

When charity is not all it seems

5 Oct 2012

Charity, as the saying goes, begins at home. But for many charities, criminal elements are coming a little too close for comfort for all the wrong reasons

Tax rules regarding charities may vary from country to country. But the general principle exists that charitable organisations in most countries are given a favourable tax status to help them in their noble work. And that seems to be attracting people who have anything but charitable intentions.

At Rahman Ravelli, we are currently handling a £100m-plus tax fraud case involving 17 defendants and the involvement of a charitable trust to allegedly help funnel money around the world. Like many of the fraud cases we handle, this one is complex, international, involves huge amounts of money – and a charity. To the uninitiated, reading about a charitable trust's involvement in a major international criminal operation may seem perverse. But there are a number of reasons why involvement in an existing, legitimate charitable organisation or the creation of one for completely criminal reasons would be attractive to a fraudster.

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Perhaps
most
importantly,
the
tax
status
of
a
charity
is
appealing
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the
criminal.
In
the
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a
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providing that income is used for charitable purposes. Tax relief is available on donations from individual and corporate donors and while a charity's accounts are public documents, the tax affairs of charities and donors are not publicly available. And, arguably most importantly, charitable donations can be made in cash without any banking record being available.

Such a situation is clearly attractive to someone who wants to avoid tax or hide the proceeds of their ill-gotten gains. Of course, in Britain HMRC reviews the activities of charities and looks for unusual patterns of donations in its accounts and tax returns. Sudden large donations from individuals or corporations may raise suspicion, as may a donor who seems to be giving a charity an especially high proportion of their income. But HMRC has only limited manpower and will always struggle to sift through the activities of every charity in pursuit of fraud. With electronic submitting of tax returns, the task can be more demanding for even the most vigilant tax man. With the evidence seeming to show that the use of charities for tax fraud is becoming more organised and more sophisticated, HMRC will struggle to keep pace with the fraudsters.

"A Report on Abuse of Charities for Money Laundering and Tax Evasion" by the Organisation for Economic Cooperation and Development found that while tax rules vary around the world for charities, most nations give them a preferential tax status that helps them operate within their budgets. But this attracts those who see the tax breaks as a chance to take illicit advantage.

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The report says that organisations can be created as charities – even though they carry out no charitable functions – simply to be used a vehicle for tax evasion and money laundering. This can take the form of straightforward avoidance of VAT payments through to the laundering of the proceeds of crime and the channelling of money abroad for criminals or even to fund terrorism. In the UK, according to the report, such charities are being used as a vehicle for suspect tax-free loans and investments, with money being transferred overseas – often back to the original “donor”, who then escapes paying what he should to the Inland Revenue. In other cases, the value of donations to genuine charities is manipulated in a way that gives huge tax repayment benefits to the “donor” and yet little or no value to the recipient of the donation.

There are cases where charities are bona fide organisations that fall prey to the criminal intentions of those working for them. But the larger scale of charity fraud is to be seen in the creation of bogus charities as vehicles for evading tax and money laundering or the manipulation of donations to genuine charities. HMRC has not put an accurate figure on what amounts are involved in such frauds. But tens, if not hundreds, of millions of pounds a year could be channelled illegally through charities.

The OECD report explains that the authorities try to maintain registers of suspicious activities and reconcile and cross-check information from different sources. Greater exchange of information and closer cooperation between tax and law enforcement agencies is also advised. But for now, the genuine charities have to look out for themselves if they are to remain free from the fraudsters.

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