



Charities Regulator to review Charities Holding Shares in special purpose vehicles on Trust

(02/09/2016)

The Charities Regulator is commencing a review of Charities on its Register which hold shares in special purpose vehicles established for the purposes of section 110 of the Taxes Consolidation Act, 1997 on trust. The purpose of the review is to determine the most appropriate regulatory approach for these organisations and whether these entities fall within the remit of the Charities Act, 2009.

It is a statutory requirement and strategic objective of the Charities Regulator to ensure that the Register of Charities is complete and accurate as per the requirements set out in the Charities Act, 2009.

“It is important for the public to understand that we are not conducting a statutory investigation,” said John Farrelly, Charities Regulator. “Rather, a review of this sector and publication of findings will create appropriate transparency.” The approach will include:

- Liaising with other State bodies and agencies on this.
- Establishing the number of Charities on the Register of Charities which fall into this category.
- Collating and analysing information on the activities and approach to generating income by Charities in this category.
- An examination of the compliance levels with the Charities Act.

Farrelly emphasised that “this approach is not questioning in any way the conduct of Charities in this category, is not a threat to their taxable status but is simply part of the process of determining if these Charities are compliant with the Charities Act, 2009”.

The Charities Regulator is not invoking the investigative powers which commence on September 5 2016. “I am of the view that as many of the Charities in this category are linked to respected legal and financial services companies, we anticipate and have to date received the utmost cooperation from any Charity we have engaged with.”

The establishment of a Charities Regulator enables the State, for the first time, to monitor compliance of these various Charities from the perspective of the requirements of the Charities Acts as opposed to solely through the lens of Tax law.

“Given the sheer number of charities in Ireland we have to focus our ongoing regulatory activity on the areas of greatest urgency and need,” said Farrelly. “Our vision is that Ireland will have a vibrant trusted charity sector that is valued for the public benefit it provides.”

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Editors Notes

Note 1

Section 40 of the Charities Act 2009 states that a charitable organisation which immediately before the commencement of the register of charitable organisations had an entitlement to an exemption under section 207 or 208 of the Taxes Consolidation Act 1997 and the Revenue Commissioners had issued a number (commonly referred to a "CHY number" shall subject to section 44, be deemed to be registered in the register for so long only as there continues to be an entitlement to such exemption.

Note 2

The Charities Regulator is an independent authority. It was established in 2014 under the Charities Act of 2009 with the following statutory functions:

- Increase public trust and confidence in the management and administration of charitable trusts and charitable organisations,
- Promote compliance by charity trustees with their duties in the control and management of charitable trusts and charitable organisations,
- Promote the effective use of the property of charitable trusts or charitable organisations,
- Ensure the accountability of charitable organisations to donors and beneficiaries of charitable gifts, and the public,
- Promote understanding of the requirement that charitable purposes confer a public benefit,
- Establish and maintain a register of charitable organisations,
- Ensure and monitor compliance by charitable organisations with this Act,
- Carry out investigations in accordance with this Act,
- Encourage and facilitate the better administration and management of charitable organisations by the provision of information or advice, including in particular by way of issuing (or, as it considers appropriate, approving) guidelines, codes of conduct, and model constitutional documents,
- Carry on such activities or publish such information (including statistical information) concerning charitable organisations and charitable trusts as it considers appropriate,
- Provide information (including statistical information) or advice, or make proposals, to the Minister on matters relating to the functions of the Regulator.

Programmes to support these functions are being developed on a phased basis over the early years of the Regulator's operation, with the initial focus on the development of a statutory Register of Charities for the first time in Ireland.