

Tax for charity fundraisers

made simple



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Introduction

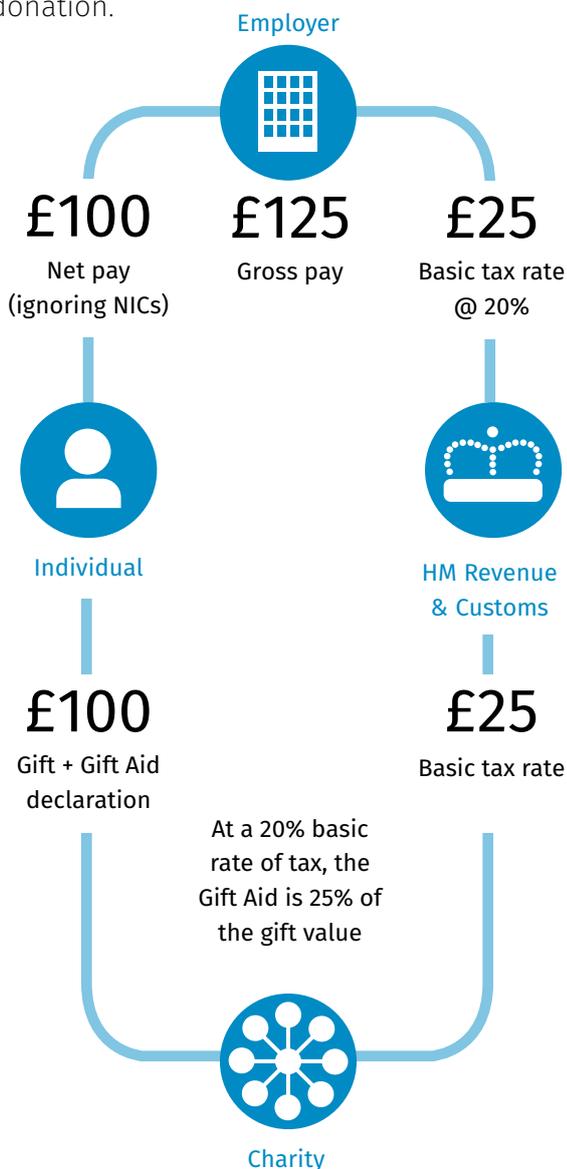
This guide explains the main Gift Aid, VAT and direct tax consequences of common charity fundraising activities. Introductory sections on Gift Aid, VAT and the direct taxation of charity income provide background information to these taxes as they affect charities. The section on fundraising activities 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 monetary 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 HM Revenue & Customs (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. This includes benefits provided to persons connected to the donor. See below.

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. Payments under payroll giving and payments from other charities are also excluded as are tax deductible payments – for example, deductible professional subscriptions. Schemes or arrangements that seek to

exploit Gift Aid may also be caught by the anti-avoidance Tainted Charity Donation regime. .

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
Over £100	£25 + 5% of donation amount over £100
Over £1,000	5% of the donation
Overall 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 – for example, newsletters, bulletins, annual reports, journals, magazines, members' handbooks and programmes of events.

- Promotional literature.
- Acknowledgements – but not adverts for a donor's 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.

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).
- Other items – how much someone providing the benefit at arm's length would charge for it.
- Discounts – the value must be based on the discount value for the donor and can be based on the average take-up provided records are kept of all discounts given.
- Invitations to non-public events – these can be valued on a cost per head basis. Only direct costs associated with the one off event should be included in the calculation. The charity should not include apportioned everyday overheads within the calculation.
- Life membership subscriptions – these can be valued at 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 the benefit can be purchased separately by members of the public, who can choose not to make a donation, and the donor knows the value of the benefit they will receive, at the time the donation is made, then HMRC accept the split payment treatment can be used (HMRC chapter 3 guide section 3.25).

This works by treating the donor's payment as 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 Gift Aided 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 – for example, paper forms, web-forms, emails and text messages
- oral – given orally for example in person or over the phone or via videoconferencing.

Written declarations

Written declarations must include all of the following:

- The name of the charity. HMRC accept a charity's unique logo is sufficient, however it is advisable to include the charity's name and any charity registration numbers.
- 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 (for example, 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 for example, "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 of a written declaration and explain the donor must have paid sufficient tax to cover the Gift Aid claimed by the charity
- 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 (at November 2020) for an enduring declaration is:

Boost your donation by 25p of Gift Aid for every £1 you donate. Gift Aid is reclaimed by the charity from the tax you pay for the current tax year. Your address is needed to identify you as a current UK taxpayer. In order to Gift Aid your donation you must tick the box below:

I want to Gift Aid my donation of £ and any donations I make in the future or have made in the past 4 years to:

Name of Charity

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.

Donor details

Title

First name or initial(s)

Surname

Full home address

Postcode

Date

Please notify the charity if you:

- want to cancel this declaration
- change your name or home address
- no longer pay sufficient tax on your income and/or capital gains

If you pay Income Tax at the higher or additional rate and want to receive the additional tax relief due to you, you must include all your Gift Aid donations on your Self-Assessment tax return or ask HM Revenue and Customs to adjust your tax code

However, older declarations with the then model wording are acceptable and do not have to be updated.

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 may demand repayment together with interest and penalties if applicable.

An error rate (by value) determined from the sampled claims may then be extrapolated to prior claims, though HMRC operate a red card/yellow card warning system if the errors are small. Gift Aid audits are now often carried out remotely by email. HMRC staff may also review compliance with the Gift Aid benefit rules.

Gift Aid Small Donations Scheme

A charity can claim a Gift Aid-like top up payment on up to £8,000 of small cash donations of up to £30 each (coins, notes and contactless card payments but not cheques or other debit/credit card donations).

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 paper label 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.

GASDS community buildings rule

If a charity runs free access charitable activities in two or more community buildings and receives small donations from participants in those activities, the charity can choose to either make a single GASDS claim or make claims under the Community buildings rule, under which it can claim for donations of up to £8,000 per community building.

The charity must carry out free access charitable activities in the building on at least six occasions per year, each activity must be a group activity for ten or more participants and the building involved must be a qualifying community building such as a village hall, church, mosque, synagogue, scout hut, town hall or similar building.

Background to VAT

VAT is a transaction level tax that is charged by suppliers of goods and services as a percentage of the selling price. The VAT added by a supplier is referred to as 'output tax' or 'output VAT'. It is collected by the supplier and passed to HMRC.

VAT paid on purchases is called 'input tax' or 'input VAT'. This can be claimed from HMRC in some circumstances.

However not all transactions are subject to VAT.

For VAT purposes income is divided into three types:

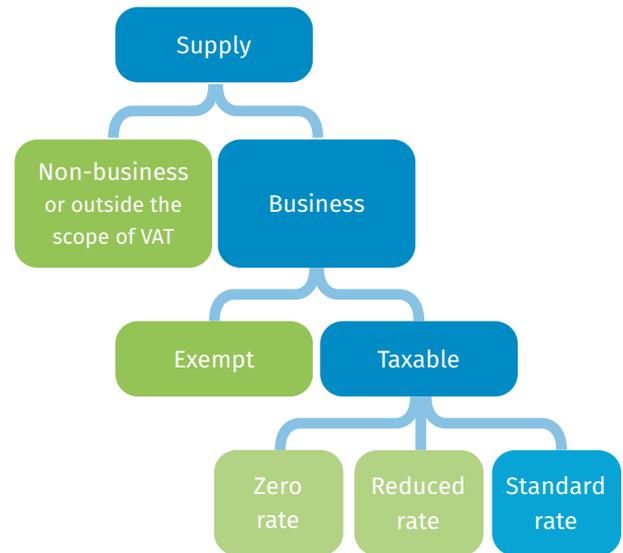
- 1 non-business** – no VAT is charged. VAT incurred on related purchases cannot normally be recovered (though some types of charity can reclaim this VAT: hospices, academy schools, search and rescue charities and others)
- 2 exempt** – within the scope of VAT but no VAT charged, input VAT incurred cannot normally be deducted (unless it is 'de-minimis')
- 3 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 most grants, donations, legacies and other voluntary payments. These are not seen as consideration for 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 passively-held 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 sales of National Lottery tickets.

Supplies of property

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

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:

Publications

Sales of certain printed publications are VAT zero-rated. These include: books, booklets, brochures, pamphlets, leaflets, newspapers, journals, periodicals and magazines, children's picture books and painting books, music (printed, duplicated or manuscript), maps, charts, topographic plans and covers, cases and other articles supplied with these.

The following do not qualify for zero-rating: greetings cards, posters, stationery, address books, diaries and calendars.

With effect from 1 May 2020 this zero-rating relief was extended to supplies of e-books, e-booklets, e-brochures, e-pamphlets, e-leaflets, e-newspapers, e-journals, e-periodicals (including e-magazines) and electronic versions of children's picture and painting books but excluding e-publications that are wholly or predominantly devoted to advertising or to audio or video content.

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

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 for example, 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 unless the charity and subsidiary are in a VAT group..

Electronic publications

Sales of products delivered electronically such as pay access websites or databases, downloaded images, software, videos, music, software, are all normally VAT standard-rated, though with effect from 1 May 2020 the sale of e-publications is zero-rated (see Publications above)

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

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) or

- if the work in connection with the trade is mainly carried out by the charity's beneficiaries (a beneficiary trade) Such trades are normally therapeutic or work experience projects for the beneficiaries – 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 (HMRC annex iv guide section 6).

- 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.

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 £8,000, or less than the lower of 25% of the charity's total incoming resources for the period and £80,000. 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 trade 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 (hopefully) avoiding any actual corporation tax liability.

This approach is not seen as tax avoidance and is accepted and even recommended by HMRC and the Charity Commission/OSCR. 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 Gift Aid 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. The effect of Gift Aid is to increase the value of the donation by 25% (whilst income tax is 20%). Higher rate and additional rate taxpayers can also obtain tax relief on qualifying Gift Aid donations.

VAT

If no substantial benefits are provided to the donor in return for their donation, the donation is outside the scope of VAT.

See the Sponsorship section below for examples of benefits that HMRC see as being substantial and insubstantial.

Direct tax

Pure monetary gifts where no substantial benefit is received by the donor are not normally seen as within the scope of Income or Corporation 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 may 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 to a charity shop 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).

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 should 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 (for example, 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. 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, often 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 unconnected 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 (VAT Notice 701/1 section 5.9.3): 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 (VAT Notice 701/1 section 10). 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.

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 receives 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, the charity is seen as supplying agency services to the organiser and the consideration for VAT purposes is the charity's 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 UK and standard-rated if the event takes place inside the UK.

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.

Commercial marathons and similar

Gift Aid

See sponsored events above. HMRC regard being given a free place in a commercial marathon or similar event as a donor benefit for the runner, however the benefit value is the cost of individual entry. For example the benefit value of a charity gold bond place in the London Marathon is the fee the runner would otherwise have to pay for individual admission, not the gold bond fee. If the runner personally pays a deposit or registration fee this reduces the Gift Aid benefit value.

VAT

Commercial events 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. Some charities charge participants a small entry fee, so as to obtain VAT recovery on the purchase of places, with participants then making nonbinding 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 (other than at the auction), 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 fee for the item at its commercial value. Gift Aid cannot be claimed on this part.
- A donation – 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 often take place at qualifying fundraising events, or can be structured as qualifying fundraising events in themselves, 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 sponsorship payment.

Gift Aid

If the sponsor is a company then no Gift Aid can be claimed. 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:

- Insubstantial benefits can be ignored. HMRC accept insubstantial benefits include (VAT Notice 701/41 Sponsorship section 2): 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 and payments for 'buy-a-brick' campaigns.
- 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 may qualify for zero-rating, and if the sponsorship is of a qualifying fundraising event, it is VAT exempt.

- HMRC accept that, provided it is 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, then HMRC is likely to see it as trading by the charity (HMRC Annex iv guide section 25). 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 (for example, 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 low value 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 fee for the benefits provided all the benefits are available for purchase for the fee amount only. This should be explicit in the patron or supporter scheme literature (VAT Notice 701/1 section 5.14)
- 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, the provision of journals, periodicals and magazines (including electronic versions from 1 May 2020) is a zero-rated benefit.

There is also a VAT exemption for subscriptions to certain public interest bodies such as professional associations, learned societies and philanthropic bodies.

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 publications, children's clothing or eligible food products.

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 (HMRC annexe iv guide, section 17). 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 their sale furthers the charity's objects or they are sold by 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 RGAS, the charity or its trading subsidiary enters into an agency agreement under which the charity/subsidiary agrees to sell 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 RGAS: the standard method, method A and method B.

Under the standard method the donor must be notified of the proceeds from all sales and given the option to retain them before they can be Gift Aided.

Under methods A and B the donor only needs be notified if total sales go above a pre-agreed limit, however they must be sent an end of year statement.

All donor communications must use HMRC specified wording.

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 (HMRC chapter 3 gift aid guide section 3.42.25) and as such count towards the charity's small scale trades exemption limit.

Business rates relief

Charities are entitled to a mandatory 80% rates relief for a hereditament (the basic unit of property for business rating purposes) if the ratepayer is a charity and the hereditament is wholly or mainly used for charitable purposes.

The second condition means the hereditament must be wholly or mainly used to directly further the charity's objects. However, a hereditament is treated as wholly or mainly used for charitable purposes if it is wholly or mainly used for the sale of goods donated to a charity and the proceeds are applied for the purposes of a charity. As such charity shops where the freehold or lease is held by a charity are generally eligible for the mandatory 80% relief provided used mainly to sell donated goods or object related bought in goods.

The charity rating relief does not apply where the ratepayer is a charity's trading subsidiary, though other rating reliefs may apply such as the relief for small businesses.

Charity shops may also be eligible for a

discretionary 20% rating relief if the ratepayer is a charity and the hereditament is wholly or mainly used for charitable purposes, including for the sale of donated goods, though many local authorities now apply additional requirements, and many will no longer provide discretionary reliefs for charity shops.

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) it 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 (for example, hotel and 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' package 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.

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 (5%) a purchase that would otherwise bear standard-rated VAT at 20%.

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 above).

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

HMRC Gift Aid guidance and forms

Gift Aid guide (Chapter 3)

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

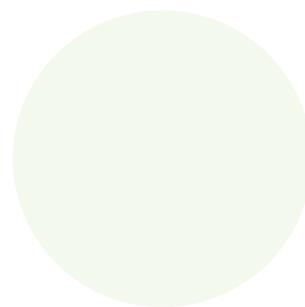
HMRC direct tax guidance

Direct tax exemptions for charities

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

Annexe iv: 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.



The content of guides is correct at the time of going to print, but inevitably legal changes, case law and new financial reporting standards will change. You are therefore advised to check any particular actions you plan to take with the appropriate authority before committing yourself. No responsibility is accepted by the authors for reliance placed on the content of this guide.

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