

Gift Aid

Overview

Gift aid is tax relief on money donated to UK charities.

Donations are treated as if the donor has already deducted basic rate tax from them. A charity can then reclaim this tax to increase the value of a donation.

Basic Rules

The basic rules are as follows:

- Donations must be **payments of a sum of money**. A donation cannot be made in kind, by loan waiver, or by debt/loan conversion. Payments in return for a service, rights or goods are not gifts;
- Donors must donate their own money;
- Donors must pay enough UK income tax and/or capital gains tax themselves to cover the amount of tax the charity will reclaim; and

Declaration

- Donors must give the charity a gift aid declaration, which should include:
 - their name;
 - their home address;
 - the charity's name;
 - details of the donation – saying that it is a gift aid donation; and
 - confirmation that they have paid UK tax – to cover the tax the charity will reclaim.
- A declaration can be made to cover individual donations, a series of donations, donations made during a specified period or “all future donations”. Declarations can also be backdated for up to six years prior to the date of the declaration, provided the donation was made after 6 April 2000. Accordingly there is tremendous scope for some organisations to “recover”/claim additional income.

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- The declarations themselves can be:
 - written/typed (including letter, memo etc...);
 - pre-printed on to envelopes, sponsorship forms etc;
 - given orally and the information recorded by the recipient charity; and
 - communicated electronically (via the internet, e-mail, fax, text message etc...)
 - It is not normally necessary for a declaration to be signed and dated. It is required on the declaration only where it serves to identify that a particular donation or donations are to come within the scheme.

Cancellation of declarations

- Donors are entitled to cancel their declaration at any time. They may do so by notifying the charity in any convenient way. The charity should keep a record of the cancellation of the declaration, including the date of the donor's notification.
- A cancellation will normally have effect only in relation to donations received by the charity on or after:
 - The date on which the donor notifies the charity of the cancellation; or
 - such later date as the donor may specify in the cancellation.

Tax Relief to the Donor

This depends upon the "tax status" of the donor.

- If a basic rate of tax payer, the donor cannot claim further tax relief on the payments; but
- If a higher rate of tax payer, the donor can claim higher rate relief on the payments by entering the donations in the gift aid box on their self assessment tax return. Donors who receive a form P810 can declare their gift aid payments on it.

Claiming Tax Back

To claim repayment of tax under the Gift Aid scheme you must be a charity. In England and Wales, you must be registered as a charity with the Charity Commission, unless you are excepted from registration. In Scotland the Office of the Scottish Charity Regulator (OSCR) must accept you as a charity and in Northern Ireland, HM Revenue & Customs (HMRC) must accept you as a charity. New charities who want to claim exemption from tax and claim repayment of tax under Gift Aid should write to H M Revenue & Customs (Charities).

Generally, claims for repayment should be signed by an authorised official of the charity i.e. one of the following: a trustee of the charity; a director of the charity; or a member of the managing committee of the charity. Repayment will generally be made directly to the charity. Charity officials can, however, nominate (through completion of the appropriate form) an individual to sign repayment claims and/or receive repayments on their behalf. However, the officials of the charity will remain wholly responsible for the accuracy and validity of any claim made on their behalf by any person they have so authorised. An official nominee can be an employee of the charity, a third party or an agency authorised to act on behalf of the charity.

Through completion and submission of forms R68 (New Gift Aid) and R68 (2000), to HMRC Bootle, a charity can reclaim tax on any donations made by individuals, whether large or small, regular or one-off, provided the conditions for the Gift Aid tax relief are satisfied.

Time limits exist for claims as follows:

- A charity, which is a company for tax purposes, must make any claim within six years from the end of the accounting period to which the claim related; and
- A charity, which is a trust for tax purposes, must make any claim within five years of 31 January in the year following the end of the tax year to which the claim relates.

Audit Trail

The charity will have to be able to show an audit trail from the donation to a donor who has given a Gift Aid declaration that covers that donation as follows:

- If the charity is a company, records must be kept until six years after the end of the accounting period to which the tax repayment relates; and
- If the charity is a trust records must be kept until:
 - 31 January next but one after the end of the tax year to which the tax reclaim relates;
 - One year after you make your tax reclaim, rounded to the end of the next quarter; or
 - The Inland Revenue Charities completes any audit it has commenced.

Whichever is later.

Benefits Received by Donors

“Modest” benefits received as a consequence of making a donation will not prevent the donation from qualifying as a Gift Aid donation, provided their value does not exceed certain limits.

A benefit is any item or service provided by the charity or a third party to the donor or a person connected with the donor in consequence of making the donation.

A mere acknowledgement of a donor’s generosity will not constitute a benefit provided that it does not take the form of advertising. The wording should be restricted to thanks for the support, the donor’s name and/or logo.

Donor benefit rules

The donor benefit rules contain 2 limits to be followed. A donation will not qualify as a Gift Aid donation if:

- The value of the benefit exceeds the following limits:

Amount of donation	Value of benefit
£ 0 – 100	25% of the donation
£101 – 1,000	£25
£ 1001+	2.5% of the donation

** Note: These limits apply to each donation. Special limits apply to “annualise” the amount of certain donations and the value of certain benefits for the purposes of applying the limits.*

Or

- The value of the benefit plus the value of any other benefits received as a result of Gift Aid donations to the same charity by the same donor in the same tax year exceed £250.

The valuation of certain donor benefits can be difficult to determine. This could be the sale price of the benefit to the public if relevant or if not could be related to the cost of provision.

Where a charity sends literature to its donors, HMRC view the value of the benefit as £nil if the literature is produced to describe the work of the charity and is distributed in furtherance of the objects of the charity. The fact that the literature may have a sales price and be on sale to the members of the public is not relevant.

Specific Guidance

Specific guidance is provided on the HMRC website in respect of the following particular situations:

- Educational school trips
- Church collection
- Educational trusts
- Membership subscriptions
- Adventure fundraising events
- Donations attracting free admission
- Charity auctions
- Voluntary workers' expenses
- Gifts of goods
- Charity events

Gift Aid for Companies

Gift Aid donations made by a companies to charities are paid gross and no declarations are required.

There are also special rules for companies wholly owned by a charity (and after 1 April 2006 wholly owned by one or more charities), allowing them to set off the donation in an earlier accounting period than the one in which the donation was made.

Companies, including companies owned by a charity and unincorporated associations, do not deduct from their Gift Aid donations.

The Charity **cannot** reclaim tax on donations it receives from a company.

The Charity need only keep records normally required of donations.

HMRC Charities website

Full information regarding Gift Aid, including contact details, is available on the HM Revenue & Customs website www.hmrc.gov.uk/charities/

This article is intended to be of a general nature only and does not contain details of all aspects of the Gift Aid System and should not be relied upon as such. Readers should seek appropriate professional advice when considering their Gift Aid position. If you would like further information from Whittingham Riddell LLP Charities Group mail Andy Malpass amalpass@whittinghamriddell.co.uk or Graham Murphy gm@whittinghamriddell.co.uk