to function pending completion of the program.

A piece of history

The initial Associations Incorporation Act was approved by the WA Parliament in 1895 and was 6 pages long. The revision of 1987 was 46 pages long. Then in 2015 we were introduced to the new Act which has now grown to 154 pages. This tells us something about progress!

Public Benefit – what is it?

To become a registered charity its purposes or objects need to benefit the public, or a significant section of the public. A section of the public may be a local community, followers of a particular religion, people with a disability or some other significant numerical group. Some cooperatives may be eligible. Membership should not be closed (an exception may be made for a closed religious order). Some charities provide benefits to a needy section of the public, such as those suffering from a particular disability, and require them to be members, perhaps to protect their privacy. In such a situation they may be deemed to be receiving a private benefit. If so the extent of that benefit would need to be considered to establish eligibility for charity status.

Payments to Board/Committee Members

Most charities are served by volunteer Boards/Committees who are not paid for their services but are, where appropriate, reimbursed for expenses incurred in their volunteer capacity. There are instances where for good and proper reasons a payment for services rendered is made. There are also many instances where the CEO or other significant role is held by a salaried and voting member of the Board/Committee. There are issues that need to be considered when agreeing on the level of the remuneration.

- Is the payment consistent with the purposes/objects of the charity?
- Is such a payment expressly prohibited in the entity's constitution or rules?
- Is the payment reasonable in the circumstances? Has the amount of the payment been assessed independently?

• Has the payment been approved by the Members at a Members Meeting? The Associations Incorporation Act specifically requires Members to approve such payments although Boards/Committees can and do make recommendations regarding the appropriateness and the amount. Many charities have changed their Rules so that the CEO is no longer a voting member of the Board but that is not always possible for constitutional reasons.

There have recently been some significant instances where a payment to a Board Member has been challenged by ACNC on the grounds it was excessive, not been handled by due process or other governance issues. Charities have a responsibility to ensure that their decisions have been handled in accordance with normal governance procedures.

Changes to tax exemption rules for non-charities

Not-for-profit entities (NFPs) that are not registered charities will be subject to a requirement to lodge an annual self-review return in order to access income tax exemptions from 1 July 2023. This was announced in the 2021-2022 Federal Budget and is planned to ensure that NFPs that are self-assessing for income tax exemption are more closely regulated. Failure to lodge the form may trigger penalties from ATO. While this change seems to be away in the future it is identifying that affected NFPs will have to justify their tax-free situation – so treasurers be alert. Community service organisations and certain types of sporting clubs will be amongst those affected.

Director Identification number

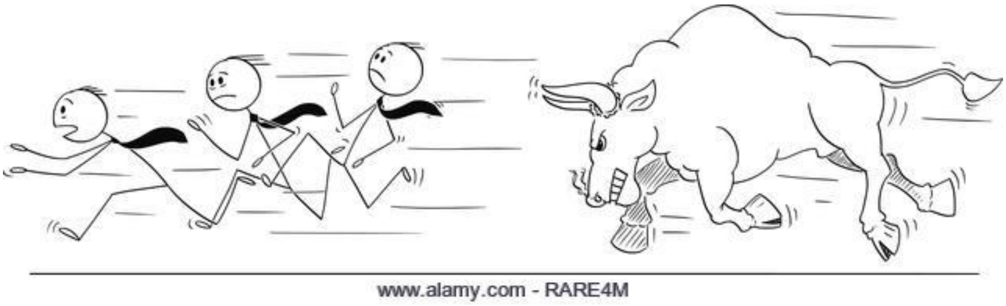
The Federal Government have approved new legislation requiring all company directors to obtain a Director Identification Number (DIN). This is a one- off registration that will relate to all companies under the Corporations Act. The purpose is to deter and penalise false identities thus creating fictitious directors and also to prevent the creation of phoenix (phantom) companies. However, it will have a much wider application as all present and future directors will require a DIN. Identity documents will need to be provided. ATO are finalising the registrations system currently and it will come into operation later in 2021.

Note that these new arrangements do not apply to incorporated associations under State legislation.

ACNC Governance Standards strengthened

ACNC Governance Standard 3 has recently been strengthened by regulation to prevent charities being involved in illegal acts. Charities must not engage in or promote serious unlawful acts such as trespass, vandalism, theft, assault or threatening behaviour. The Government aim is to ensure charities that misuse or take advantage of their status can be stripped of their tax concessions and other benefits.

There has been recent publicity given to instances of damage to property or trespass causing fear and financial loss to citizens so these changes are pertinent.



<u>Changes to Reporting Thresholds for Charities</u>

As reported in our March Newsletter the Government have approved changes in the reporting levels for charities. They will take affect from 1 July 2022 and will therefore apply to the 2021-2022 financial year. The new reporting levels will be -

- Small charity – from $250,000 to $500,000, and
- Medium charity – from $1,000,000 to $3,000,000.

This will provide relief for a number of small charities in particular from the need to obtain an audit or review – subject to their Rules/Constitution and the policy of the charity.

Other changes that were announced at the same time include –

- From 1 July 2022 large charities (those with revenue in excess of $3,000,000) that have two or more key management personnel will be required to report remuneration paid to directors/board members and senior executives on an aggregated basis (total remuneration only) in their Annual Information Statement. This would also be expected, as a minimum, in the annual financial report.

- From 1 July 2023 all charities will be required to report related party transactions annually to ACNC. The aim is to increase transparency of transactions with related people or organisations that pose a higher risk of conflict of interest. Such reporting should already be a part of a financial report that is subject to an audit or review, but the scope has been widened to include all charities.

Guidance resources will be provided by ACNC in these matters in due course.

A must for Treasurers and other Officers –

Add-Ministry Seminar

Saturday 16 October 2021

ESSENTIAL ISSUES FOR CHURCH TREASURERS –

Programme

GST issues for Charities

FBT for Church leaders

Tax Issues for Christian Workers

Single Touch Payroll

MORE DETAILS LATER – REGISTRATIONS WILL COMMENCE MID-SEPTEMBER

ADD-MINISTRY INC.

P O Box 175

BAYSWATER WA 6933

Ph: (08) 9271 1844

E-mail: addministry@hardingthornbury.com.au

Visit our website at:

www.addministry.org.au

Previous copies of this newsletter are also available on our website.