

Gift Aid

made simple



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Introduction

Gift Aid is a type of tax relief for donations to charities. For Gift Aid purposes, Community Amateur Sports Clubs (CASCs) are considered to be charities, and, unless indicated to the contrary, in this guide the term *charity* includes a CASC.

Corporate Gift Aid

For donating companies, the method of obtaining the tax relief is very simple – the company deducts the donation from its taxable profits before calculating its Corporation Tax liability. The donation is thus made gross of tax and the charity does not claim back any tax from HMRC. There is no need for the company to provide the charity with a Gift Aid declaration, although other Gift Aid rules do apply, such as the donor benefit rules, which are explained below.

Individual Gift Aid

For donations from individuals, charities can reclaim the basic rate income tax the individual has paid on the donation, providing the individual provides the charity with a Gift Aid declaration. This increases the value of the donation to the charity by 25% (assuming the basic rate of income tax is 20%).

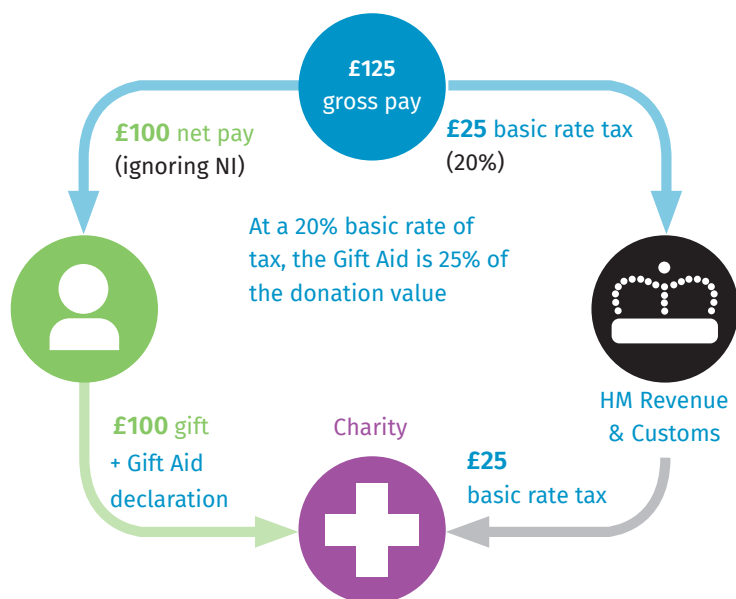
However, there are some rules to follow and charities claiming Gift Aid are subject to inspection by HM Revenue & Customs (HMRC) to ensure compliance. This guide explains how you can minimise the risks of errors being found during inspections.

Individual Gift Aid is only available for monetary donations, such as donations in cash, or by cheque, direct debit, standing order or bank transfer. Donations of other assets and gifts in kind do not qualify for Gift Aid, though the Retail Gift Aid Scheme is an HMRC approved way of obtaining Gift Aid on sales of donated goods. Donations made in foreign currencies must be translated at the rate applicable on the date of the donation and there is no need to net off exchange costs. There are also some special situations where Gift Aid can apply if you structure the arrangements correctly.

Gift Aid Small Donations Scheme

The Gift Aid Small Donations Scheme (GASDS) was introduced on 6 April 2013 and is also covered in this guide. This allows charities (including CASCs) to claim a Gift Aid like top-up payment from HMRC on small donations made in cash or by contactless card payment of up to £30. GASDS has fewer requirements, for example there is no requirement for a Gift Aid declaration and the donor does not have to have paid sufficient UK tax. However the amount payable under GASDS is capped and the scheme is subject to its own set of rules and requirements.

How Gift Aid works



A Gift Aid donation made by an individual is assumed to be paid net of basic rate income tax (currently 20%). The charity can reclaim this income tax from HMRC provided the donor has paid an equivalent amount of UK income tax and/or capital gains tax.

Higher rate taxpayers

A person paying tax at a rate higher than the basic rate can claim income tax relief on their donation and it may be possible to carry this relief back to the previous tax year. In effect, the grossed up value of the donation is removed from the donor's highest rate income pot and placed in their basic rate income pot.

For example, if a higher rate (40%) taxpayer makes a £100 donation, the grossed up value of the donation is £125 (see diagram above). The higher rate tax relief is the difference between tax at the higher rate (40%) and basic rate tax (20%) – so 20% of £125 = £25. A higher rate taxpayer must make a claim for relief through their tax return or by notifying HMRC. If the donor claims higher rate relief at 40%, the charity receives £125 in total for a

net cost to the donor of £75.

The tax to cover requirement

In any income tax year (6 April to the following 5 April) the donor must have paid sufficient UK income tax plus capital gains tax to cover all Gift Aid claimed on the donor's Gift Aid donations in that tax year.

If the donor makes donations to several charities, their tax must cover the Gift Aid reclaimed by all the charities. Charities are not expected to police this and it is for the donor to declare to each charity that they have paid or will pay sufficient UK income tax plus capital gains tax. If it transpires that a donor has not paid enough tax, HMRC may pursue the donor for the tax, though if a charity has colluded in an abusive scheme involving Gift Aid, HMRC can demand repayment of any Gift Aid claimed under the *tainted charity donation* rules.

Scottish and Welsh taxpayers

The Scottish and Welsh governments can set their own rates of income tax and (for Scotland) income tax bands.

Charities reclaim Gift Aid at the *rest of the UK* basic rate (currently 20%) irrespective of whether the donor is a Scottish, Welsh or rest of the UK taxpayer. Tax relief for Scottish and Welsh taxpayers then works as for rest of the UK taxpayers.

For example, the Scottish higher rate in 2021/22 is 41%. If a Scottish higher-rate taxpayer donates £100 under Gift Aid, the grossed up donation would be £125, and the higher-rate tax relief would be £125 x (41% – 20%) = £26.25.

Gift Aid declarations

An individual donor must provide the charity with a declaration that their donation is made under Gift Aid. This declaration can be provided at the time of the donation, in advance of the donation, or, within certain time limits (for which, see below), after the donation was made. A donor can provide a declaration in writing (including by email, text message or by completing a website form) or orally (face to face or over the telephone).

With effect from 6 April 2017, individuals can also authorise an intermediary to make a Gift Aid declaration to one or more charities on their behalf. The authorisation lasts until the end of the tax year (5 April), at which point it must be renewed, though if authorisation was given on or after 1 March, the authorisation continues until the end of the next tax year.

Written declarations

A written declaration must contain the following:

The donor's name

HMRC state that as a minimum they will accept an initial and surname, though charities are encouraged to obtain full names, including forenames, wherever that is practical and possible to do so.

The donor's home address

HMRC state that as a minimum they will accept a house number and postcode. Addresses that are clearly business addresses will be rejected.

The identity of the beneficiary charity

The full name of the charity does not have to be provided but there should be enough to identify the intended beneficiary beyond doubt.

Identification of the gift(s) to which the declaration relates and confirmation that Gift Aid should apply

For example, *“please Gift Aid all donations made within the last four years, this donation and all future donations”*. A single declaration can cover future donations, current donations and past donations. If a declaration is to cover past or future donations it must be dated. A declaration that covers past and/or future periods is referred to as an *enduring declaration*.

Tax to cover statement

The donor must have been made aware that they must pay sufficient UK income tax and/or capital gains tax to cover the Gift Aid and that if there is a shortfall they will be held liable.

HMRC model declarations

HMRC provide several model written declarations (see below) and these can be adapted to suit your particular circumstances. There is no need to obtain prior approval of declarations, although HMRC may be prepared to do so.

Oral declarations

For oral declarations, the charity should obtain the same details as those required for a written declaration and explain to the donor that they must pay sufficient UK income tax and capital gains tax. The charity must either keep a recording of the conversation or send the donor written confirmation (by post or email) of the details provided together with a statement that they have 30 days from the date of sending the letter in which to cancel the declaration. The charity must keep a record or copy of this written confirmation, though HMRC

accept this can comprise a template mail merge letter together with a database of donor details entered into the letters and the dates the letters were sent. The charity may not reclaim the Gift Aid until the statement is sent. If the donor cancels their declaration within the 30-day period, it is treated as if it was never made and the charity must repay to HMRC any Gift Aid claimed under the declaration.

Gift Aid intermediaries

With effect from 6 April 2017 an intermediary can issue a Gift Aid declaration to a charity on a donor's behalf. This is designed to facilitate the use of commercial fundraising websites to generate Gift Aid donations. The intermediary must be authorised by the donor to issue the declaration on their behalf and the authorisation must be updated each tax year, though if an authorisation was issued on or after 1 March, it is effective for the following tax year.

If an intermediary has issued a Gift Aid declaration on behalf of a donor, then by 31 May following the end of the tax year of issue, the intermediary must send the donor a written statement, or details as to how the donor can access a written statement, stating:

- a the total value of donations made under a Gift Aid declaration in the tax year
- b the maximum amount of Gift Aid which charities may claim on the Gift Aided donations

- c that the statement does not include any Gift Aid declarations given by other donor intermediaries or by the donor directly and
- d that if the donor paid less income tax and capital gains tax in that tax year than the amount of Gift Aid claimed by charities on all the donor's donations in that tax year, it is the donor's responsibility to pay any difference.

However this does not apply to a tax year during which the aggregate value of the Gift Aided donations is £20 or less, or only one Gift Aided donation is made.

Model Gift Aid declaration

HMRC update their model Gift Aid declarations from time to time. The current (October 2015) version for an enduring declaration is reproduced below. HMRC advise that this text should be used for all new enduring written declarations made on or after 6 April 2016. HMRC also provide model declarations for a single donation and for donations at sponsored events – see [Further information](#) for links and see [Special situations](#) for more on sponsored events

HMRC model Gift Aid declaration (enduring)

Gift Aid declaration for past, present and future donations

Name of charity _____

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.

My details

Title First name _____

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.

Claiming Gift Aid

Before a charity can claim Gift Aid it must register with HMRC by completing and submitting an online application CHA1. If the charity should be registered with a charity regulator (such as the Charity Commission or OSCR) it must have done so before registering with HMRC.

Charities Online

There are three ways to claim Gift Aid.

Spreadsheet claim

The charity must first set up an HMRC online services account. Once the HMRC online services account is set up the Charities Online service can be added to the account's service options provided the charity is registered with HMRC.

The Charities Online service provides an online claim form to which can be attached a spreadsheet listing of donors and their Gift Aid donations. HMRC provide two model spreadsheets to use for the upload; one is Microsoft Excel compatible and the other is open source compatible (LibreOffice). The spreadsheet can list up to 1,000 donors.

You download the appropriate spreadsheet from the HMRC website, enter or copy and paste the donations data, then upload the spreadsheet to the online claim form. As you upload the spreadsheet, the HMRC system checks the entries for errors. You have to make sure all your records fit the HMRC permitted format or the upload will be rejected. You can make as many claims as you like.

Direct database claim

If you use compliant donor management software, your software will be able to submit claims directly to the HMRC system. Each claim can be for up to 500,000 donors and you can submit up to one claim per day.

Paper claim

A paper claim form (ChR1) can be ordered from

the HMRC Charities helpline. This can list up to 90 donors though you can submit as many claims as you like. HMRC will scan completed forms so you must use original forms – photocopies cannot be used.

Claim rules

There are some claim rules for Charities Online:

- You have to provide the donor's address in addition to the donor's name, donation date and donation amount. If the donor's address is in the UK, you have to provide a valid UK postcode. You can use a postcode lookup database if the donor has not provided a postcode. If the donor advises a change of address, you must use the new address for claims from then on.
- You can aggregate up to £1,000 of donations of £20 or less onto a single claim line.
- For sponsored events, you can list donations by event participant rather than donor. However, individual donations of £500 or more must be separated out and listed by donor.
- You cannot enter negative amounts on the forms, but there is a box for disclosing the amount of Gift Aid over-claimed.

Time limits for claiming Gift Aid

The time limits for claiming Gift Aid depend on whether the charity is a corporate charity such as a limited company or charitable incorporated organisation or an unincorporated charity such as a trust.

Charitable company

Four years after the end of the accounting period of the donation.

Charitable trust

Four years after the end of the tax year (5 April) of the donation.

Donor benefits

A basic principle underlying Gift Aid is that the gift should be freely given with nothing substantial expected or provided in return. The donor, and persons connected to the donor, must not receive a substantial benefit in return for the donation. However, some donor benefits can be ignored and there are monetary limits below which benefits are not considered 'substantial'. If the benefit limits are breached, it may be possible to split the donor's payment into a payment for the benefits and a donation, so that the donation element can be Gift Aided.

Benefits that can be ignored

Certain benefits can be ignored for donor benefit purposes.

Charity literature

Where a charity sends literature to its donors, HMRC accept the literature can be ignored provided:

- the material is produced solely for the purpose of describing the work of the charity whether produced by the charity or a third party
- the material is relevant to and distributed exclusively in furtherance of the objects of the charity.

For gifts made on or after 6 April 2019, a benefit is ignored if the benefit consists of promotional literature. Literature is promotional if it consists wholly or mainly of:

- information about the activities or proposed activities of the charity to which the gift is made
- material encouraging further gifts to that charity or otherwise promoting the objects of that charity
- both of the above.

The fact that the literature has a cover price

and is also on sale to members of the public is not relevant. This means that literature like newsletters, bulletins, annual reports, journals, magazines, members' handbooks and programmes of events will generally carry no value for the purposes of the donor benefits rules.

Acknowledgements

An acknowledgement of a donor's generosity, for example in a printed brochure or on a plaque, can be ignored. However it must be a simple acknowledgement and not an advertisement for the donor's business. For example a small commemorative plaque recording the names of donors would be acceptable but a large sign which also promoted the donor's business would be an advert and so not allowed.

Naming rights

HMRC accept there is no Gift Aid benefit where a building or a part of a building is named after an individual provided the naming rights are unsolicited and not expected in return for the donation. However, HMRC may see a Gift Aid benefit if a building is named after a company or business.

Admission rights

A right of admission to view charity property is ignored if certain conditions are met. See [Special situations](#) below.

Third-party-provided benefits

HMRC accept that where unconnected third parties (such as commercial retailers) offer benefits such as discounts to a charity's donors, these benefits are not Gift Aid benefits for the donors provided they are entirely unsolicited by the charity or the donors. However, if a charity negotiates discounts for its donors, for example, as part

of a sponsorship agreement, the third-party benefits must be taken into consideration for Gift Aid benefit purposes (see also [Valuing donor benefits: Discounts](#) below).

Fundraising events in honour of a donor

HMRC state “charities that receive a large donation from a donor will often want to give some form of ‘thank you’ to the donor. For example they may hold a gala dinner to which they’ll invite the donor as ‘guest of honour’, their family, friends, and other potential donors. If the purpose of the dinner is to both celebrate the donation and promote the charity to stimulate more donations from the others attending the event, this is a fundraising event and would not be treated as a benefit to the donor - the dinner is simply an opportunity to help raise more funds. However if the dinner is a private affair limited to the donor and a few guests and there’s no significant element of additional fundraising involved then that’s simply a private dinner for the donor and is a benefit. Where a fundraising event is held and the attendees are a mixture of previous donors and potential future donors there is still a benefit for the individual attending. The value of the benefit should be calculated using the normal rules.” See [Valuing donor benefits: Events](#) below for the normal rules.

Small negligible-value items

Stickers, pins, badges and other items of nil or negligible value can be ignored.

Donor benefit limits

Benefits valued below certain limits are not considered substantial. The maximum benefit allowed for an individual donation is, with effect from 6 April 2019:

Donation amount	Maximum benefit allowed
-----------------	-------------------------

Up to £100	25% of donation amount
Over £100	£25 plus 5% of the donation amount above £100

The donor benefit limits for donations made up to and including 5 April 2019 were:

Donation amount	Maximum benefit value
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Up to £100	25% of the donation amount
£100–£1,000	£25
Over £100	5% of the donation amount above £100

These limits are applied on a donation by donation basis, though if several donations and benefits are linked, they may have to be treated as one.

There is also a limit for the total value of all benefits. Any gift that provides a benefit and takes the value of all the benefits received by a donor in a tax year over £2,500 cannot be Gift Aided. However, gifts within the £2,500 limit are unaffected as are gifts that provide absolutely no benefit at all.

Connected persons

Benefits provided to connected persons are caught by these rules. For example if a donor makes a gift to a charity and the donor’s spouse receives a benefit in consequence of the gift, that benefit is caught by the rules. Connected persons include:

- the donor’s husband, wife, or civil partner
- immediate family members who are *ancestors* or *descendants* e.g. sons, daughters, parents, grandparents, grandchildren etc
- brothers or sisters
- immediate family members of the donor’s spouse or civil partner
- a company under the control of the donor, or under the control of any of the above.

Valuing donor benefits

Where a benefit is normally sold by the charity or is sold commercially the value of the benefit will be the normal sale price (including VAT if applicable).

Where a benefit is not commercially available HMRC will accept any method of valuation that HMRC considers to be fair and reasonable. However HMRC add: *“The value of a benefit is always the value to the recipient, not the cost to your charity or CASC of providing the benefit. Even though your charity or CASC may get a discount on the cost of any benefits you give to donors, the benefit must be given its full value when working out whether a donation qualifies for Gift Aid.”*

Events

Where a benefit takes the form of attendance at an event that is not open to the public (so that there is no ticket price) the benefit should be valued by reference to the cost to the charity of staging the event and the number of people in attendance. 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

HMRC provide a hierarchy of rules for valuing life membership subscriptions:

- In cases where the charity sells lifetime membership, the value of the benefit is the amount lifetime membership is sold for.
- If the charity does not sell lifetime membership the value of the benefit can be based on the cost of a lifetime membership at an equivalent or similar organisation.
- Where there is no similar lifetime

membership on which to base a valuation, a charity should only consider the benefits received in the first 10 years of membership. Any benefit received after 10 years does not need to be considered. When considering the value of benefits received in the first 10 years, the charity must take into account the diminishing value of the benefits received, for example the value of entrance into an attraction in the tenth year will be lower than the value of the same right to entrance in the first year. How this is calculated is up to the charity but the method used should be fair and reasonable.

Discounts

Where the benefit is a discount on goods or services, which an individual donor may or may not take advantage of, the valuation can be based on the average take-up of the benefit by all donors who are eligible for the discount. In order to establish the average benefit the charity must keep complete records of all the discounts received by its donors. Where a charity agrees a discount with a third party organisation such as a café or retailer or its own trading subsidiary, this discount must also be valued as a benefit. The average benefit value must apply to all donors who are entitled to the discount, whether they have received a discount or not. Alternatively the charity can keep records to quantify the actual discount benefit received by each individual member.

Splitting the payment

When a benefit given to a donor would exceed the benefit limits, it may be possible for the donor's payment to be split between an amount to cover the cost of the benefit

and an amount that is treated as a gift. To do this the cost of the benefit is taken away from the total amount given to the charity and the remainder treated as the donation. Gift Aid can only be applied to the remainder 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.

The donor must be made aware by the charity of the split between the amount that is to be treated as a qualifying donation and the amount that is used to purchase the benefit. The charity and donor should keep evidence of how the payment was to be split for example a copy of a dated letter accompanying the payment.

Alternatively, separate payments could be made.

The split payment approach is commonly used for charity auctions and charity patron or supporter schemes (see [Special situations](#) below).

Special situations

Right of admission to view charity property

There is a special Gift Aid exemption that allows admission charges to view charity property to be treated as a donation and Gift Aided provided either:

- the payment grants a right of admission for at least 12 months at all times when the public have access (though admission may be denied on up to five *event days*), or
- the payment is at least 10% more than the normal admission charge, in which case the whole payment can be Gift Aided, not just the 10% excess.

Charity property is property preserved, maintained, kept or created by a charity for its charitable purposes and includes buildings, grounds or other land, plants, animals, works of art, artefacts, and property of a scientific nature. Entrance charges to performances (such as plays) are specifically excluded, though HMRC accept Gift Aid can apply to entry charges to property that include incidental performances such as historic re-enactments, demonstrations of technical processes and interactive experiments.

The admission charge can also grant access for members of the donor's family and it is not necessary for all members of the family to visit at the same time.

Membership subscriptions

If a charity membership subscription provides no substantial member benefits or the value of benefits provided is within the donor benefit limits, then the whole subscription may be able to be Gift Aided. However Gift Aid cannot be claimed on the following membership subscriptions:

- Membership subscriptions paid to a CASC are specifically excluded and are never eligible for Gift Aid.
- Tax deductible professional membership subscriptions paid to a *list 3* body. However HMRC accept that list 3 subscriptions paid by retired or student members with no relevant income from which to make a deduction can be Gift Aided provided:
 - the charity receives the member's confirmation that they've no relevant earnings against which the subscription is deductible as an expense deduction for tax purposes
 - the Gift Aid conditions are satisfied so that the subscription could be regarded as a gift, and
 - the conditions of the Gift Aid Scheme are otherwise met.

Sponsored events

Individuals may raise money for charity by asking for sponsorship for their participation in events such as marathons. The participant is asking other individuals to donate to their chosen charity, so these donations can normally be Gift Aided. If the charity provides a sponsorship form for the participant to collect donations, then this can be used as the Gift Aid declaration providing it gathers the necessary details. HMRC provide a model Gift Aid sponsorship form (see [Further information](#) below).

Participants sometimes receive substantial benefits such as travel and accommodation provided for a challenge event, or payment of an entry charge to a commercial marathon. If the benefits breach the donor benefit rules, then sponsorship payments from persons connected to the participant cannot be

Gift Aided. However, if the participant pays towards their benefits, reducing the value of the Gift Aid benefit below the donor benefit limits, then sponsorship payments from connected persons can be Gift Aided.

Charity auctions

Charity auctions typically involve participants paying over the odds for auction items with the intention that the excess is a donation to the charity. Even if the donor benefit rules are broken, provided there is a clear market value for the item and the participant is aware of this at the point at which they become committed to the purchase, the excess can be Gift Aided (subject to the normal Gift Aid rules).

To have a clear market value HMRC state that the item must have a clear and recognisable value (market value) and be available commercially for purchase separately by an individual otherwise than at the auction.

Where an everyday item has been celebrity enhanced, for example a signed football, its market value will be taken to be the full price paid by the participant so no part of it can be Gift Aided.

The charity should retain evidence of the commercial value of items auctioned and that bidders were made aware of this – for example, by having the values printed in an auction programme.

Patron/supporter schemes

Many arts charities (theatres, galleries, museums etc.) operate patron or supporter schemes in which individuals are offered a range of arts related benefits (e.g. newsletters, updates, previews, free tickets or ticket discounts, priority booking, exclusive supporter events, café or merchandise

discounts) for a specified amount. These schemes are usually structured as either:

- **Under the threshold** Supporters must pay a set amount to join and the benefit value does not exceed the donor benefit limits for the set amount.
- **Split payment** The supporter is asked to make a suggested payment which comprises a mandatory minimum payment for the benefits and a suggested donation, with the latter eligible for Gift Aid. The minimum payments must at least cover the cost to the charity of providing the supporter benefits and the general public must be able to purchase the benefits package for the minimum payment only.

With such schemes it is important to also bear in mind the VAT consequences. In general, where benefits are provided in return for a set minimum payment, the minimum payment is likely to be within the scope of VAT, however any voluntary donation paid in addition is seen as being outside the scope of VAT. If the benefits package is standard-rated for VAT, then it will usually be financially advantageous (taking into account both Gift Aid and VAT) to structure the supporter scheme as a split payment scheme. However if the benefit package is VAT zero-rated or VAT exempt, it will usually be financially advantageous to structure the supporter scheme as under the threshold.

Retail Gift Aid Scheme

Goods donated to charity for resale cannot be Gift Aided as they are not donations of money. However, the donor can agree that the charity or its trading company sells the goods on their behalf as agent. Provided the net proceeds (selling price less any sales

commission charged) belong to the owner at the time of sale, the owner can then give the proceeds to the charity under Gift Aid if all other Gift Aid conditions are met.

The agent could return the funds to the donor who then gives them back to the charity under Gift Aid. However there is an HMRC approved way to avoid this – the Retail Gift Aid Scheme.

This is an HMRC approved way of selling donated goods as agent of the donor and then claiming Gift Aid on the net proceeds without having to transfer the proceeds to the donor. HMRC provide detailed guidance on how the scheme should be operated and it is recommended that this guidance is followed carefully (see [Further information](#) below for a link). Care must also be taken to establish any other tax consequences, in particular, the consequences for VAT, for the charity Income Tax and Corporation Tax reliefs and for the charity Business Rates reliefs. HMRC provide guidance on the VAT and trading aspects of the scheme.

All operators of the scheme must use HMRC template wording in their communications with owners of goods.

Owners can agree they do not need to be informed of net sales proceeds provided they remain below an agreed amount in any tax year. The agreed amount must be at most £100 if a charity operates the scheme, and at most £1,000 if a trading company operates the scheme.

Waived refunds and loans

Many charities had to cancel events as a result of the COVID-19 pandemic. In March 2020 the government announced that ticket purchasers would be able to donate their

refund to the charity under Gift Aid without the charity first having to pay the refund to the purchaser and the purchaser pay it back to the charity. In 2021 HMRC then announced a broader acceptance that waived refunds and loans could be Gift Aided subject to having suitable evidence of the waiver.

HMRC will consider donations made from a waiver of a right to either a refund or loan repayment to be eligible for Gift Aid. The donor must positively choose to waive their rights, for example by replying to a text, email, letter or via a recorded phone call. The charity must maintain an auditable record of waiver agreements, for example a text or email exchange, a letter to the donor and their response or a recorded telephone call.

Where the amount being waived is more than a nominal amount, HMRC expect there to be a legally enforceable waiver agreement in place. This should include details of what is being waived, make it expressly clear that the donor is giving up all legal rights to any future repayment, and confirmation the amount waived is to be treated as a donation for Gift Aid. The donor should also complete a Gift Aid declaration if none is already held for the donor.

HMRC say a nominal amount includes ‘a couple of tickets to a fund-raising event’, however HMRC will expect formal waiver agreements for all loan waivers.

In all circumstances, HMRC expects the charity to explain clearly to the individual that they have a choice between obtaining a full refund or waiving the right to a refund and have this classed as a qualifying Gift Aid donation. There must be no pressure placed on the individual to waive their right to a refund.

Record keeping

Charities must maintain auditable records of declarations and of receipt of donations on which Gift Aid has been claimed. Most charity's accounting systems should be able to provide an auditable record of receipt of donations, but special systems may need to be set up to store and retrieve Gift Aid declarations.

Many charities find it easiest to use specialist donor management software. There are many software packages available and these vary considerably in features and cost, with some systems being able to submit database claims directly to the HMRC Gift Aid system. Some packages allow you to dispose of paper records by scanning in and storing declarations and donor correspondence electronically. HMRC provide a list of software products that can interact with the HMRC Charities Online service, see [Further information](#) below.

For oral declarations charities must either maintain a sound recording of the declaration or a record of the follow up letter sent to the donor. Follow up letters can be printed off and filed, copies stored electronically or HMRC accept the charity can record the template mail merge letter together with list of the donors' details and the dates the template letters were sent to the donors.

To link donations to declarations, most software packages provide facilities for entering donations against donors and then either automatically or manually posting these as a batch receipt to the accounting system. This avoids the need to enter individual donations in both the donor management system and in the accounting system.

Charities must maintain Gift Aid declarations for as long as HMRC can make an assessment on any Gift Aid claimed against that declaration. For enduring declarations (where the declaration covers all future donations) the charity may need to keep the declaration indefinitely if it is possible the donor will continue to make Gift Aid donations. Where it is known the donor has ceased making donations, or the declaration relates to a fixed period, records should be kept for at least six years from the end of the year of the last claim, the year being the financial year for a corporate charity and the tax year for a charitable trust.

Gift Aid audits

HMRC conduct periodic audits of Gift Aid claims usually checking a sample of donations from Gift Aid claims in the current or previous financial year (charitable companies) or tax year (charitable trusts) to check for evidence of receipt and a valid Gift Aid declaration.

An error rate is determined by taking the total value of problem donations found and dividing this by the value of all donations in the sample. This error rate may then be applied (*extrapolated*) to all claims in the year being audited and potentially also to claims made in previous years. However, HMRC will allow charities to *repair* errors in a sample before extrapolation. For a missing or incomplete declaration, the charity may be able to obtain a replacement declaration. For missing banking records the charity may be able to obtain evidence of receipt.

There is then a *de-minimis* error regime for the repaired error rate:

Repaired error rate	Amount at stake	Action by HMRC
Less than 4%	Less than £100	No recovery in year of audit or earlier years. No card issued.
	Less than £500	Recovery in year but not earlier years. No card issued.
	More than £500	Recovery in year but not earlier years. Yellow card issued.
More than 4%	Less than £500	Recovery in year but not earlier years. Yellow card issued.
	More than £500	Recovery in year and earlier years

The issue of a *yellow card* has to be agreed by both HMRC and the charity involved. HMRC commits only to recover the tax due in respect of the year of review while the charity commits to take any remedial action HMRC think necessary to improve their record keeping. If agreement cannot be reached, HMRC will recover tax for both in year and earlier years based on the identified error rate.

If agreement is reached, but the remedial action has not been taken the next time

HMRC examine the claims of the charity/ CASC, they will go back and recover any earlier years that are still in date.

A further examination of the records following the issue of a yellow card will be discussed with the charity by the auditor at the conclusion of the original review. The period between the original review and the further examination (if required) will not usually be longer than 36 months, and may well be shorter depending on the circumstances.

Minimising audit risk

If the repaired error rate is significant and there are many claims across which this can be extrapolated, the resultant HMRC assessment for over claimed Gift Aid may be substantial. There are, however, steps you can take to reduce the risk from HMRC Gift Aid audits:

- You can undertake periodic in-house Gift Aid checks or ask external consultants to do this for you. This will hopefully flag up potential problems well in advance of any HMRC audit.
- Gift Aid problems usually arise from process failures, with some processes having higher error rates than others. For example there may be a greater risk of being unable to trace cash donations than being able to trace direct debits.

If different types of Gift Aid claim are subject to significantly different processes, you may be able to stop HMRC determining a single error rate and extrapolating this across all claims. Instead, HMRC will have to determine separate error rates for each distinct process. For example, subjecting high value donations to extra Gift Aid procedures and checks may be worth the effort if this results in a much lower error rate for all high value donations. If this approach is adopted, you should inform HMRC before any Gift Aid audit commences and it is likely to be advantageous to claim each process type separately so they can be easily identified.

Donations to foreign charities

Some foreign charities may claim UK Gift Aid on donations from UK taxpayers. Gift Aid is available to a charity (excluding CASCs) if it meets all the following conditions:

- 1 It is established for charitable purposes only. Charitable purposes are as defined in section 2 Charities Act 2011, so a charity must meet the English and Welsh law definition of a charity to qualify. HMRC accepts that this means that a foreign body which is not recognised as a charity locally may nevertheless qualify as a charity under English and Welsh law for Gift Aid purposes
- 2 It is subject to the jurisdiction of the High Court (England and Wales), the Court of Sessions (Scotland), the High Court of Northern Ireland, or to a court with a corresponding jurisdiction over charities in a *relevant territory*. Relevant territories are the EU states, Norway, Iceland, and with effect from 31 July 2014, Liechtenstein.
- 3 It has complied with any requirement to be registered with a charity regulator, for example the Charity Commission in England and Wales, OSCR in Scotland and in Northern Ireland, the Charity Commission for Northern Ireland.
- 4 Its managers are “*fit and proper persons*”

to be managers of the body or trust. Managers means the persons having the general control and management of the administration of the body or trust. HMRC provides guidance on the meaning of fit and proper (see Further Information below).

All charities wishing to claim Gift Aid for the first time will have to submit an application to HMRC to establish they meet the above tests.

Gift Aid Small Donations Scheme

The Gift Aid Small Donations Scheme (GASDS) allows a charity or CASC to claim a Gift Aid-like top up payment on small cash donations of £30 or less (£20 or less before 6 April 2019) from individuals without having to obtain and store Gift Aid declarations.

The top up is calculated in the same way as Gift Aid, so with a basic rate of Income Tax of 20%, the top up payment is worth 25% of the value of the donation. The total value of donations eligible for the top up payment is capped as explained below. All GASDS claims must be made through the Charities Online process.

To be able to make a GASDS claim in any tax year a charity must meet all of the following conditions:

- It must be recognised as a charity or CASC for tax purposes and registered as a charity or CASC with HMRC.
- It must make a successful Gift Aid claim in the tax year.
- If the charity incurs a penalty in respect of a Gift Aid or GASDS claim, that blocks any GASDS claim in the tax year to which the penalty relates and the following tax year.

A small donation must meet all the following conditions:

- It must be £30 or less (£20 or less before 6 April 2019) in coins, bank notes or contactless card payments, in any currency. For contactless card payments, HMRC expect records of contactless donations produced by each contactless terminal to be kept.
- It must be from an individual and must not be made under Gift Aid or payroll giving, however, the individual does not have to be a UK taxpayer.

- It must be made in the UK and banked in a branch of a bank or building society physically located in the UK.
- There must be no benefits associated with the donations, the only exception being a negligible value label sticker, badge or similar. Membership subscriptions do not qualify.

The value of small donations on which a claim can be made in any tax year is capped at the lower of the *specified amount* and ten times the value of donations in the tax year on which Gift Aid has been successfully claimed. The specified amount is calculated as follows:

- By default it is £8,000
- If two or more charities are connected, it is £8,000 divided by the number of connected parties making GASDS claims in the tax year. Charities are connected if they have the same or substantially similar purposes and activities and they are controlled by the same or connected persons.
- If a charity does not carry on activities in more than one community building, its specified amount is as explained above. If a charity carries on activities in two or more community buildings, it can either calculate the specified amount on a charity-wide basis (for all small donations collected in the UK) as above, or it can calculate it under the “*community building rule*”. The community building rule is explained below.

Community building rule

To qualify under the community building rule, all of the following conditions must be met:

- A community building is a building or those parts of it, to which the public or a section of the public has access at some

or all times but excludes any parts of a building that are used wholly or mainly for residential purposes or the sale or supply of goods. Examples are town halls, village halls and places of worship. Commercial premises, such as a function room in an hotel, are excluded, unless a charity carries out a charitable activity in those parts, and at all times while it does so, the parts are available for use exclusively by the charity in carrying out the activity.

- The charity must run primary purpose activities in the community building for ten or more beneficiaries on at least six occasions in the tax year. None of the beneficiaries must be required to pay in order to access the building. The charitable activity must be open to members of the general public, or a section of the public.

Under the community building rule, the specified amount is the sum of the charity's *community building amounts*. For each community building and for each tax year, the community building amount is the sum of the small donations made in that building and small donations made in the same local authority area. If there are several community buildings in a local authority area, the donations made outside the community buildings can be split between community buildings as the charity wishes. Each community building amount is then capped at £8,000 per tax year. Local authority area means: in England, a district council, a county council for an area for which there is no district council, a London borough council, the City of London or the Council of the Isles of Scilly; in Wales, a county council or a county borough council; in Scotland, a council constituted under section 2 of the Local Government (Scotland) Act 1994; in Northern Ireland, a district council

constituted under section 1 of the Local Government Act (Northern Ireland) 1972.

To claim under GASDS in this way, a charity must keep additional records that show, for each community building, the address and postcode of the community building, where the donations were collected, and evidence that this location is in the same Local Authority area as the community building.

Where connected charities carry out activities in community buildings then all of the connected charities should claim GASDS under the community-building rules unless the group of connected charities agree to make an election to HMRC to share a single UK-wide specified amount of £8,000.

Batching small donations

During the COVID-19 pandemic HMRC accepted that regular GASDS donors such as churchgoers, could save up small donations of up to £30 each and give these to the charity in one large cash amount exceeding £30 without being seen to breach the £30 limit. HMRC later confirmed that this acceptance was not unique to the pandemic and it was not a concession; provided the charity is satisfied that the cash received is multiple small donations which happen to be paid together, the charity can claim GASDS subject to the normal rules.

Further information

HMRC 'chapter 3' guidance on Gift Aid

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

Model Gift Aid declarations

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

Guide to Tax Effective Giving

www.tax-effective-giving.org.uk

HMRC fit and proper person guidance

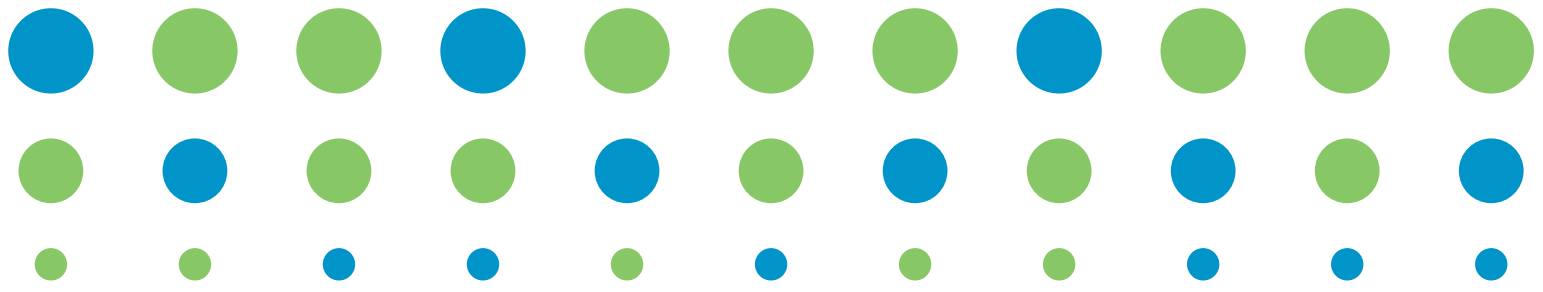
www.gov.uk/government/publications/charities-fit-and-proper-persons-test

Other Sayer Vincent Made Simple Guides

These include:

- Charity shops
- Tax for arts organisations
- Tax for charity fundraisers
- Tax effective giving

See www.sayervincent.co.uk/resources



Made simple guides

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