

Tax for charity fundraisers

made simple



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Introduction

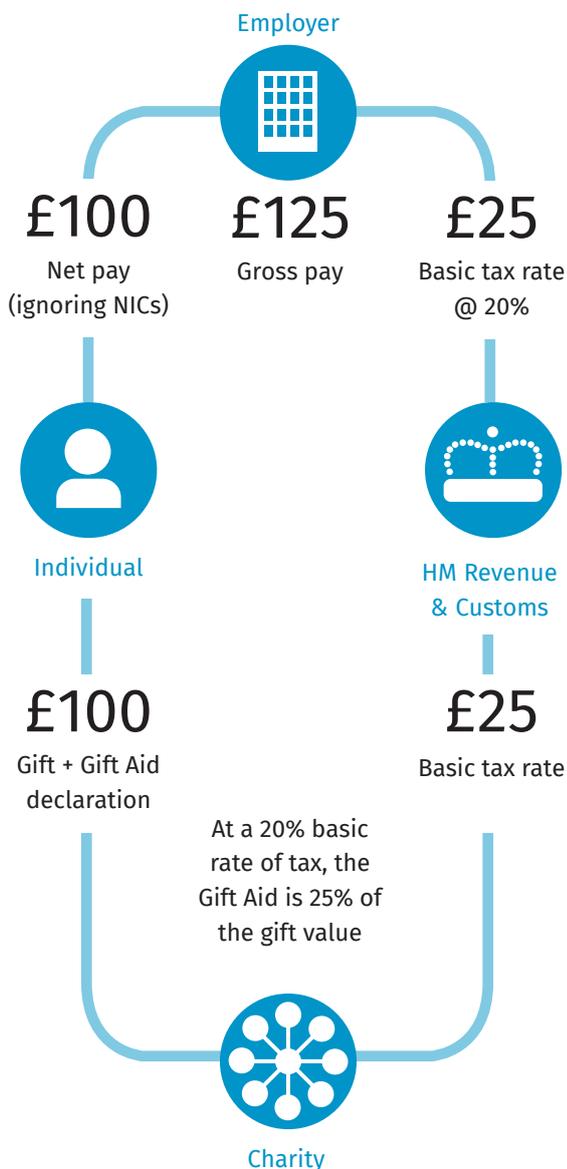
This guide explains the main Gift Aid, VAT and direct tax consequences of common charity fundraising activities. Introductory sections on Gift Aid, VAT and the direct taxation of charity income provide background information to these taxes as they affect charities. The section on fundraising activities considers the Gift Aid, VAT and direct tax implications of sixteen common fundraising activities. The section 'VAT reliefs for charities' explains some of the key VAT reliefs available to charities.

Background to Gift Aid

There are two types of Gift Aid.

1 Individual Gift Aid

if an individual makes a donation to charity from income that has been subject to UK income tax or capital gains tax, then, providing the Gift Aid scheme conditions are met, the charity can reclaim from HMRC the equivalent of the basic rate income tax paid on the donation.



2 Corporate Gift Aid

A company can deduct a qualifying Gift Aid donation to charity from its pre-tax profits. The effect is that a corporate Gift Aid donation is handed over gross of tax relief and there is no tax to be reclaimed by the charity. However, corporate Gift Aid is subject to the same Gift Aid scheme conditions as apply to individual donations (except for the requirement to provide a declaration).

Individual Gift Aid scheme conditions

For a gift to be eligible for individual Gift Aid, all of the following conditions must be met:

Money

The gift must be the payment of a sum of money. Gifts in kind do not qualify.

Gift Aid declaration

The donor must give the charity a valid Gift Aid declaration to cover the gift. See below for what a valid Gift Aid declaration must contain.

Donor benefits

Any benefits provided in consequence of making the gift must be within the donor benefit limits.

Anti-avoidance conditions

The gift must not be subject to any condition as to repayment (so this excludes loans). It must not be part of any arrangement involving acquisition of property by the charity from the donor. This blocks a person giving a donation to a charity which uses that donation to purchase property from the donor. Payments under payroll giving and payments from other charities are also excluded as are tax deductible payments – for example, deductible professional subscriptions.

Donor benefit limits

To qualify for Gift Aid, there must either be no benefit associated with the gift or if there is a benefit, the value of all benefits associated with the gift must be within the following limits:

Donation	Maximum benefit value allowed for Gift Aid
Up to £100	25% of the donation
£100–£1,000	£25
Over £1,000	5% of the donation
Overall limit	£2,500 (maximum benefits that can be provided in a tax year)

With effect from 6 April 2019 these limits will be raised as follows

Donation	Maximum benefit value allowed for Gift Aid
Up to £100	25% of the donation
Over £100	£25 plus 5% of the donation over £100
Overall benefit limit	£2,500 (maximum benefits that can be provided in a tax year)

A donor benefit is:

- Any goods, services, use of property, rights or other benefit.
- Received by the donor or a person connected to the donor.
- In consequence of making the donation.

A benefit can be provided by the charity or a third party, but this excludes situations where an unconnected third party provides benefits unsolicited by either the charity or donor.

Connected persons include spouse, children, siblings, parents, grandparents and business partners.

Ignored benefits

HMRC accept the following benefits can be ignored:

- Literature explaining the work of the charity – e.g. newsletters, bulletins, annual reports, journals, magazines, members' handbooks and programmes of events.
- Acknowledgements – but not adverts for a donor's business. Naming a building after a donor is OK but not after their business.
- Right of admission to view charity property – certain rights of admission to view charity property are ignored.
- Third party benefits provided these are unsolicited by the charity or donor.
- Priority booking rights provided these are of no commercial value to the rights holder.
- Stickers, pins, badges etc. provided the item is of negligible value.

Valuing benefits

HMRC provide the following guidance on valuing donor benefits:

- Commercially available items – the value is the commercial price the donor would otherwise have to pay (including any VAT).
- Invitations to non-public events – these can be valued on a cost per head basis.
- Discounts – the valuation can be based on the average take-up provided records are kept of all discounts given.
- Life membership subscriptions – value as the benefits receivable over the first ten years of membership. If benefits will not change much from year to year, calculate as benefits in first year multiplied by ten.

Split treatment

If a benefit can be purchased separately and the donor is aware of the price they could purchase the benefit for at the time the donation is made, then HMRC accept the split payment treatment can be used. This works by treating the donor's payment as being comprised of two parts:

- Part to cover the purchase price of the benefits – in effect 'buying the benefit'.
- Part as a donation – any excess over the benefit value.

The donation element can be donated under Gift Aid but the purchase element cannot.

A benefit can be purchased separately if it is otherwise sold by the charity or if it is commercially available. However, HMRC do not accept that celebrity enhanced items, such as a signed football, are available for the normal sale price of the unenhanced item.

Gift Aid declarations

These can be:

- Written – e.g. filled in paper forms, web-forms, emails.
- Oral – given in person or over the phone.

With effect from 6 April individuals can also authorise intermediaries to issue gift aid declarations on their behalf. The authorisation must be renewed every tax year.

Written declarations

Written declarations must include all of the following:

- The name of the charity. HMRC accept a charity's unique logo is sufficient.
- The name and home address of the donor (including a postcode for UK addresses).

HMRC will reject addresses that are clearly business addresses.

- Identification of the gift (e.g. the enclosed gift, all gifts made in the last four years and all future gifts). If the declaration covers past and future gifts it is referred to as an enduring declaration.
- A request to treat the identified gifts as Gift Aid donations (e.g. please Gift Aid the above donations).
- A date, if the declaration applies to past or future gifts.
- A tax to cover statement. See below for the HMRC model wording.

Oral declarations

- For oral declarations the HMRC recommended procedure is:
- Obtain all the information required on a written declaration and explain the tax to cover requirement.
- Either keep a recording in a format that can be retrieved or send the donor the above details in writing, including the tax to cover statement and give the donor 30 days to cancel.
- If the donor does not cancel within 30 days, Gift Aid can be claimed on the donation.
- Keep a record of all letters sent. A database record is OK, for example, a mail merge letter with a database of names and addresses the letter was sent to with the date of sending and any follow up details.

Tax to cover statement

HMRC provide model wording for the tax to cover statement which they change from time to time. The latest version (October 2015) for an enduring declaration is:

I am a UK taxpayer and understand that if I pay less Income Tax and/or Capital Gains Tax than the amount of Gift Aid claimed on all my donations in that tax year it is my responsibility to pay any difference.

It is safest to use the current HMRC model wording on new or replacement declarations. However, older declarations with the then model wording are acceptable and do not have to be updated, though it is sensible to do so wherever possible.

HMRC audits

HMRC may decide to look into one or more Gift Aid claims by conducting a Gift Aid audit. If they find any Gift Aid has been wrongly claimed they demand repayment together with interest and penalties if applicable. The error rate can be extrapolated with HMRC seeking the error percentage for the last four years' claims. The HMRC staff usually perform a sample test of a charity's recent Gift Aid claims, tracing the sampled gifts from the Gift Aid claim to a valid declaration and also to evidence of receipt of the gift. This is now often carried out remotely by emailing the documents to HMRC. HMRC staff also review compliance with the Gift Aid benefit rules.

Gift Aid Small Donations Scheme

This commenced on 6 April 2013. A charity can claim a Gift Aid-like top up payment on up to £8,000 of small cash donations of up to £20 each (coins, notes and contactless payments, but not cheques, other types of card payment or bank transfers). So the maximum extra that can be claimed is $£8,000 \times 25\% = £2,000$, though this limit can be increased under the community buildings rule (see below), but is shared if two or more charities are connected.

There is no need for a declaration. However, there must be no benefits associated with the small donation (though very minor benefits such as lapel stickers are acceptable). To make GASDS claims a charity must have a good history of Gift Aid claims. If a charity makes no Gift Aid claims, it will be unable to make a GASDS claim.

If a charity runs charitable activities in two or more community building and receives small donations in the same local authority areas, the charity may be able to increase its limit to £8,000 per community building.

The charity must carry out charitable activities free of charge in each community building on at least six occasions per year and each activity must have ten or more participants.

Background to VAT

VAT is a transaction level tax that is charged by suppliers as a percentage of the selling price. The VAT added by a supplier is referred to as output VAT. It is collected by the supplier and passed to HMRC. VAT must be paid on purchases, called input VAT. Not all transactions are subject to VAT.

For VAT purposes income is divided into:

- **Non-business** – no VAT charged, outside the scope of VAT and VAT incurred on related purchases cannot normally be recovered.
- **Exempt** – within the scope of VAT but no VAT charged, input VAT incurred cannot normally be deducted.
- **Taxable** – VAT charged at the appropriate percentage rate (0%, 5% or 20%). Input VAT incurred can be recovered by offset against VAT due on sales.

Non-business income

Non-business income includes:

Grants, donations, legacies and other voluntary payments

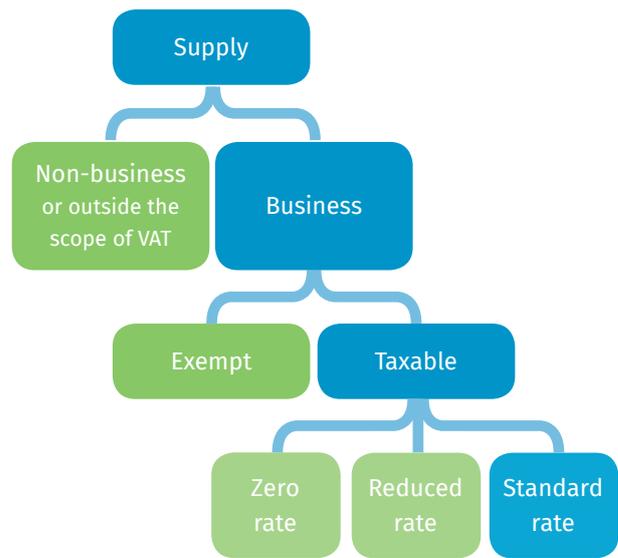
These are not supplies as there is no obligation to provide goods or services in return for the gift.

Financial investments

Bank interest, dividends and other income and gains from financial investments are outside the scope of VAT for a charity.

Exempt supplies

Exempt supplies are within the scope of VAT but specifically exempted. No output VAT is charged but VAT incurred for exempt activities cannot normally be recovered (only if the overall level of exempt activity is de-minimis).



Exempt supplies include:

Fundraising events

Supplies in connection with qualifying fundraising events.

Lotteries and games of chance

The sale of lottery tickets, game entry charges, bets etc. are exempt as are commissions from National Lottery sales.

Supplies of property

Selling, renting or letting land and buildings is normally VAT exempt but there are many exceptions and complications.

Training and education

Supplies of training and education by an eligible body are exempt.

More detail on each of these exemptions is provided in the section on Fundraising activities below.

Zero-rated supplies

If a supply is zero-rated, no output VAT is added to the selling price but input VAT incurred in making the zero-rated supply can be recovered. This is usually considered to be the most favourable VAT treatment of all. Zero-rated supplies include:

Printed matter

Sales of printed publications such as books, booklets, newsletters, journals, programmes, catalogues, printed music, maps, charts and topographic plans. However the following do not qualify for zero-rating: electronic publications, posters, stationery, address books, diaries and calendars.

Children's clothing and footwear

Under-14 years sizes are generally regarded as children's – 14 years or over as adult sizes.

The sale of donated goods by a charity

Personal goods donated for sale in a charity shop or at a charity fundraising auction - see Fundraising activities below

Standard-rated supplies

Taxable supplies that are not covered by any of the zero- or reduced-ratings are subject to VAT at the standard rate. Potential standard-rated supplies include the following.

Most sales of goods

Unless the goods are covered by one of the zero-ratings or reduced-ratings or are donated for sale then they are likely to be VAT standard-rated e.g. sales of bought in or manufactured greetings cards, DVDs, mugs, pens, diaries, calendars, posters, toys etc.

Royalties

Royalties and other payments for the use of intellectual property such as use of a charity's name or logo.

Advertising and promotion

Sales of adverts in publications, on websites, at events etc. are normally standard-rated. However, if the customer is a charity, the supply is zero-rated and, if the advertising relates to a qualifying fundraising event, it is VAT exempt.

Management charges

Charges to a trading subsidiary for staff costs, use of equipment, overheads are subject to VAT at standard rate.

Electronic publications

Sales of products delivered electronically such as pay access websites or databases, downloaded images, software, videos, music, software, and electronic publications are all normally VAT standard-rated

Catering

Catering is any food or drink supplied for consumption on the premises on which it is supplied, or any supply of hot food or drink (for consumption on or off the premises). However, catering sold at a qualifying fundraising event is VAT exempt.

Direct tax background

For an incorporated charity, direct tax means corporation tax and for a charitable trust it means income tax and capital gains tax. These are taxes on profits and capital gains. In principle, charities are subject to direct tax on their profits and capital gains. However, there are many exemptions for charities which normally exempt all profits and gains of a charity.

Exemptions

Capital gains

Capital gains made by a charity are exempt provided the gain is applied towards the charity's objects.

Property income

Property income (rents, lettings etc.) is exempt provided the profit is applied towards the charity's objects.

Lotteries

Profits from lotteries are exempt provided the lottery is conducted in accordance with the relevant gaming legislation and any profit is applied towards the charity's objects.

Financial investments

Income from financial investments such as share dividends and deposit interest is exempt provided it is applied towards the charity's objects.

Intellectual property rights income

Income from selling rights to intellectual property such as use of a logo is exempt provided it is not trading income (for which see below) and is applied towards the charity's objects.

Primary purpose trading

Trade broadly means operations of a commercial character by which customers are provided goods or services for reward.

Trading profits are exempt if the trade is exercised in the course of carrying out the charity's objects (a primary purpose trade) and any profit is applied towards the charity's objects.

Ancillary trading

Primary purpose trading extends to other trading which, although not overtly primary purpose in nature, is ancillary to the carrying out of a primary purpose. HMRC accept the following are ancillary trading:

- The sale of educational goods to students by a school.
- The provision of a crèche for the children of students by a school or college.
- Sale of food and drink in a cafeteria to visitors to exhibits by an art gallery or museum.
- Sale of food and drink in a restaurant or bar to members of the audience by a theatre.

However, sales of any of the above to the general public would be non-primary purpose trading.

Beneficiary trading

Trading profits are exempt if the trade is mainly carried out by the charity's beneficiaries and any profit is applied towards the charity's objects. Such trades are normally therapeutic or work experience projects for the beneficiaries.

Trading in connection with qualifying fundraising events

Trading in connection with a fundraising event that meets the VAT conditions for exemption is also exempt from direct tax. Any profit must be applied towards the charity's objects.

Small-scale trading exemption

Profits from trading which is not covered by any of the exemptions above are nevertheless exempt provided the overall level of such trading is small. This means the turnover from all non-exempt trading is less than £5,000, or less than the lower of 25% of the charity's total incoming resources for the period and £50,000. The period involved is the charity's financial year if a corporate charity and the tax year (6 April – next 5 April) if it is a charitable trust.

Trading subsidiary

If the level of non-exempt trading rises above the small scale trading limit then all of the non-exempt trading profit is subject to direct tax, that is unless the charity had, at the beginning of the period, a reasonable expectation that it would not do so. The standard solution is for the charity to transfer some or all of the non-exempt trading to a wholly owned subsidiary company (a 'trading subsidiary'). The trading subsidiary suffers corporation tax on its profits and gains, however it can use corporate Gift Aid (see above) to donate its taxable profit to the parent charity, thus avoiding any actual corporation tax liability. This approach is accepted as effective by both HMRC and the Charity Commission. If the trading subsidiary is wholly owned by the parent charity, the trading subsidiary has nine months from its year end to calculate and pay over its donation.

Main risk for fundraisers

The main direct tax risk for fundraisers is likely to be that an activity undertaken in a charity is a non-exempt trade and is not covered by the small scale trades exemption.

Fundraising activities

Public donations

Gift Aid

Donations from the general public are eligible for Gift Aid if you obtain a valid declaration from the donor and provided any benefits provided to the donor (or a person connected with the donor) are within the donor benefit limits.

VAT

If no substantial benefits are provided to the donor in return for their donation, the donation is outside the scope of VAT. However, VAT incurred in raising unrestricted donations can normally be treated as residual and partly recovered if the charity is VAT registered.

Direct tax

Pure monetary gifts where no substantial benefit is received by the donor are not normally seen as within the scope of direct tax as a receipt in the hands of the charity. However, if a donation is Gift Aided it is treated as exempt income provided the donation and Gift Aid are applied to the charity's objects. If a donation is made specifically to support a trade then it can be seen as a receipt of that trade. If the trade is exempt the donation will also be exempt on the basis it is a receipt of an exempt trade.

Donated goods

Gift Aid

In principle, Gift Aid is only available for monetary donations, however, individuals can Gift Aid donations of goods via the Retail Gift Aid Scheme, see below.

VAT

If a business donates goods on which it has recovered VAT then the business is deemed

to supply those goods and has to pay output VAT to HMRC as if it had sold them. However if the business donates the goods to a charity for sale, hire or export, that deemed supply by the business is zero-rated, so the business has no actual VAT to pay. If the charity sells, hires or exports the donated goods, then this is also a zero-rated supply by the charity (see Charity shops below).

Direct tax

By default a gift of trading stock by a trader is treated as a sale at market value. However a donation of trading stock to a charity or to an educational establishment does not give rise to any deemed taxable receipt for the trader, nor does a gift of trading stock of medical supplies or medical equipment for humanitarian purposes. In the latter case the recipient need not be a charity or educational establishment. A gift of plant and machinery to a charity also attracts relief from capital allowances for the donor.

Barter arrangements

VAT

If goods or services are provided by way of barter, then VAT is still potentially due to HMRC even though there is no monetary consideration. For example, if a charity promotes a business's products and in return receives free products, there are two supplies, one of promotional services by the charity to the business and one of products by the business to the charity. The charity must (if VAT registered and if the supply is taxable) account to HMRC for output VAT on the sale of promotional services. However if the barter supply is in connection with a qualifying fundraising event, the charity's supply is VAT exempt. The equivalent VAT on

the supply to it of products is not recoverable by the charity unless they are used for taxable supplies by the charity or in part if used partly for these.

Direct tax

The normal direct tax rules apply to any barter supply by the charity. If the barter supply amounts to a trade, it must then be established if it is an exempt trade, falls within the small trades exemption or needs to be undertaken in a trading subsidiary.

Qualifying fundraising events

VAT

Potentially any type of supply of goods or of services by a charity is VAT exempt if it is in connection with a qualifying fundraising event. The exemption covers admissions, sales at the event, sponsorship of the event and sales of advertising in programmes. Events can include online events. However, if a sale also qualifies for zero-rating (e.g. sales of printed programmes), that sale can be zero-rated in preference. To be a qualifying fundraising event all of the following conditions must be met:

- The event must be organised by a charity or a wholly owned trading subsidiary of a charity whose profits are payable to a charity, or by a combination of one or more of these. So events jointly organised by two or more charities also qualify.
- The primary purpose of the event must be the raising of money.
- The event must be promoted as being primarily for the raising of money.
- There must not be more than 15 events of the same kind in the same location in the charity's financial year, though small scale events where aggregate gross takings are

less than £1,000 per week can be ignored in counting the number of events.

- The event must not involve providing a package of both travel and accommodation, or bought-in accommodation, or more than two nights' accommodation from the charity's own resources. Challenge events, where the participant is provided with transport and overnight accommodation, normally fail this condition.

If the income of a qualifying fundraising event is exempt, you cannot normally recover VAT on the related purchases so your budget for the event may have to include VAT on the costs.

Direct tax

Any trading at or in connection with a qualifying fundraising event is exempt from direct tax. This covers (as with VAT) entrance charges, sales at the event and sales in connection with the event, such as sponsorship and advertising.

Sponsored events

Where a charity organises its own sponsored event such as a sponsored run and participants raise sponsorship from friends, family, work colleagues etc.

Gift Aid

Sponsorship payments from un-connected persons can be Gift Aided, subject to having a valid Gift Aid declaration. HMRC provide a model Gift Aid declaration that doubles as a sponsorship form (see Further information). If the sponsorship is from a connected person (parent, spouse, civil partner, child, sibling, grandparent etc.) then the sponsorship can only be Gift Aided if the participant receives no substantial benefits

for participation (within the donor benefit rules) or if the participant pays for the benefits themselves ('buys the benefit').

VAT

Where a charity allows individuals to take part in the event for free and regardless of the amount they raise, including where a charity asks individuals to 'pledge' or 'commit' to raise a certain amount, and provided the individuals do not receive any substantial benefits in return, HMRC accept that amounts raised can be treated as outside the scope of VAT.

HMRC accept the following are not substantial benefits: provision of free training and health advice; a free t-shirt, running vest or similar; free massages and support during the event; free pre-event meetings and free post-event meetings which can include light refreshments.

If the participant has to pay a registration fee and/or raise a specified minimum amount of sponsorship before they are allowed to participate HMRC see the total mandatory payments before being allowed to take part as consideration for the right to participate. This is by default standard-rated, however if the event meets the qualifying fundraising event conditions this consideration will be VAT exempt. Any amounts raised above the mandatory minimum are outside the scope of VAT donations.

Direct tax

Sponsorship payments and registration deposits for charity sponsored events are not normally seen as trading receipts for the charity provided there are no substantial benefits provided to participants.

Challenge events

'Challenge event' here refers to an event where the participant is provided with substantial accommodation or which is organised by a commercial business, and as such does not meet the conditions for a qualifying fundraising event. They include events in the UK and abroad.

Gift Aid

The position is as for sponsored events.

VAT

There are various VAT options for challenge events:

- If a charity has no pre-existing agreement with either the donor or event organiser, and simply receive a donation from the participant or event organiser – this is likely to be an outside the scope of VAT donation in the charity's hands.
- If a charity (or its subsidiary) sells places as disclosed agent of an event organiser (disclosed agent means that participants know who the actual event organiser is and who they are contracting with for the event), with the event organiser taking responsibility for the event itself, you are seen as supplying agency services to the organiser. Your consideration for VAT purposes is your margin. This is the difference between what the participant must pay before departure (registration fees, deposits plus any minimum fundraising) and what you pay to the event organiser. This margin is gross of standard-rated VAT if the organiser is in the UK. Any funds raised on top of this are outside the scope of VAT.
- If the charity or its subsidiary organises its own challenge event as principal,

putting together a package of travel and/or accommodation and taking responsibility for the event, or if it acts as undisclosed agent (so participants do not know who the actual organiser is), the event is likely to fall under the special VAT Tour Operators' Margin Scheme ('TOMS'). Under TOMS VAT applies to the margin (as above), however the margin is zero-rated if the event takes place outside the EU and standard-rated if the event takes place inside the EU.

Direct tax

The HMRC guidance says that if an event is not a qualifying fundraising event and if the event isn't charitable putting on the event may amount to trading and so there may be a direct tax liability. However in practice HMRC appear to accept that sponsorship payments and deposits are not trading receipts for a charity.

Commercial marathons

Gift Aid

See sponsored events above. HMRC do not regard being given a place in a commercial marathon in the UK as a donor benefit even if the charity has paid for it.

VAT

Commercial marathons such as the London Marathon do not qualify for the fundraising event exemption so any mandatory entry fee or minimum sponsorship target is treated as standard-rated consideration for entry if the event takes place in the UK. Many charities get participants to pay a small entry fee, so as to obtain VAT recovery on the purchase of places, with participants then making non-binding pledges to raise a minimum amount. In this situation the entry fee is standard rated (if the event takes place in the UK) but

any sums raised above this are outside the scope of VAT.

Direct tax

See Challenge events

Charity auctions

Charity auctions usually involve either the sale of 'celebrity enhanced' items such as donated clothes or signed footballs, or bidders deliberately paying over the odds for everyday items with the intention the excess is a gift to the charity.

Gift Aid

For celebrity enhanced items, HMRC do not accept that any element of the successful bid payment can be a gift, so Gift Aid cannot be claimed on bids for celebrity enhanced items. For everyday items, HMRC accept that the split treatment can be used if the item is commercially available, and the donor is aware, at the time they make their successful bid, that the item could be purchased separately and for what price. This could be achieved by, for example, printing a list of retail values (including VAT if applicable) in an auction catalogue. In such a situation the bid payment is split into two parts:

- A consideration part – payment for the item at its commercial value. Gift Aid cannot be claimed on this part.
- A donation element – the excess of the bid payment over the commercial value. This part is eligible for Gift Aid.

VAT

The whole of the amount the successful bidder has to pay for the auction item is the value of the sale for VAT. However charity auctions can normally be structured as a part of a qualifying fundraising event, or

as a qualifying fundraising event in itself, for example an online auction, so sales by auction at such events qualify for VAT exemption. In addition, the sale by a charity of goods donated to it for sale is zero-rated, so the sale of donated goods (celebrity enhanced or otherwise) can be zero-rated. However, the zero-rating does not extend to donated services, such as donated holidays or restaurant meals.

Direct tax

If the auction is structured as a qualifying fundraising event any profit will be covered by the exemption for trading in connection with a qualifying fundraising event (see Sponsored events above). Otherwise any income is likely to count against a charity's small scale trades exemption.

Sponsorship

Sponsorship is a term that covers a wide variety of situations. It is always necessary to consider what, if any, benefits the sponsor obtains in return for their sponsorship payment.

Gift Aid

If the sponsor is a company then no Gift Aid can be claimed anyway. If the sponsor is not a company (for example a sole trader or a partnership) but receives a substantial benefit, above the donor benefit limits, then that also blocks Gift Aid from applying.

VAT

If a sponsor has to pay a set amount in order to receive a package of benefits then:

- Trivial benefits can be ignored. HMRC accept trivial benefits include: giving a flag or sticker; naming the donor in a list of supporters in a programme or on a notice naming a building after the donor; and

putting the donor's name on the back of a seat in a theatre.

- If the main benefit for the sponsor is advertising and promotion then by default the supply is standard-rated. However, if the sponsor is a charity it is zero-rated, and if the sponsorship is of a qualifying fundraising event, it is VAT exempt.
- HMRC accept that, provided it is entirely separate from your sponsorship agreement, you are not required to account for VAT on any donation you might also receive from a sponsor. However, it must be clear that any benefits your sponsor receives are not conditional on the making of the donation or gift (VAT Notice 701/41 Section 2.3).

Direct tax

HMRC accept that minor acknowledgements of a sponsor's generosity do not amount to advertising, however, if substantial benefits are provided to the sponsor then the sponsorship payment is likely to be seen as a trading receipt. If the sponsorship is of a qualifying fundraising event, then it will be exempt trading income.

Cause-related marketing

Cause-related marketing describes the situation where a business values a charity's brand and pays the charity a fee for the use of its name and/or logo in its own advertising. The charity itself may or may not take an active part in the promotion, for example by promoting the business to its own members and supporters.

VAT

In providing use of its name or logo a charity is making a supply of intellectual property rights which is by default standard-rated

for VAT. If the supply is in connection with a qualifying fundraising event it is exempt. There is also a special HMRC concession for affinity credit cards. In VAT Notice 701/1 Section 8 HMRC accept charities may treat income from affinity credit card arrangements as partly a standard-rated fee for use of the charity's name, mailing lists etc. and partly an outside the scope of VAT donation.

Direct tax

If the commercial participator simply receives use of a name or logo, this can normally be structured as an exempt royalty in the charity's hands. However, if the charity also provides the commercial participator with services, such mailing members or putting adverts in publications, then this is likely to be seen as trading by the charity. Consideration must then be given as to whether it is exempt trading or covered by the small scale trades exemption.

Patron and supporter schemes

Many organisations use patron, friends or supporter schemes to obtain financial support. Supporter schemes are often structured as a hierarchy of benefit packages (e.g. gold, silver, bronze) that supporters can sign up to.

Gift Aid

To assess if a supporter scheme is eligible for Gift Aid, the benefits the supporter is eligible to receive must be valued and then compared with the total supporter payment. If there are different packages, this exercise must be carried out for each package. If the total value of all the benefits is within the donor benefit limits, the whole supporter payment can be Gift Aided. If the total value

of all the benefits exceeds the donor benefit limits, then check if the 'split treatment' (see above) can be used.

VAT

If you provide donors with substantial benefits in return for a required minimum payment, then the minimum payment is, in principle, within the scope of VAT as consideration for the supply of those benefits. For VAT, HMRC do not accept that the provision of charity literature and priority booking rights can be ignored, in contrast to the Gift Aid treatment. However:

- You can ignore trivial benefits such as membership badges, flags or stickers, and a listing of supporter names in charity literature or on a plaque.
- If a supporter agrees to make a donation and is then offered the option to receive regular printed or electronic updates explaining how their money is being spent, then the donation is not seen as wholly or partly consideration for the updates.
- HMRC accept a supporter payment can be split as part donation and part consideration for the benefits provided all the substantive benefits are available to non-supporters for less.
- If all the substantial benefits are VAT exempt (for example, entry to qualifying fundraising events) then the minimum payment is itself VAT exempt.

Direct tax

Providing supporters with substantial benefits in return for a minimum payment is likely to be seen as a trade. However, in many situations this will be, or could be structured as, a primary purpose trade, for example, where theatre supporters are offered

admission to previews, ticket discounts and literature about forthcoming plays.

Membership schemes

Gift Aid

See Patron and supporter schemes above

VAT

Where charities have members who have voting or other constitutional rights then a special VAT concession applies ('ESC 3.35'). This allows the membership subscription to be apportioned between the benefits provided so, for example, printed matter is a zero-rated benefit. HMRC accept that if all the substantive benefits are available to non-members at no charge or more cheaply than the subscription or if some or all of the substantive benefits are exclusive to members and you are able to demonstrate that the amount paid is higher than the amount that the subscriber would normally have to pay for similar goods or services, any excess can be treated as an outside the scope of VAT donation. There is also a VAT exemption for subscriptions to certain public interest bodies such as professional bodies, learned societies and philanthropic organisations.

Direct tax

If it is seen as trading, the provision of benefits to constitutional members of a charity is likely to be primary purpose trading.

Charity shops

Charity shops usually sell donated goods and sometimes also bought-in goods.

VAT

The sale or hire by a charity or a *profits to charity person* (see below) of goods donated

to it for sale or hire is zero-rated. The goods can be cleaned or repaired as long as this does not alter their structure or original use. The goods must be available for purchase or hire by the general public or by two or more 'specified persons'. Specified person means a person who is chronically sick or disabled or a person who is entitled to any one or more of certain specified social security benefits. This means sales can be limited to disabled persons or persons on the specified benefits. By concession (Extra Statutory Concession 3.21) HMRC also allow zero rating of the sale of goods in a poor condition and unwanted goods to scrap merchants and similar.

A *profits to charity person* is a person who has agreed to transfer to a charity the profits from supplies of the goods or a person for whom the profits are otherwise payable to a charity. So sales by a trading subsidiary with an agreement in place to transfer profits also qualify for zero-rating.

Sales of goods that are purchased for sale are by default VAT standard-rated, unless the goods qualify for some other VAT relief, for example as zero-rated sales of bought in printed matter or children's clothing.

Direct tax

HMRC accept that the sale of donated goods by a charity lacks the commercial character required of a trade and as such is not seen as trading but as being the realisation of a donation. This is subject to the condition the goods are not subjected to significant refurbishment or to any process which brings them into a different condition for sale purposes than that in which they were donated.

The sale of bought in goods, on an ongoing basis and for commercial prices, is likely to

be seen as a trade. However if the goods are related to the charity's objects or sold exclusively to the charity's beneficiaries, their sale might be exempt as a primary purpose trade or an ancillary trade and if the sale is connected to a qualifying fundraising event it will also be exempt.

Retail Gift Aid Scheme

Many charity shops now operate the Retail Gift Aid Scheme ('RGAS') under which donations of goods from individuals can be Gift Aided.

Gift Aid

RGAS aims to make gifts of goods to a charity shop eligible for Gift Aid, the Gift Aid scheme being limited to monetary donations. Under the scheme, the charity or its trading subsidiary enters into an agency agreement under which the charity/subsidiary sells the goods as agent of the donor. If the goods are sold the proceeds, less any seller's commission, belong to the donor. The donor can then choose to Gift Aid their monetary proceeds.

There are three HMRC approved 'methods' for operating the scheme (the standard method, method A and method B). Under the standard method the donor must be notified of any proceeds and given the option to retain them before they can be Gift Aided. Under methods A and B the donor only need be notified if total sales go above a pre-agreed limit.

VAT

RGAS is only normally suitable for personal goods donated by individuals. If goods belonging to VAT registered businesses are sold, VAT may have to be charged on the sale. The general approach for VAT is for the donor to be charged a seller's commission in order

to make the agency sales activity a taxable business activity so as to retain full VAT recovery on shop costs. If no commission is charged then the agency sales are potentially a non-business activity, blocking VAT recovery on associated costs. Any seller's commission is, by default, standard-rated for VAT.

Direct tax

If the agency sales are carried out in a charity, HMRC regard any commissions charged to donors as non-primary purpose trading receipts and as such count towards the charity's small scale trades exemption limit.

Renting out property

VAT

Income from the sale of land or buildings and from leasing or letting out land or buildings is by default VAT exempt. However if you have opted to tax the land or buildings, your supply becomes standard-rated, though this can be overridden in some situations.

Opting to tax is usually done to enable VAT recovery on the associated costs. If you are involved in renting property (as seller or buyer) is important to establish if an option to tax has been exercised. However in some situations property lettings are always standard-rated, irrespective of any option to tax. These include:

- Letting certain specialised premises (e.g. hotel rooms, holiday accommodation, sports facilities, parking facilities, camping sites, goods storage facilities) is generally standard-rated though there are many exceptions and special rules
- Letting where the use of land is secondary, for example the hire of a fixed piece of equipment. However HMRC accept that

letting out trader pitches at fairs, car boot sales etc. is a land related supply

- Where you provide an ‘all in’ service for example a wedding package or an organised party or banquet

Direct tax

Income from leasing or letting land or buildings is exempt from direct tax provided any profit is applied towards the charity’s objects. However, income from more active types of letting activity such as providing hotel type accommodation or providing an all in event package is likely to be seen as a receipt of a trade.

Education and training

VAT

Supplies of education and training are VAT exempt if they are made by an eligible body, otherwise they are standard-rated.

Supplies of education and training can include courses, classes, lessons, conferences, seminars, workshops and also live online events where there is a interaction between a ‘teacher’ and one or more recipients. However the sale of a recorded webinar is a standard-rated supply of digital services.

Eligible bodies include recognised schools, colleges and universities and also non-profit distributing bodies such as charities which ring fence any profits from educational supplies to education. Charities with wholly educational objectives are likely to be eligible bodies as are charities with partly educational objectives that provide education on a loss making or break-even basis.

Direct tax

Providing education or training on a commercial basis for a fee is likely to be seen as trading however for most charities it is likely to be primary purpose trading.

VAT reliefs for charities

Charities can obtain a wide range of VAT reliefs on the purchases they make. A charity does not have to be registered for VAT to obtain these reliefs. The reliefs work by the supplier zero-rating or reduced rating a purchase that would otherwise bear standard-rated VAT.

You may have to tell a supplier to treat their supply as zero or reduced rate. For some of the property reliefs a formal certificate must be provided. For the rest suppliers may ask for a written declaration.

- 1 Goods for collecting donations:** various goods connected with collecting donations can be zero-rated, including collecting envelopes, pre-printed appeal letters and envelopes, boxes and receptacles used for collecting money, collecting buckets, lapel stickers, emblems and badges.
- 2 Advertising:** supplies of advertising to a charity in third party media are zero-rated. However this excludes advertising targeted at specific individuals such as direct mail, though the production of direct mail items may be able to be zero-rated (see goods for collecting donations below).
- 3 Fuel or power:** supplies of gas, electricity, fuel oil, heating, kerosene, coal, solid fuels etc. are reduced rate when:
 - for use by a charity for its non-business activities, or
 - for use in a residential institution such as a care home, children's home or student accommodation, or
 - below certain de minimis levels – 4,497 kwh per month for gas and 1,000 kwh per month for electricity.

- 4 Medical goods, medical equipment and medicines:** charitable hospices, research institutions, care institutions and charities providing rescue or first aid services can zero-rate a wide range of medical goods including:
 - medical, scientific, computer, video, sterilising, laboratory or refrigeration equipment
 - ambulances and certain motor vehicles
 - certain aids for disabled persons
 - telecommunication, aural, visual, light enhancing or heat detecting equipment for the purpose of rescue or first aid services
 - medicines supplied to a charity which provides care or medical or surgical treatment for human beings or animals, or which engages in medical or veterinary research, for use by the charity in such care, treatment or research.

VAT reliefs for property

- 1 Ramps:** the construction of a ramp or ramps for the purpose of facilitating a disabled person's entry to or movement within any building is zero-rated.
- 2 Widening doorways:** the widening of doorways or passages for the purpose of facilitating a disabled person's entry to or movement within any building is zero-rated.
- 3 Washrooms and lavatories:** providing, extending or adapting a washroom or lavatory for use by disabled persons in a building, or any part of a building, used principally by a charity for charitable

purposes is zero-rated where such provision, extension or adaptation is necessary to facilitate the use of the washroom or lavatory by disabled persons. Washroom means a room containing a lavatory or washbasin (or both) but not containing a bath or shower or cooking, sleeping or laundry facilities. A lavatory is a room containing a toilet and possibly a washbasin.

- 4 **Bathrooms:** providing, extending or adapting a bathroom for use by disabled persons in residential accommodation, or in a day-centre where at least 20% of the individuals using the centre are disabled persons, is zero-rated where such provision, extension or adaptation is necessary by reason of the condition of the disabled persons. Bathroom includes a shower room.
- 5 **Lifts:** the supply to a charity providing a permanent or temporary residence or day-centre for disabled persons of services necessarily performed in the installation of a lift for the purpose of facilitating the movement of disabled persons between floors within that building is zero-rated.
- 6 **Alarm systems:** the supply to a charity of an alarm system is zero-rated if it is for making available to disabled persons (by sale or otherwise) for domestic or their personal use. The alarm system must be designed to be capable of operation by a disabled person, and it must be designed to enable a disabled person to alert directly a specified person or a control centre. Also zero-rated is the supply of services necessarily performed by a control centre in receiving and responding

to the calls from the alarm system.

- 7 **Construction of a new building:** supplies in the course of construction of a new 'qualifying building' are zero-rated. Supplies in the course of construction include demolition, site clearance, construction services, building materials incorporated into the building (but not carpets and loose furniture which are always standard-rated) and some landscaping costs. A new building is one that is constructed from the ground up, though existing structures such as walls can be retained in some situations. A qualifying building is a building that is any of the following:

- *Relevant Charitable Purpose:* intended for charity non-business use or as a village hall or similarly in providing social or recreational facilities for a local community.
- *Relevant Residential Purpose:* intended for use as a children's home, care home, residential hospice, monastery or nunnery or as residential accommodation for pupils, students or members of any of the armed forces.
- *Dwellings:* designed as a dwelling or dwellings. A dwelling comprises self-contained living accommodation that has no internal access directly to another dwelling (but emergency doors can be ignored), that has and adheres to any planning consents required and where neither separate use nor disposal is prohibited.

If only a part of a building is qualifying, a corresponding portion of the supply can be zero-rated.

- 8 Purchase of a new building from its developer:** the first sale by its developer of the freehold or of a long lease in a new qualifying building is zero-rated. See (7) above for the meaning of new qualifying building. If only a part of a new building is qualifying, a corresponding portion of the contract price can be zero-rated. A long lease is a lease for a term of more than 21 years (not less than 20 years in Scotland).
- 9 Construction of a relevant charitable purpose annexe:** supplies in the course of construction of a new annexe to an existing building or buildings are zero-rated if and to the extent the new annexe is relevant charitable purpose. Note that relevant residential purpose annexes do not qualify.
- 10 Residential conversions:** the conversion of a non-residential building into a residential building is zero-rated. A non-residential building includes a building that was residential but has not been lived in for at least 10 years.
- 11 Renovations and alterations of residential buildings:** certain building works and builder supplied materials qualify for reduced rating when renovating or altering residential property, including residential hospice buildings.
- 12 Energy saving materials:** the installation of certain energy saving materials in residential accommodation qualifies for

reduced rating. However the Court of Justice of the EU has recently decided that the UK's reduced rating for energy saving materials is too broad and must be limited. The government has committed to maintaining. The current relief until at least April 2016

Further information

HMRC VAT notices

701/1 Charities

www.gov.uk/government/publications/vat-notice-7011-charities

Fundraising events

www.gov.uk/government/publications/charity-fundraising-events-exemptions

742 Land and property

www.gov.uk/government/publications/vat-notice-742-land-and-property

701/41 Sponsorship

www.gov.uk/government/publications/vat-notice-70141-sponsorship

701/30 Education and vocational training

www.gov.uk/government/publications/vat-notice-70130-education-and-vocational-training

HMRC Gift Aid guidance and forms

Gift Aid guide

www.gov.uk/government/publications/charities-detailed-guidance-notes/chapter-3-gift-aid

Gift Aid audits

www.gov.uk/government/publications/charities-detailed-guidance-notes/chapter-7-audits-by-hmrc-charities

Gift Aid claims

www.gov.uk/government/publications/charities-detailed-guidance-notes/chapter-6-claims-and-returns

Model Gift Aid declarations

www.gov.uk/claim-gift-aid/gift-aid-declarations

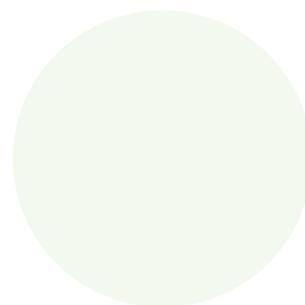
HMRC direct tax guidance

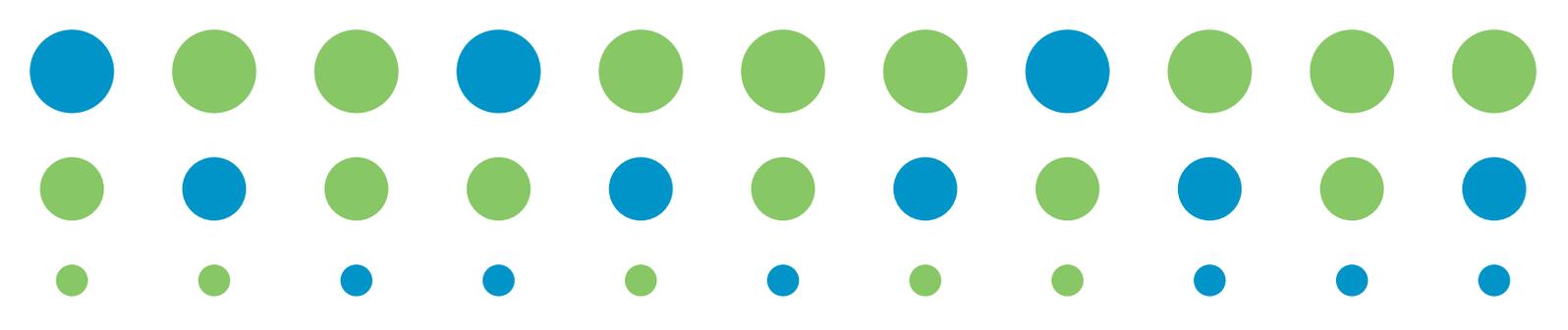
Direct tax exemptions for charities

www.gov.uk/government/publications/charities-detailed-guidance-notes/annex-i-tax-exemptions-for-charities

Trading by charities

www.gov.uk/government/publications/charities-detailed-guidance-notes/annex-iv-trading-and-business-activities-basic-principles





Made simple guides

Made Simple guides are aimed at finance professionals and other managers working in charities. They cover technical areas such as tax and VAT treatments as well as information management areas and aim to provide practical guidance to busy managers and trustees in charities.



Made to measure

Sayer Vincent is a firm of chartered accountants working solely with charities and social enterprises. Through tailored audit and advice services, we provide trustees and managers with the assurance that their charity is managing its resources effectively.

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