

# **Budget 2011 – Implications for churches and Christian charities**

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**stewardship<sup>®</sup>**

PO Box 99, Loughton, Essex, IG10 3QJ

t: 08452 26 26 27

e: [enquiries@stewardship.org.uk](mailto:enquiries@stewardship.org.uk)

w: [www.stewardship.org.uk](http://www.stewardship.org.uk)

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## CONTACT DETAILS

Stewardship

PO Box 99, Loughton, Essex IG10 3QJ

t 08452 26 26 27 or 020 8502 5600

f 020 8502 5333

e [enquiries@stewardship.org.uk](mailto:enquiries@stewardship.org.uk)

w [www.stewardship.org.uk](http://www.stewardship.org.uk)

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# 2011 Budget – Implications for churches and charities

## 1 Introduction

The Chancellor, George Osborne, delivered his third Budget Speech on 23 March 2011.

The Coalition Government has previously indicated its support for the voluntary sector (within the economic constraints that the country faces), and this Budget has shown some first tangible evidence of that desire. We hope that the theme continues! As a result, this Briefing Paper particularly focuses on the specific measures of interest to the charity sector, rather than on more general measures.

A number of the announcements have come as a result of discussions between the Government, HMRC and the Treasury with senior sector representatives, including Stewardship, most notably through the work of the Gift Aid Forum. The Forum reported to the Government in October of last year. A new Charity Tax Forum convened by HMRC, and of which Stewardship is a member, will continue to look at how the tax system can be developed for the benefit of the charity sector.

As is usual, our Budget Briefing Paper attempts to go behind the headlines in order to uncover the opportunities and challenges for churches and other Christian charities. It takes account of the relevant provisions of the Finance Bill, published on 31 March 2011. We have also commented, where appropriate, on previously announced measures that will be coming into effect in the near future.

## 2 Gift Aid

### 2.1 Ending of transitional relief on 5 April 2011 – Urgent action advised!

Transitional relief for charities claiming gift aid ends on 5 April. From 6 April, the value of gift aid claims will reduce to 25p in the £ (from 28p). This end date was provided in the original legislation three years ago.

Transitional relief was introduced from 6 April 2008, to provide a three year period for charities to adjust to the gift aid impact of the fall in basic rate from 22% to 20% from 2008/09. It effectively restored the amount of relief to the charity to the position it enjoyed before the change.

This was a temporary relief for **donations received** by the charity up to 5 April 2011. The result is that, from April, the value of the tax relief through gift aid that charities will receive **will fall by 11.4%**.

Charities will continue to be able to benefit from transitional relief on donations received up to 5 April 2011, **where the Gift Aid claim is made within two years**. Note, this is not the same as the time limit that applies for the Gift Aid itself. Claims to Gift Aid can be made for up to four years.

### Example

A charity receives £7,800 per year in donations under the gift aid scheme. For tax years up to and including 2010/11, the charity can reclaim £1,950 in gift aid relief (or 25% of net donations) **plus** £250 in **transitional relief** from HMRC.

From 2011/12 onwards, a reclaim on the same level of donations is reduced to £1,950.

This represents an 11.4 % fall in tax revenues to the charity.

### **Action Points:**

- Charities should already have factored the decrease into the budget planning.
- However, there are still a few days remaining for churches (in particular) and charities to persuade their supporters to advance gifts, or make new gifts, on or before 5 April. So long as the sum has been received (which generally means that it has been paid into the charity's bank account) by 5 April, transitional relief should be payable. Would a short, but prominent e-mail to all members / supporters be worth a few minutes' effort?
- It is possible that publicly pointing out the difference in a donation made before, as opposed to after, 5 April could bring in a substantial gift that you didn't know was coming and avoids the risk of losing the transitional relief because the donor was unaware of the significance of making their planned donation promptly!

## **2.2 Using Gift Aid – HMRC's Gift Aid Toolkit**

Although not mentioned in the Budget, HMRC has updated its Gift Aid Toolkit and this was published online on 30th March 2011.

## **2.3 Relief on 'small' donations**

From **April 2013**, charities will be able to claim a gift aid equivalent for all donations of £10 or less (subject to an overall limit per charity of £5,000 p.a.) without the need for the donor to complete any paperwork (such as a gift aid declaration). The Government will consult on the detail of the scheme over the summer.

For a charity to qualify, there are some conditions laid down:

- the charity must have been registered with HMRC for gift aid purposes for at least 3 years;
- it must have operated gift aid successfully throughout that time;
- it must have a good compliance record.

### **Stewardship comment**

This measure will be of particular benefit to churches and Sunday offerings, but also for other charities that, for example, have offerings at events or cash collections in the street. It will potentially simplify much of the administration of church envelope schemes.

It is not yet known how the new arrangements will operate, although it is reasonable to assume that there will need to be some means of evidencing that donations are

individually under £10 each. There may also need to be a limit on the number of donations from one individual in a year, although the annual £5,000 limit may be seen by HMRC as sufficient in this regard.

**It is important to note that this relief will not be gift aid.** To remain within the gift aid system, there is a need to trace individual donations back to a specific taxpayer. This is because gift aid is a tax relief and not grant aid from the Government.

Whilst the distinction may at first seem academic, it is not, because tax reliefs are driven by taxpayer behaviour. If a person makes a donation to charity, the Government is committed to give the tax relief. The more that is given, the more that comes back in tax relief to the sector. However, the small donations relief will rank as public expenditure. It can, therefore, be increased or decreased at the whim of Ministers. It may also ultimately be introduced at any rate. So, for example, the Government may decide to provide relief at a rate lower than the basic rate of income tax to recognise that not all donors who give small gifts to charity are taxpayers.

For these reasons, Stewardship supports a £5,000 limit on the Scheme. The danger of lobbying for a higher limit in future years is that the *whole* gift aid scheme could become compromised, such that it is no longer a tax relief but also becomes subsumed into the Government's public expenditure budget.

### Action Points

- Design of the Scheme

It is likely that Stewardship will be involved in the Consultation exercise over the summer on the details of the Scheme. If you have any particular thoughts or observations to make over the coming weeks, please let us know by e-mailing [enquiries@stewardship.org.uk](mailto:enquiries@stewardship.org.uk), so that your views can be taken into account.

- Will you qualify?

Is your church or charity registered with HMRC for gift aid purposes? If not, now is the time to register! This involves completion of HMRC Gift Aid Form ChA1. Download a copy from the HMRC website and familiarise yourself with its requirements. You will need to liaise with the charity's trustees in order to complete and return this, so the sooner that you start the better.

If your charity is not as yet registered with the Charity Commission or Office of the Scottish Charity Regulator ('OSCR'), you may also need to do this **before** you submit Form ChA1 as the Form will be rejected if you *should* be registered but *are not*. Charities in Northern Ireland will also be required to register with Charity Commission for Northern Ireland shortly.

*All* charities, *including churches*, in Scotland are required to be registered with OSCR. The legal requirement for churches in England and Wales to register with the Charity Commission is rather more complicated. You can find out if your church should be registered by referring to Paragraph 9 of our Charities Act 2006 Briefing Paper by visiting:

[www.stewardship.org.uk/documents/briefing-papers/Charities\\_Act\\_2006\\_update\\_12.07.pdf](http://www.stewardship.org.uk/documents/briefing-papers/Charities_Act_2006_update_12.07.pdf)

This Briefing Paper also covers the requirements for the registration of non church charities in England and Wales.

If you require help with charity formation or registration, Stewardship will be pleased to assist through our specialist charity formation service. Further details are available at:

[www.stewardship.org.uk/smartweb/support-services/charity-formation](http://www.stewardship.org.uk/smartweb/support-services/charity-formation)

- How good is your gift aid record with HMRC?

Now is the time to brush up on any gift aid shortcomings! In particular, are you confident that your charity would come through a gift aid compliance visit without any material criticism? If you have any concerns about this, seek advice.

If you are a member of Stewardship's consultancy helpline, call or e-mail us with your concerns. If your church or charity is not yet signed up to the helpline, please visit

<http://www.stewardship.org.uk/smartweb/support-services/consultancy:-employers>

for more information on this service.

## 2.4 Gift Aid Benefit limits

The idea behind the 'gift aid benefit limits' is to retain the concept that a gift is something given freely, with nothing expected in return, but enabling charities to provide a modest 'thank you' to their donors in recognition of their gift.

Where a benefit or benefits are provided to a donor, or connected person, in consequence of their donation, but those benefits fall within the specific laid down financial limits, the donation will continue to qualify for gift aid relief.

For donations over £1,000, the current benefit limit is 5% of the donation, up to a maximum of £500 per year. In order to encourage major donations to charity, an adjustment has been made to this limit, effective for donations made after 6 April 2011 (individuals) or 1 April 2011 (companies). For donations of £10,000 or more, the permissible benefit limit is increased from £500 to £2,500, but subject to the *existing override that the value of the benefit cannot exceed 5% of the gift*. In other words, to be able to receive the full £2,500 benefit, a donor would need to be giving in excess of £50,000 to the charity.

This will, therefore, affect relatively few donors and charities.

Revised HMRC Guidance on the Gift Aid Benefit limits in general, will be published on 6 April 2011.

## 3 Gift Aid as a financial planning tool

Some of the measures announced in this and previous Budgets present significant financial planning opportunities for maximising the benefit for charity, whilst helping to increase reliefs for the donor.

### 3.1 Tax credits

Gift aid donations have always been useful so far as tax credits are concerned! The gross value of donations entitles the donor to reduce their assessable income for tax credit purposes, meaning that the tax credit award can be increased and, in some circumstances, bring entitlement to tax credits that would not otherwise be available because the claimant's income exceeds the relevant threshold. From April 2011, where household income is above £15,860, gift aid donations may give rise to increased

entitlement to tax credits at the rate of 41% of the gross donation<sup>1</sup>! This equates to 51.25% of the net gift aid donation made to the charity!

### Example

A household of two earners have a total income of (say) £21,470. They decide to tithe their income and so give £2,150 to charity during the year. This equates to gross gift aid donations of £2,688.

The child tax credits elements that they are entitled to are the basic family element of £545 and the child element of £2,300. Because their income is above £15,860, the child element is reduced to nil (£21,470 exceeds the allowable threshold of £15,860 by £5,610 and therefore the child element is reduced by £5,610 x 41% = £2,300).

However, by making gift aid donations of £2,150 net (£2,688 gross), they will be able to 'claw back' tax credits of £2,688 x 41%, or £1,102. In summary:

Cash donation to charity:	£2,150
Tax credits 'reclaimed'	£1,102
Net cost of donations	<b>£1,048</b>

Amount received by the charity **£2,688** (after gift aid relief is claimed)

Therefore, the value received by the charity is **more than two and a half times** the net cost to the donor!

## 3.2 Personal allowances withdrawal

### In overview

The Income Tax personal allowance is progressively withdrawn for individuals with income of more than £100,000 and, in effect, means a marginal rate of income tax of 60%. In 2010/11, this applied to those earning between £100,000 and £112,950. With the increase in personal allowance announced in the Budget, a slightly wider range of earners will be caught in this particular 'tax trap' – those earning between £100,000 and £114,950.

The silver lining on the tax cloud is that because the main forms of charitable giving attract tax relief at the donor's highest rate of tax, charitable giving can be used to reduce income for these purposes below £100,000, and effectively achieve 60% tax relief.

### In detail

For every £2 earned in excess of an 'adjusted net income' of £100,000, an individual's income tax personal allowance is reduced by £1. The personal allowance for 2011/12 is £7,475. Therefore, those with an adjusted net income of more than £114,950 will have a nil allowance.

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<sup>1</sup> For the Family Element of child tax credits, this will not apply until household income exceeds £40,000.

'Adjusted net income' is total income less certain reliefs, such as pension contributions, loss reliefs and gifts of qualifying shares or property to charity, less the gross amount of gift aid donations in the year.

Accordingly, gift aid donations, and gifts of shares or property to charity can come to the rescue! Taxpayers who can make such gifts so as to reduce income below £114,950 will be able to 'reclaim' some or all of their personal allowance.

Our briefing Paper 'Withdrawal of personal allowances for high earners' provides a detailed analysis with examples and is available from the Briefing Papers section of our website: [www.stewardship.org.uk/smartweb/resources/briefing-papers](http://www.stewardship.org.uk/smartweb/resources/briefing-papers)

### 3.3 Higher / additional rate

Readers who pay tax at the higher rate (40%) or additional rate (50%) of income tax are reminded of the benefits of using gift aid and other charity tax reliefs as part of personal tax planning.

Our Briefing Papers 'Charitable giving and the new 50% income tax rate' and 'Carry Back of Gift Aid', both available from the Briefing Papers section of our website ([www.stewardship.org.uk/smartweb/resources/briefing-papers](http://www.stewardship.org.uk/smartweb/resources/briefing-papers)) provide further details, illustrated by examples.

## 4 Encouraging Philanthropy

### 4.1 Inheritance Tax – reduced rate of tax for gifts of charity on death

The Chancellor announced a 10% reduction in Inheritance Tax where someone gives 10% or more of their estate to charity. More precisely, this is a 10% reduction in the **rate of tax** (i.e. from 40% to 36%). The Government will consult on the detailed implementation of the measure – for which they will issue a consultation document before the summer.

#### Stewardship comment

This is a potentially interesting development aimed at encouraging gifts to charity in individuals' Wills. Indeed, the Chancellor set an ambitious goal in his Budget Speech saying "I want to make giving 10% of your legacy to charity the new norm in our country". However, there is some important detail presently missing.

For example, it is not clear what the reduction applies to: the whole of the taxable estate or an amount equivalent to the amount given to charity? Our assumption is that the relief applies to the part of the estate that is taxable (see example below).

Second, it is not crystal clear how the 10% gift to charity is measured. Reference is made to 10% or more of the 'deceased's net estate' (after deducting exemptions, reliefs and the nil rate band). We assume that it will work thus:

#### Example

A person has an estate of £400,000. We assume that the usual Inheritance Tax exemption for the charitable gift itself is not deducted before calculating the 10%

required, but that any other exemptions are. To deduct the exemption for the gift itself would introduce mathematical complexity!

So, in the absence of any other relevant factors, the Will would have to provide for a gift of *at least* £7,500 for the relief to apply:

Total estate	£ 400,000
<u>Less</u> : Nil rate band (fixed at £325,000 until 5 April 2015)	<u>325,000</u>
	75,000
<u>Less</u> : exempt charitable gift (10% of £75,000)	<u>7,500</u>
Estate chargeable to tax at 36% (rather than the usual 40%)	<u>67,500</u>
 Inheritance Tax payable (£67,500 at 36%)	 <u>£24,300</u>

In the absence of relief, £67,500 would be taxed at 40% = £27,000. The saving is thus £2,700, which can be viewed as 4% of the taxable estate of £67,500, or 36% of the gift of £7,500.

Two further things are not clear:

- The Chancellor, in his Budget speech, said *“Let’s be clear. No beneficiaries will be better off. Just the charities”*. Ordinarily, where a specific legacy is given in a Will to charity, the gift is exempt from Inheritance Tax. This means that the tax payable by the estate is reduced. Without any provision to the alternative in the deceased’s Will, the tax saving will benefit the residuary beneficiaries of the Will (i.e. those that benefit from the remaining part of the estate after the executors have paid out any specific legacies to named beneficiaries). The Chancellor seems to be saying that this will not be the case in respect of the value of this new relief.
- Therefore, the relief of £2,700 in the example above will presumably be directed to the charity (or charities) named in the Will and will not fall into the remaining part of the estate which would be distributed to the beneficiaries. The mechanism by which this will happen is not covered in the Budget papers.
- One ponders at this point as to whether such a measure will encourage new streams of philanthropy (as intended) or whether those that would have given to charity anyway will just adjust their ‘net’ gifts down to achieve the same ultimate gross gift to their chosen charity. In all likelihood, some will be encouraged to give as a result of the new relief, others will have already decided the extent to which they wish to benefit their chosen charity or charities in their Will.
- Will the relief also apply to Deeds of Variation (whereby the surviving beneficiaries effectively legally ‘re-write’ the deceased’s Will as if they had, in fact, made a gift to charity)?

This new relief will apply for **deaths occurring on or after 6 April 2012**.

## 4.2 Payroll Giving

Payroll Giving is a Government designed scheme to encourage employees to give to charity. The employee authorises their employer to deduct specific sums from their pay.

This is then sent by the employer direct to a Payroll Giving Agency who then distributes the sums to charity.

Take up of Payroll Giving has always been disappointing. Various attempts have been made in the past to stimulate use of the Scheme with limited success. At present, just 2.4% of UK employees give in this way.

The Budget announced that the Government “will explore how to increase the take up of Payroll giving, which allows individuals to give through their pay and reduce their income tax bills.”

#### **Action Point**

- Stewardship is an HMRC authorised Payroll Giving Agent. Charities that employ staff and are interested in Payroll Giving are invited to contact Stewardship’s Payroll Giving Team on 020 8502 8560 or by email to [giving@stewardship.org.uk](mailto:giving@stewardship.org.uk).

#### **Stewardship Comment**

It seems to us that the major difficulty with Payroll Giving is the need for an interested employee to convince their hard pressed employer to set up and administer a Scheme. The employer has to enter into an approved contract with each authorised Payroll Giving Agency. This is particularly difficult with larger employers. Unless there is either a willingness on the part of the employer, or the employer initiates the idea themselves, take up will not increase significantly.

Therefore, if a way can be found of simplifying the Scheme (for example, allowing the employee to nominate payroll deductions to be made to any authorised payroll giving agency, as for many other payroll deductions, and without any other formalities), then alongside a targeted publicity campaign, take up may well increase more significantly.

### **4.3 Gifts of Art**

A measure that is likely to have very limited appeal within the context of Christian philanthropy is the Government’s announcement that they are considering a tax reduction for taxpayers who give a work of art or historical object of national importance to the State. The Government will consult on this proposal over the summer.

### **4.4 Lifetime legacies**

It was widely speculated that the proposal for the introduction of tax relief for US style lifetime legacies was gaining traction within Government. No mention was made of this in the Budget and it seems that, contrary to pre-Budget speculation, there is still no present enthusiasm within Whitehall for the idea.

## 5 Tax administration including Gift Aid

### 5.1 Technological improvements to the Gift Aid System

Several measures that Stewardship has pressed for through the Gift Aid Forum have been adopted by the Government:

### 5.2 Online filing of gift aid claims by charities

HMRC will introduce a new online system for gift aid claims in 2012-13. Further detail of this measure is needed but, judging by the wording of the Chancellor's Budget Speech, the online system will not require submission of each and every gift made by donors.

#### **Stewardship comment**

Both the introduction of an online claim system and a simplification of the claims process will be welcome developments. Until recently, it looked unlikely that funding would be provided for the development of such a system. We are, therefore, delighted that the Government have prioritised this initiative, for the benefit of charities and HMRC alike.

### 5.3 Gift aid electronic database of declarations

HMRC will work with the sector to enable the latter to develop an electronic database for gift aid declarations. This is not something that HMRC or the Government will do themselves. They have, however, committed to work with senior charity representatives and suitable IT providers in helping the sector fund and develop such a database.

The idea is that charities will be able to download a database (which will have been approved by HMRC for the purpose) for their own use. It will remove the need for charities to retain, file and, in preparation for a gift aid audit, retrieve paper declarations.

### 5.4 'Intelligent' Gift Aid Forms

Following previous announcements, we can provide an update on HMRC's 'intelligent' forms. These forms are available for completion online, but then need to be printed out and signed before submission to HMRC in paper form. The intelligence is in the logic and validation code built into the forms, which reduces the risk of user error when data is input prior to printing.

- **The new R68i Gift Aid Claim Form.** This form replaces the current "R68", "R68 Gift Aid Schedule" and "R68 Other Income" and is now available for download from the HMRC website. Ahead of publication, we were told that the new form will cater for the ending of Transitional Relief on 5 April 2011.

The following two forms have been revised following considerable informal consultation with representatives from the Charity Sector and the latest revisions are now available online:

- **HMRC Variations form (Form ChV1)**. This is the form used to notify changes of address, bank account details or details of the nominated official who completes the R68(i).
- **HMRC Charity Application Form (Form ChA1)**. Charities that want to (newly) register with HMRC for Gift Aid purposes need to complete this form. This is of particular importance to charities not already recognised by HMRC for Gift Aid purposes, that wish to benefit from the new small donations relief in Paragraph 2.3 above.

### 5.5 'In year' Gift Aid claims

We have previously reported that HMRC wish to limit the number of in year Gift Aid claims made by charities. This is motivated more by a desire to eliminate very small and trivial claims made by a minority of charities, rather than anything else. The cost implications of a charity claiming daily for a matter of a few pounds each time is obvious. No definite decisions have been taken on how claims may be limited as HMRC is keen not to cause undue cash flow problems to smaller charities.

The announcement in this year's Budget is slightly different. HMRC has hitherto repaid tax under Gift Aid during the year rather than after the year end. However, there is no statutory basis to do this. The Budget announces that they will publish draft Finance Bill clauses in the autumn to put the current extra statutory treatment onto a statutory footing. It is of course possible that they will take the opportunity to establish a framework for frequency of claims at the same time!

### 5.6 Abolition of 'SA Donate'

SA Donate is the means by which a taxpayer, when completing a self assessment tax return, can choose to donate some, or all, of their tax repayment to charity, choosing to do this under Gift Aid if they wish.

This facility has not been well taken up and is costly to administer. It is also vulnerable to fraud. Therefore, SA Donate is to be abolished in relation to repayments of tax due on tax returns for the year ended 5 April 2012, and for any repayments made in respect of earlier tax years on or after 6 April 2012.

The savings made from this abolition will be used to support the introduction of the online claims system for Gift Aid (Paragraph 5.2 above).

#### **Stewardship comment**

We think that this is a reasonable step. For various reasons, we have never felt that SA Donate, introduced in 2005, made that much sense. Redirecting the resource to online Gift Aid claims is very much welcome.

### 5.7 Merger of Income Tax and National Insurance

It is a myth that National Insurance is paid into a separate Government pot to fund the NHS, pensions and other State benefits. It is, in effect, Income Tax by another name

and successive Governments have used it to bring tax increases, as National Insurance increases do not grab the headlines in quite the same way that Income Tax increases do!

So, the Chancellor's announcement of a Consultation on the merger of Income Tax (IT) and National Insurance (NI) is both a politically brave move and one that makes perfect sense: the different rules that relate to IT on the one hand and National Insurance Contributions (NIC's) on the other, together with the complexity of the NIC system means that a merger offers the potential for much simplification and administrative cost savings for both HMRC and taxpayers, especially employers.

It remains to be seen whether or not the Government will really 'bite the political bullet'. A headline Income Tax rate of say 32% (simply adding the current main rates of IT and NIC together) plus an employer IT (rather than NIC) rate of 13.8% could be broadly fiscally neutral, but deeply unpopular in public perception. Merger of the two systems has been mooted by various Governments over the years. None to date has been brave enough to carry it through.

However, that same complexity means that merging the systems is no simple task. To take but a few examples of the issues:

- If the basic rate of income tax were increased from 20% to 32% because of the inclusion of NI, charities would then be able to increase the value of Gift Aid from £25 per £100 net donation, to £47 – almost double. It seems inconceivable that a cash strapped Government would do this.
- Pensioners presently pay no NICs on their pension income. But they do pay IT. How would they be protected? (The Government has indicated that it has no intention of extending NICs to pensioners as part of these reforms).
- Equally, basic rate tax is deducted from savings income and IT is deducted from dividend income. Both are liable to IT but not NICs. Again the Government has given assurances that the status quo will be maintained.
- Payment of certain NICs are the gateway to some State Benefits. How will this be handled?

A consultation document will be published later this year setting out the differences in the current tax and NI systems and options to address these. It seems likely that this debate will run for several years yet before any substantive changes can be contemplated.

## 5.8 Approved mileage rates

Approved mileage allowance payments (AMAPs) can be paid by employers to employees who use their private vehicles for business mileage. This includes a passenger payment where the employee carries another employee as passenger in their car. This is currently set at 5 pence per business mile.

### **Main AMAP rate**

The main rate of AMAP is 40 pence per mile. Recognising the increased cost of fuel, this will increase to 45 pence per mile from 6 April 2011.

### **Extension of passenger payment to volunteers**

Volunteers working with a charity have hitherto been able to claim the AMAP main rates, but have not been entitled to the extension for carrying passengers. From 6 April

2011, the AMAP rates will be extended to allow volunteers to also claim the passenger rate.

#### **Action points**

Many employers find that using the HMRC approved rates to reimburse employees' travel costs is convenient. Some charities also adopt this approach. However, they are not compulsory. If an employee is paid less than the appropriate AMAP rate, they can claim relief for the difference on their tax return against their employment income. Conversely, if the employer pays more than the AMAP rate, the excess should be declared on the employee's return.

Charities that adopt the AMAP rates should consider if they will increase their rate of reimbursement from 6 April.

### **5.9 Tax transparency for individuals**

The Government is to consult in the autumn to explore how the tax system can become more transparent for individuals. In particular, HMRC will develop and introduce a new online tax calculator and downloadable applications by April 2012. This will enable taxpayers to calculate both the annual tax and NI contributions they can expect to pay and their overall tax rate.

#### **Stewardship comment**

This appears to be a very welcome move, particularly for those on lower incomes. With the Government pledge to increase the personal tax allowance to £10,000, more donors to charity will be unsure as to whether or not they have, or will have paid sufficient income tax to enable them to Gift Aid their donations. This will potentially provide welcome help and assurance in that regard.

## **6 Substantial Donors to charity**

At long last, the end of the ill fated Substantial Donor (SD) legislation (introduced by Finance Act 2006) is in sight. The Finance Bill, published on 30 March 2011, contains provisions to repeal the SD laws completely by 2013.

New '**Tainted Charity Donations**' (TCD) rules, which will eventually replace the SD rules, will apply from 1 April 2011. Stewardship has been involved in the conception of the new rules and has provided input to HMRC on the draft provisions, prior to their inclusion in the Finance Bill.

Whilst the new rules are not perfect, they represent a welcome development and remove most of the concerns for charities that arose from the SD rules.

#### **In more detail:**

The new rules will apply to **donations made** on or after 1 April 2011. The Substantial Donor rules will continue to apply, until 1 April 2013, to **transactions with donors** who made donations before 1 April 2011, where it is reasonable to suppose that the

donation and the transactions would not have been entered into independently of each other. After that date, the Substantial Donor rules will be fully repealed<sup>2</sup>.

Broadly, the TCD rules will apply where a donor enters into an 'arrangement', the sole or main purpose of which is for the donor, or persons connected with them, to obtain a financial advantage, directly or indirectly, from the charity. Where such an arrangement is entered into, charity tax reliefs that would otherwise be claimable will be denied as if they were never available. The donor will be primarily responsible for repaying any tax reclaimed.

From the charity perspective, if a donor makes a gift aid donation as part of such an arrangement, and the charity is not a party to the arrangement, any basic rate tax reclaimed by the charity can be retained. It will be for the donor to refund this as well as any personal tax relief obtained to HMRC.

Stewardship will prepare a separate, more detailed, Briefing Paper on this subject.

## 7 Value Added Tax (VAT)

### 7.1 Registration threshold

From 1 April 2011, the VAT registration threshold is increased from £70,000 to £73,000.

The new registration threshold will apply if:

- at the end of any month, the value of "taxable supplies" made in the past 12 months or less has exceeded £73,000; or
- at any time there are reasonable grounds for believing that the value of "taxable supplies" to be made in the next 30 days alone will exceed £73,000.

If, at the end of any month, a person's taxable turnover in the past 12 months or less exceeds £73,000, but the authorities are satisfied that it will not exceed £71,000 in the next 12 months, registration will not be required. Application must be made for registration, but claiming 'exception' from registration. If HMRC do not agree to the exception, normal registration will be applied from the date that the entity should have been registered from.

#### Action Point

Most charities do not have taxable turnover because they do not make taxable supplies. For example, donation income is generally outside of the scope of VAT and service provision can be 'non-business'. If in doubt, professional advice should be taken, as failure to register for VAT at the right time can give rise to significant penalties.

### 7.2 Entities not established in the UK

Entities not established in the UK but that are nevertheless required to account for VAT in the UK will no longer be entitled to a VAT Registration threshold. Charities carrying

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<sup>2</sup> It is possible for a post 1 April 2013 transaction to be caught under the SD rules where it is entered into in pursuance of a contract entered into before 1 April 2013. But this is unlikely to be of any practical significance to charities or donors who have no intention of avoiding tax through charity tax reliefs.

on business or making actual or deemed supplies in the UK will need to consider afresh whether or not they should be registered with HMRC.

### 7.3 Deregistration threshold

From 1 April 2011, the deregistration threshold increased to £71,000 from £68,000.

### 7.4 Online filing of VAT returns and electronic payment of tax

Smaller entities, including charities, will be required to join larger entities in being required to file their VAT returns online, and to pay any VAT due electronically, with effect from VAT periods beginning on or after 1 April 2012.

This will now apply to all VAT 'customers' with a VAT exclusive turnover of under £100,000. HMRC will consult on this measure in June.

### 7.5 Online registration / deregistration and notification of changes

From 1 August 2012, online VAT registration, deregistration and notification of changes will be made mandatory.

## 8 National Insurance

The Charity Tax Map, published in February 2011 by the Charity Tax Group<sup>3</sup>, reveals that Employer's National Insurance Contributions (NICs) constituted the largest single category of tax paid by charities. Just over half the total tax cost (54%) relates to NICs. The compliance costs of administering NICs is second only to VAT, coming in at 36% of total tax compliance for the charities sampled by the Tax Map.

The revised NIC rates for the coming year reflect the 1% increase announced by the outgoing Labour Government, as modified by the Coalition. Now that the political dust has settled, the changes can be summarised as follows:

Employee rates (contracted in)					
				2010-11	2011-12
Weekly earnings up to	£110			0%	
	£139				0%
Weekly earnings from	£110.01	to	£844	11%	
	£139.01	to	£817		12%
Weekly earnings over	£844			1%	
	£817				2%

<sup>3</sup> [http://www.ctrg.org.uk/files/tax\\_map/CTG\\_charity\\_tax\\_map\\_03-02-11.pdf](http://www.ctrg.org.uk/files/tax_map/CTG_charity_tax_map_03-02-11.pdf) at Page 110.

Employer rates (contracted in)					
				2010-11	2011-12
Weekly earnings up to	£110			0%	
	£136				0%
Weekly earnings above	£110.01			12.8%	
	£136.01				13.8%

Translating this to payroll costs:

Employee earnings (per annum)	Employers' NICs £		Change %	Employees' NICs £		Change %
	2010-11	2011-12		2010-11	2011-12	
£15,000	1,021	933	-8.6%	1,188	1,094	-7.9%
£20,000	1,571	1,533	-2.4%	1,828	1,784	-2.4%
£30,000	2,671	2,733	+2.3%	3,108	3,164	+1.8%
£50,000	4,260	4,381	+2.8%	5,668	5,924	+4.5%

Therefore, these changes should help stimulate employment in positions at the lower end of the pay scale.

**Action Points:**

Churches and charities that employ staff should consider how these changes will impact their own payroll costs and should plan accordingly.

Newly formed and proposed charities that are going to be employing staff in their first year should consider whether the Regional National Insurance Holiday Scheme announced last year will apply to their charity. More details are available from [www.hmrc.gov.uk/pay/intro/nics-holiday/index.htm](http://www.hmrc.gov.uk/pay/intro/nics-holiday/index.htm)

Higher earning employees should consider whether they can increase their gift aid donations or make a gift of qualifying shares or property, in order to reduce their overall taxable income to reduce or eliminate the impact of otherwise increased tax and national insurance contributions.

For more guidance on the opportunities here, please refer to our two Briefing Papers, [Charitable giving and the new 50% income tax rate](#), and [Withdrawal of personal allowances for high earners](#).