

Thank you for joining us.

*Sharing experiences of HMRC visits* will commence shortly at 9.30am.

If you can not hear anything at the moment, please don't worry. We have muted ourselves until we begin.

# Agenda

- National Minimum Wage inspection and the emotions of the experience
- HMRC Compliance Check - trading income and irrecoverable VAT
- Trading and charity
- Questions and comments

# National Minimum Wage inspection

# Contact made by letter

- nothing to be alarmed about.
- HRMC contact business from time to time and this is no different to that
- This is an NMW check
- They will make an appointment to come and have a chat, to have a look at our records, timesheets and payroll records etc to see "how everything is working for us".

# Prior to the Meeting

Advised two people will be attending and will request information such as:

- Company structure
- Generic contract of employment
- Timesheets (month selected at random)
- Payslips (for relevant months selected)
- Confirmation that apprentices on apprentice rates are under the appropriate apprenticeship agreement.



# The Meeting -

- Full day meeting held (5+ hours)
- Two people in attendance from HMRC
- Had a script that was followed.
- Checked we understood legal requirements of NMW
- Meeting was fully documented
- Questions included:
  - Are individuals required to buy their own tools
  - Are individuals required to be in work 15 mins prior to shift
  - Do we charge individuals for accommodation
  - Salary sacrifice schemes – cycle to work
  - Requirement to purchase own uniform
  - Do we run any fisheries
  - How do we treat salaried individuals on NMW – what do we use as the divisor ie 52 weeks?



# Attachment of Earnings

£1 Admin Fee.

Court documentations allows businesses to charge £1 admin fee to reclaim AEO through payroll.

However, if this takes individual below NMW threshold is a breach of NMW legislation.



# *And then.....*

- We made payment to those previously deducted £1.
- We reported back to HMRC October 17 that all had been completed, individuals have been written to, and we sent copies of payslips to confirm.
- We heard nothing until late April 2018 when HMRC asked to speak to a random number of individuals to confirm they had their money refunded. We arranged telephone interviews.
- Fast forward to Friday 21 December (5pm) when HMRC called to say..... *“Asking workers to dress neatly or, say, not to wear football colours wouldn’t be an issue, but where they are expected to wear something specific (such as black shoes, a white shirt etc.), this would be something that affects pay for the purposes of National Minimum Wage.”* **One** person on the call stated they had to provide black trousers.
- This is not written down anywhere. Our handbooks say “dark” however, local verbal interpretation has been this means black and is therefore a breach of NMW.

# Actions

- HMRC gave us tight timescales by which to respond.
- Initial contact by phone was always followed by a lengthy email with precise instructions.
- We had a conference call to discuss requirements / findings which included HMRC calling up Primark webpages to confirm what we were saying (regarding appropriate cost of black trousers / shoes).
- We have reimbursed individuals, proven to HMRC this has been paid, and had to pay a fine (based on the current NMW rate irrespective of when the breach took place).
- Finally received a closure letter April 2019, 20 months after the initial contact.



# **HMRC Compliance check 2014-2016**

# Timeline

Initial visit November 2014 concentrated on:

- Transaction testing- one minor issue re equipment leasing
- Grant funding / contract for service
- HMRC identified this item as “risk area” for charities
- To March 2015 the trust researched and provided details to HMRC
- March 2015 follow up visit by HMRC
- Correspondence thereafter until matter concluded late 2016

## Main issue

- Income the trust classifies as grant is 7% total income
- HMRC wanted further 7% reduction of input vat back dated+ penalties + Interest as grant income “non business”
- The trust set aside £33k and offered to reduce input VAT in future returns until resolved
- The trust sought informal advice from 3<sup>rd</sup> parties on VAT treatment & took comfort that our treatment was consistent with others
- Had to keep chasing HMRC to deal with- unanswered letters of 5 to 6 months not unusual

# Main issue resolution

- HMRC not in a position to dictate how an organization accounts for input VAT on non business income despite matter referred to technical team
- According to our research, method HMRC used is too simple/ flawed in attributing VAT on costs attributable to non business activities
- Eventually agreed 3.5%: 96.5% arbitrary split
- The trust may be fortunate that HMRC agreed position as they tend not to like arbitrary allocations
- Emphasised that main income under debate was mainly staff cost related so very little if any input VAT

# Lessons identified

- Lengthy process although successful outcome
- Watch for sensitivity from colleagues & Board members around potential issues around mis declarations of VAT
- Keep SLT, Chief Exec fully informed of progress or lack of progress
- Watch diminishing returns (80/20 rule)
- Revisit VAT model regularly & have robust VAT return procedures and sense checks

## **Routine VAT Inspection – trading and charity**

## **HMRC – Routine VAT Inspection**

<https://www.gov.uk/vat-visits-inspections>

- Businesses are picked at random for inspection, but are quite often new companies, or those with complex VAT, or those who have submitted late or incorrect returns.
- Normal to receive an inspection once every 4 years
- The trust have had two in the last 4 years, one for the Trading Company and one for the Charitable Company, but as a Group for VAT they have reviewed the calculation for the Group and reviewed both companies on both occasions.

## **HMRC – Routine VAT Inspection**

**<https://www.gov.uk/vat-visits-inspections>**

- Standard or Special Method – do you have agreement with HMRC about the partial exemption method you use?
- Are your procedures clear on treatment of VAT for various elements of the business and what you pay or can claim VAT on or not?
- You will receive a letter detailing what records they need to be made available for viewing and for what period
- Making Tax Digital – could change how inspections are done.



# Our team

## **Cate Atwater**

Chief Executive Officer

[cateatwater@communityleisureuk.org](mailto:cateatwater@communityleisureuk.org)

## **Jennifer Huygen**

Engagement & Policy Manager

[jenniferhuygen@communityleisureuk.org](mailto:jenniferhuygen@communityleisureuk.org)

## **Kirsty Cumming**

Engagement & Policy Manager - Scotland

[kirstycumming@communityleisureuk.org](mailto:kirstycumming@communityleisureuk.org)

## **Kate Doyle**

Administration & Operations Coordinator

[katedoyle@communityleisureuk.org](mailto:katedoyle@communityleisureuk.org)

[communityleisureuk.org](https://communityleisureuk.org)  
[@CommLeisureUK](https://twitter.com/CommLeisureUK)