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Community Interest Companies (CICs)

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WHAT IS A CIC?

A CIC is a company designed for social enterprises which aim to use their profits and assets primarily for the benefit of the community or to trade for a social purpose. They are not strictly 'not for profit', and CICs can, and do, deliver returns to investors. A CIC may be limited by shares, but it is more usual for them to be limited by guarantee. It is even possible for a CIC to be a plc.

A CIC is registered as a company, and is not a registered charity. As a result, it does not need to meet the more onerous regulations and limitations imposed by the Charity Commission. Instead a CIC must be registered with both Companies House and the CIC Regulator.

WHAT IS A "COMMUNITY"?

A "community" for CIC purposes can include the population as a whole or a definable sector or group of people either in the UK or elsewhere. Any group of individuals may constitute a community if they share a common characteristic which distinguishes them from other members of the community and a reasonable person might consider that they constitute a section of the community.

The community is usually wider than the members of the CIC, and so the CIC should not just benefit its investors.

Note that "my family" or "my friends" would not be considered a genuine section of the community and so would be ineligible to be served by a CIC.

LIMITATIONS OF A CIC

Some limitations are imposed on CICs in addition to company law requirements. These are designed to safeguard the assets and profits of the CIC for social enterprises. They include an "asset lock" which must be written into their articles of association which ensure that assets are retained by the CIC, and a "dividend cap" to ensure that the CIC model cannot be used for personal gain.

The asset lock must be explicitly referenced in the articles of association of the CIC. Any assets or profits must be retained in the CIC and used for the benefit of the community. Transfers can only be made to other CICs or charitable entities as these will have similar restrictions in place.

The dividend cap applies when the CIC is limited by shares, and seeks to allow the CIC to present an investment opportunity to assist it in raising funds while ensuring that the majority of profits are reinvested for the community benefit. It consists of two elements:

1. The maximum aggregate limit – the aggregate dividend may not currently exceed 35% of the distributable profits of the CIC. The Regulator may change the dividend cap from time to time.

2. Carry forward of unused dividend capacity – a CIC may carry forward any unused dividend capacity for up to five years.

Performance-related interest (where the interest payable on debts is linked to the performance of the CIC) is also subject to a cap. The current "interest cap" is 20 percent of the average amount of a CIC's debt, or a sum outstanding under a debenture issued by it, during the 12-month period preceding the date on which the interest on that debt or debenture becomes due.

REPORTING REQUIREMENTS

In addition to the usual company filing requirements, a CIC will need to:

1. File a Community Interest Statement with the CIC Regulator. This statement is used to inform the Regulator of the purpose of the CIC. The objects of the CIC should also be made clear in the articles of association.

2. File a Community Interest Report alongside its financial statements with Companies House, and a copy sent to the CIC Regulator. This should set out what the CIC has done during the year to benefit the community, and include details concerning dividends declared, directors' remuneration and interest paid on capped loans.

SOCIAL INVESTMENT TAX RELIEF

Investors may benefit from SITR by deducting 30% of the cost of their investment from their income tax liability, in either the year of the donation or in the previous year. The investment must be held for a minimum of 3 years for the relief to be retained. A CIC may be an eligible investment if it has fewer than 500 employees and gross assets of no more than £15 million.

FURTHER DETAILS

Further details regarding setting up a CIC, and the restrictions imposed on the structure, may be found on the gov.uk website:

https://www.gov.uk/government/publications/community-interest-companies-how-to-form-a-cic

CICS V CHARITABLE INCORPORATED ORGANISATIONS (CIOS)

Despite the similar acronyms these two types of entities are very different and come with their own arrays of advantages and disadvantages.

The main difference is that a CIO is a registered charity. As a result, it is able to benefit from significant tax incentives – a CIO will not pay any tax on income related to its charitable purpose or below the limit for non-charitable income. Gift Aid can be claimed on any donations. Typically, a charitable entity will receive a significant discount on its business rates (up to 100%), and would be exempt from stamp duty land tax when purchasing a freehold or leasehold. A number of trusts and foundations will only provide grants to charitable entities, which provides a large pool of potential funding. If gross income is below £250,000 a year then receipts and payments accounts may be prepared. A CIO will need to comply with the more onerous regulations of the Charity Commission, but will not be regulated by Companies House or subject to company filing requirements.

Conversely, a CIC is a registered company but is not a registered charity. As a result, it is not subject to the requirements of the Charity Commission, but must comply with company filing requirements. It will not benefit from the charity advantages listed above, but nor would it be subject to the lower independent examination requirements for charities. A CIC is a more entrepreneurial structure and can deliver returns to its investors based on the restrictions detailed above. It therefore has greater opportunities to raise capital, and due to the lower restrictions a CIC may prove more flexible than a registered charity.

See also our previous guidance for details on the nature and structure of a CIO: Guidance on Charity Structures

In brief, a CIC would be the vehicle of choice if the investors wished to eventually receive a return on their investments. Otherwise a CIO may be more beneficial due to the more generous tax incentives. We would recommend that any client carefully consider their options in order to ensure that they select the structure most appropriate to their needs.

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