

Gift aid carry back

**treating your donation as if
made in the previous tax year**

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1 Introduction

Tax relief under the Gift Aid system is generally available for donations **paid** in a tax year (which runs from 6th April in one year to 5th April in the next). This means that if the donor's personal tax position changes from one tax year to the next, it is conceivable that they will be able to make a donation to charity under Gift Aid in one year, but not the next.

The Government introduced Gift Aid provisions allowing, in certain circumstances, a gift aid donation to be treated by the donor, as if it had been made in the previous tax year. This was publicised as a measure to give higher rate taxpayers flexibility in the additional tax relief that they can claim when they make gifts to charity. The charity position is unaffected, and the Government did not think that there were circumstances where basic rate taxpayers would want to be able to treat a donation as if it had been made in the previous tax year.

However, the legislation itself does not make a distinction between the differing tax rates that may be payable by the donor on their income and capital gains. This paper therefore sets out circumstances where it is advantageous for other taxpayers to elect for one or more of their donations to be 'carried back'. Whilst in previous times, HMRC local offices may have rejected such an election, their Charity Technical specialists have confirmed to us that such a carry back is possible under the law.

In the current economic climate where income can fluctuate significantly, with some still receiving large bonuses and others facing or having gone through redundancy, these provisions can be of particular relevance.

2 Who could benefit from this?

Any individual! HMRC publicity suggested that only higher rate taxpayers could benefit, but this is not true! The legislation allows any taxpayer to benefit. And these rules are particularly relevant, in this wider context, where there is a culture of regular, committed, and often sacrificial giving, such as in the Christian church.

The scenarios outlined in Section 3 set out the differing situations in which individual donors can benefit from these rules by electing to carry back a gift aid donation from the 'current' tax year to the 'previous' tax year. This is followed by a worked example.

3 Scenarios where carry back of gift aid can be of benefit

The following table summarises circumstances where a gift aid carry back election is likely to be of benefit:

3.1 Table of scenarios

'Previous' tax year	Current tax year	Example circumstances
AR (50%) HR (40%) BR (20%)	Non - taxpayer	Retirement Redundancy Giving up work
AR (50%) HR (40%)	BR (20%)	Job change Salary bonus in earlier but not later year Reduced bonus in later year
AR (50%)	HR (40%)	Reduced income, for example, fall in self employed business profits, reduction in salary level
HR (40%)	HR (40%)	Donor's income in the previous year is in or above the income band whereby personal allowances are progressively withdrawn (for which, see the notes at paragraph 3.2 below). A carry back of gift aid relief can result in the 'clawback' of these personal allowances – resulting in up to 60% effective tax relief
The same rate of tax is payable in both tax years.		Receipt of large legacy or use of accumulated savings: charitable gifts made from non income sources may (a) need to be split over several tax years, if eligible tax ¹ paid is to cover donations, or (b) can result in relief at higher marginal rates of tax if relief is spread over several years To maximise capacity to make gift aid payments in the 'current' year

Key:

BR: Donor is paying tax only at the basic rate of tax (20%)

HR: Donor pays / paid tax at a maximum of the higher rate (40%)

AR: Donor pays / paid tax at a maximum of the additional rate (50%)

¹ Only tax paid on income or capital gains is eligible to 'cover' gift aid donations.

3.2 Notes

Making sure that sufficient tax has been paid:

The donor must always have paid sufficient tax in the earlier year to support any donations **actually made** in the 'previous' tax year (presuming that they themselves have not been carried back) **and** the gift aid payments made in the 'current' tax year that are now being carried back.

Progressive withdrawal of personal allowance:

From the tax year 2010/11 and beyond, individuals with an 'adjusted net income' above a certain limit have their personal allowance withdrawn at the rate of £1 for every £2 above that limit (set at £100,000 for 2010/11). This means that earnings in the bracket between entitlement to full personal allowance and full withdrawal of allowance are taxed at the rate of 60%. The gross amount of gift aid donations made act to reduce 'adjusted net income' and therefore attract a total of 60% tax relief, of which the basic rate is claimable by the charity.

For further detail, please see our Briefing Paper 'Withdrawal of Personal Allowances for High Earners':

www.stewardship.org.uk/Withdrawal%20of%20personal%20allowances%20for%20high%20earners.pdf

3.3 Think laterally

If you were to receive a large legacy this year and want to give a proportion away, that amount may exceed your current gift aid capacity (i.e. you will not have paid sufficient tax to support the resultant reclaim). But why not carry some back to the previous year to use up capacity there, then use up this year's capacity and maybe give some more of it away next year?

The same point may arise if other sources of funds, not taxed as income or capital gains in the current year, are used to finance a material gift to charity. For example: accumulated savings, part of a pension fund lump sum, or compensation for loss of office or other ex-gratia sum.

3.4 A word of warning!

Where an individual makes a **single** gift aid donation in the 'current' tax year, they can only carry back the full amount of the gift. It is not possible to only carry back part of the gift.

Example 1: An individual makes a gift aid donation of £3,000 in 2011/12. If they wish to carry back this donation to 2010/11, it must be the full £3,000 or nothing.

Example 2: Another individual makes 3 donations of £1,000 each in 2011/12. This individual can carry back £1,000, £2,000 or £3,000 to 2010/11.

Varying the theme a little, it is however open to an individual to make a donation and only treat part of it as a Gift Aid donation, by entering into a Gift Aid Declaration that does not cover the full amount.

Example 3: The individual in example 1 above makes a donation of £3,000 in 2011/12, but only gives a Gift Aid Declaration in respect of £1,600 of it. The remaining £1,400 is outside of gift aid altogether. He can carry back £1,600 or nothing.

4 Worked example

4.1 Mrs. Smith – non taxpayer in the current year

Mrs. Smith was a 40% (higher rate) taxpayer in tax year 2010/11. She was a high flyer in her job, paying £32,500 tax in that year. But she was made redundant on 1 April 2011. She has not worked since and has, in fact, decided to be a full time mum and therefore paid no tax in 2011/12.

Given her past earning capacity, she decides to donate £30,000 to her church building fund on 10th October 2011. Given that she paid no tax at all in that year, can she Gift Aid the payment?

4.2 Answer:

It depends!

Provided she has not yet sent in her tax return for the year to 05/04/2011 (due in by 31/10/2011 if filed in paper form, or 31/1/2012 if filed online), she can potentially claim gift aid by carry back.

Before any gift aid carry back, Mrs. Smith's tax position is:

	2010/11	2011/12
Income (taxable)	£105,000 (say)	None!
Gift Aid donation made (net)	Nil	£ 30,000
Tax deemed to have been deducted by		
Mrs. Smith from her donation	Nil	£ 7,500
Gift Aid (gross)	Nil	£ 37,500

Tax payable by Mrs. Smith:

On employment earnings, under PAYE	£ 32,500	Nil
On Gift Aid gift (because no tax paid on income)	Nil	£ 7,500

Without an election to deem the donation in 2011/12 as if made in 2010/11, Mrs. Smith is treated as if she has deducted tax of £7,500 from her gift to charity (which will be reclaimed under Gift Aid by the charity itself). Mrs. Smith is required to pay this tax over to HMRC as she does not have any taxable income in 2011/12 to 'cover' the tax.

It is, of course, open to Mrs. Smith to make her donation to the church building fund and **not** to claim gift aid on it. However, the church would miss out on £7,500 of gift aid relief as a result. Can gift aid relief be preserved, and Mrs. Smith not only not have to pay tax to HMRC as a result, but be able to reclaim an additional £7,500 herself? The answer to this is "yes":

Impact of a gift aid carry back election:

If Mrs. Smith now makes an election to carry back her gross donation of £37,500 to 2010/11, her personal tax position changes:

	2010/11	2011/12
Income	£105,000 (say)	None!
Tax paid/payable	£ 32,500	Nil
Gift Aid donation made (net)	Nil	£ 30,000
Deductible gross Gift Aid, by carry back election	£ 37,500	Nil
Tax deemed to be deducted by Mrs. Smith	£ 7,500	Nil

Mrs Smith's tax position:

Gross taxable income (£105,000-£37,500)	£ 67,500	None
Tax paid	£ 32,500 A	Nil
Revised tax due (on £67,500 income)	£ 17,500	Nil
Add tax deducted from gift aid donation (above)	£ 7,500	Nil
Total tax payable (revised by gift aid c/b)	£ 25,000 B	Nil
Tax <i>repayment</i> due to Mrs. Smith (B - A)	£ 7,500	Nil

Plus:

Tax <i>reclaimable</i> by the church on the donation	Nil	£ 7,500
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4.3 Tax position of the church

The tax position of the church is unchanged by a carry back election. So far as the church is concerned, they have received a gift aid donation in the tax year 2011/12 and will reclaim income tax at the basic rate for that year (even if there is a change in the rate of basic rate tax between the earlier and later tax year). Unless Mrs. Smith volunteers the information, they will not even have to know that she has made a carry back claim.

4.4 Result

Without the carry back election, the church can claim nothing. With the election:

- although Mrs. Smith has paid no tax in the current year, she is able to obtain an immediate refund of £7,500 based on tax she paid in the previous year, and
- the recipient church can reclaim tax of £7,500 (but for them, this will be for the tax year 2011/12).

4.5 Additional rate (50%) taxpayers

From 6th April 2010, a new 50% rate of income tax was introduced, known as the 'additional rate'. In the previous example, had Mrs. Smith have been an additional rate (50%) taxpayer, rather than a higher rate (40%) taxpayer (for example, had her income in 2010/11 been £200,000 rather than £105,000, the end result of a carry back

election would have been the same with the exception that the amount that she herself would reclaim from HMRC for 2010/11 would be increased from £7,500 to £11,250 (i.e. the gross gift aid payment of £37,500 at 50% less the 20% reclaimed by the church).

More detail on the benefits of gift aid payments for higher and additional rate taxpayers can be found in our Briefing Paper ' Charitable giving and the new 50% income tax rate':

www.stewardship.org.uk/Charitable%20giving%20and%20new%2050%20per%20cent%20income%20tax.pdf

4.6 Using the personal tax repayment for further gift aid donations

In the above example, the donor had no taxable income at all in the following year. However, if Mrs. Smith had **some** income (or a capital gain) on which she paid a modest amount of tax, she would also be able to gift aid some or all of her tax repayment of £7,500 (or £11,250, if she was an additional rate taxpayer).

Following on from the example in Paragraph 4.2:

On leaving her previous job, Mrs. Smith took a part time job as a consultant and earned £12,200 in 2011/12. She still carried back her large gift aid donation, as this still has the tax advantages set out above.

As a result, she received her £7,500 tax repayment from HMRC in February 2012. The church building fund appeal has not reached its target and she therefore decides to give the repayment to the church again and wants to know how much she can give of this, under gift aid, in March 2012.

She cannot carry any of the gift back to 2010/11, since she has already filed her tax return for that year and, in any event, the last deadline for carry back to that year was 31 January 2012. She therefore has to rely on tax paid in the current year, 2011/12:

	2011/12
Income	£12,200
Personal allowance (predicted 2011/12 level)	- 7,475
Taxable income	£ 4,725

Since Mrs. Smith's taxable earnings of £4,725 will be taxed at the basic rate (20%), she can make **gross** gift aid donations in 2011/12 equal to this amount. Therefore, the maximum amount that can be gift aided is £4,725 **less** the basic rate amount that will be reclaimed by the church:

Gross donation	£ 4,725
Tax to be reclaimed by the church	£ 945
Net donation by Mrs Smith	£ 3,780

Mrs Smith has two options:

1. She can give £7,500 to the church in March 2012, but ask for only £3,780 of this to be gift aided. The church will then be able to reclaim a further tax repayment of £945.

2. She can give the church £3,780 in March 2012 and then a further £3,720 several weeks later, just after 5 April 2012. This will fall into the new tax year (2012/13) and, assuming that her gross income and personal allowance leave her with at least the same taxable income, she will be able to gift aid both donations in full. Now the church will be able to claim tax repayments totalling £1,875 (the gift aid reclaims on the net gifts of £3,780 and £3,720).

By delaying part of her gift for a few weeks, the church benefits by a further tax repayment of £930.

5 How to make a claim to carry back

5.1 Timing

An "election" (to use the technical wording) must be made on or before that date that the tax return for the earlier year is submitted, and not later than 31st January following the end of the tax year.

The self assessment tax return for a particular tax year should be submitted by:

- 31st October following the end of the tax year, where the return is filed as a paper return;
- 31st January following the end of the tax year, where the return is filed online.

An example will help illustrate this slightly less than straightforward rule:

Example

- gift aid payment made between 6/4/11 and 5/4/12;
- carry back to 2010/11.

The donor's tax return for 2010/11 (i.e. the **previous** tax year) will be submitted between 6/4/11 and 31/10/11 (the paper filing deadline), or 31/1/12 (the online filing deadline). This means that:

- donations made between 6th April 2011 and 31 October 2011 can be carried back to 2010/11 if the election is made on a **paper** return. But if the return is filed before the (paper) filing deadline, donations made after this date will not be capable of being carried back. So, if the tax return is submitted 25/7/11, both the gift aid donation to be carried back and the election to carry back would need to have been made by that date;
- donations made between 6th April 2011 and 31 January 2012 can be carried back to 2010/11 if the election is made on an **online** return. But if the return is filed before the (online) filing deadline, donations made after filing cannot be carried back.

5.2 Manner of 'election'

The election must be made by notice in writing to HM Revenue & Customs, within time limits above. In practice, this means entering the (net) amount of gift aid payments to be carried back in Box 8 on Page TR4 of the tax return (SA 100, 2010 version). Please note that you **cannot** use the Short Tax Return Form (SA200) to make a gift aid carry back election. Instead, you will need to contact your Tax Office.

Self employed persons should receive a Self Assessment Tax return, as above.

If you are employed and don't normally complete a tax return, you can ask your Tax Office to send you a form P810 Tax Review – you must send this by no later than 31 January **after** the end of the tax year **to which** you wish to carry back your gift.

Example: If you wish to carry back a donation to charity **made** between 6 April 2011 and 31 January 2012, so that it is **deemed** to have been made in the tax year ended 5 April 2011, you must send your carry back claim to HMRC, on form P810, no later than 31 January 2012.

6 **Legislation**

The law is contained in Part 8, Chapter 2, Income Tax Act 2007, the main operational provisions being within Section 426.