

Mutuals, public service delivery, pensions and tax

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1. Pensions and public service delivery

Not so new?

- Delivery of public services has for many years involved a range of governmental, non-governmental organisations and private sector partners

In health ...

- GPs are private businesses
- Charities provide:
 - Specialist nursing
 - Hospice care
 - Medical research

In local services

Third sector/civil society involvement in:

- Social care
- Housing
- Economic development
- Education
- Leisure
- Youth
- Cultural services
- Recycling

Pension schemes adapted

- Public sector pension schemes adapted so that loss of pensions provision does not become a barrier to movement

NHS pension scheme

- Secretary of State power to “direct” that employees outside of NHS can participate in NHS pension scheme
- 400 “direction” employers and 8,200 GP practices covered by NHS scheme

Central Surrey Health

- Social enterprise formed in 2006
- Company limited by shares
- Co-owned by 700+ employees
- Delivering community nursing and therapy services
- Previously within PCT
- In NHS pension scheme

Local government pension scheme

- Organisations that share “a community of interest” with local government can be admitted to scheme
- 1000s of “admitted” bodies

TUPE and pensions

- Occupational pension obligations excluded from TUPE regulations
- **But** statutory guidance and Pensions Act apply
- **So** guidance and provisions equivalent to the TUPE regulations apply to pension rights
- If the previous employer provided a pension scheme then the new employer has to provide pension arrangement for those who were eligible
- Doesn't have to be the same arrangement but will have to be of a certain minimum standard
- **Seek professional advice**
- **Keep an eye out for new guidance**

New models, new approaches?

- Localism, health and social care bills
- New public service delivery vehicles
- Review of public sector pension schemes
- Review of employment law including TUPE
- Applicability of existing pension schemes to new social enterprises and their business models

Next steps

- Address early on
- Understand legal requirements
- Identify key risks at an early stage
- Hold a genuine dialogue with employees
- Look at the pension options
- Consider the financial consequences
- Decide what pension structure the enterprise requires
- Consider how all parties will manage their pension risk
- Develop pensions strategy

2. Tax and social enterprise

Tax advantages for certain types of social enterprise

- Charities
- Particular services
- Enterprises with shareholders
- Industrial & Provident Societies

Charities

- No income/corporation tax on **charitable trading**
- Also trading carried out by charity beneficiaries
- Using a subsidiary trading company
- Fundraising events
- Business rates relief
- VAT reliefs
- Gift Aid

Types of charity trading

- **Primary purpose trading** - Trade directly in furtherance of the charity's objectives. Examples –course fees, admission fee, residential care home fees, sale of goods made by beneficiaries of the charity.
- **Ancillary trading** - Trade carried out in support of the primary purpose. An example would be a theatre café solely for the use of those attending a performance at the theatre.

Small scale trading

- Outside of primary and ancillary trading, a limited amount of '**small-scale**' trading is allowed **if** profits are used to further the objects of the charity

Total income	Small scale trading maximum
Under £20,000	£5,000
£20,000 - £200,000	25% of total income
Over £200,000	£50,000

VAT - Three types of activity

1. Taxable
 2. Exempt
 3. Non business – outside the scope of VAT
- VAT only applies to business supplies
 - Charity activities often sit somewhere in between business and private activities

VAT reliefs for charities include:

- Advertising and goods associated with donations
- Aids for people with disabilities
- Construction
- Fuel and power
- Charity funded medical, veterinary, scientific and rescue equipment, and ambulances
- Medicinal products
- Drugs and chemicals

VAT exempt supplies

Examples

- Medical care by health professionals
- Education/training by 'eligible body'
- Care including registered care homes
- Admission to certain cultural events – e.g. museum, art exhibition, performance
- Subscriptions to membership organisations
- Selling, leasing and letting of commercial land and buildings (can be waived)

Industrial & Provident Societies

Not treated as distributions for corporation tax purposes:

1. Share and loan interest:

- Share interest - interest, dividend, bonus or other sum payable to member shareholder on shares held
- Loan interest - interest payable by the society in respect of any mortgage, loan, loan stock or deposit

2. Patronage dividends to members

Employee share schemes

- Free shares
- Partnership shares
- Matching shares
- Dividend shares

Employee:

- Tax and NICs are not charged when a participant is awarded shares under a plan, or when dividend shares are acquired on his or her behalf
- No income tax if shares are held for long enough (5 years or 3 years for dividend shares)
- No CGT if held in plan

Employer ...

- Costs of setting up scheme
- Contributions towards cost of running the plan
- Deduction available when a company makes a payment to the trustees of a SIP to buy a block of company shares on behalf of employees
- Deduction against profits for the costs of awarding free or matching shares
- Deduction allowed where market value of shares exceeds the amount of partnership money deducted from participants' pay

- **Complex and subject to various conditions and rules**
- **Seek professional advice**

Enterprise Investment Scheme

- Income tax relief for individual shareholder
- Must be ordinary shares (full risk)
- Minimum investment of £500
- Maximum £500,000
- Relief = 20% of cost of shares
- Company must meet certain criteria

When considering legal form

Look at tax matters relating to:

Financing

- Mixed income streams
- Shares
- Loans

Social purpose and main activities

- Charitable
- Membership focus
- VAT exempt activity
- **These are not the only tax issues and don't override other business drivers but should be considered**

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