

# TAX alert

## Personal Tax Services



### Digital disclosure requirements for charities as of 1 January 2014

#### **1 Introduction**

In our Tax Alert “Charities on the move” of May 2013, we provided an overview of recent developments regarding the legislation with respect to charities. One of these developments is the requirement of digital disclosure. On 16 July 2013 the State Secretary of Finance published this new regulation in the Official Gazette. Most of the published regulation is equal to the a draft of the new regulation dated 28 May 2013.

For the sake of completeness, in this Tax Alert the final disclosure requirements can be found. Furthermore, the differences between the final regulation and the draft regulation will be shown.

#### **2 Disclosure requirements**

As of 1 January 2014 charities will have to disclose relevant information (see below) electronically, i.e. through an internet portal (website). The following information needs to be disclosed (the changes with respect to the draft regulation are shown in *italic print*):

- ▶ official name of the charity; if the charity has another popular name which is known with the Dutch Tax Authorities, this name may be disclosed besides the official name;
- ▶ number of registration at the Chamber of Commerce (RSIN);
- ▶ contact details of the charity: email address *or* PO box/visiting address *or* telephone number
- ▶ aim of the charity according to its own regulation: brief and understandable description of the aim, the mission and the purpose of the charity;
- ▶ outline of actual policy plan: this may be a “user-friendly” version;

- ▶ composition of the Board, the remuneration policy *and the names of the board members*. With respect to the composition of the Board the functions and authority is relevant. Not only the remuneration policy of the Board needs to be disclosed, but also for other employees. A reference to the collective labor agreement (CAO) can be sufficient, if applicable. *With respect to the requirement of disclosing the names of the board members the following two exceptions apply:*
  - ▶ *names of the board members of Ecclesiastical Institutions, including their autonomous parts and entities in which they are united, and*
  - ▶ *names of the board members when the Dutch Tax Authorities applied dispensation because it is shown that disclosing these names will cause realistic hazard with respect to the personal safety of these board members or of their family;*
- ▶ a current report on the activities of the charity;
- ▶ financial accounts, for fundraising charities this means the balance sheet and statement of profits and losses (SPL), for other charities this means only the SPL.

According to the final regulations, the financial accounts -as described above- needs to be disclosed within six months after the end of the financial year. Furthermore, disclosing the financial accounts is only mandatory to financial years that ended after 31 December 2011.

Charities need to be compliant with the disclosure requirements -as described above- no later than 1 January 2014. As of this date the website needs to be active and the mandatory information needs to be disclosed. In the final regulation it is stated that with respect to the financial accounts charities need to disclose the financial accounts of the penultimate year on the 1 January 2014. In concrete terms: when the financial year is equal to the calendar year the charity needs to disclose the 2012 financial accounts on the 1 January 2014. Furthermore, the final regulation states that on 1 July 2014 the charity needs to disclose the financial accounts of the preceding year of the financial year 2014; in other words, in the aforementioned example (financial year is calendar year) these are the 2013 financial accounts. With respect to charities in the process of formation an agreement can be made with the Dutch Tax Authorities regarding the date as of which this charity needs be in compliance with these disclosure requirements.

Ecclesiastical Institutions will have to comply with these requirements as of 1 January 2016, which will give them time to obtain a registration number at the Chamber of Commerce. Please note that with respect to the financial accounts, Ecclesiastical Institutions only need to disclose a SPL.

### 3 Finally

If a charity does not meet the disclosing requirements as described above, the charitable status will be denied or can be cancelled at request of the charity itself. According to previous publication of the State Secretary of Finance, in forthcoming event "the possible tax consequences of denial or cancellation of the charitable will be given due consideration". Until now the State Secretary of Finance has not elaborate on this matter.

For further questions you can contact one of the specialists mentioned below.

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