

Gift Aid Claims – Reduced time limits from 1 April 2010

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1 Introduction

- 1.1 This briefing paper has been written to highlight the new time limits that will apply to Gift Aid claims from 1 April 2010. The time allowed for claims is reducing from (broadly) 6 years to 4 years. As the change is happening 'overnight', there are opportunities for some charities to make claims that will soon be lost for good.
- 1.2 More generally, the paper is designed to highlight the opportunity that exists for charities to reclaim tax for past donations, possibly going back a number of years, and to explain the time limits, from 1 April 2010, for doing so. It concludes with relevant advice to those responsible for making claims.
- 1.3 The time limits applying up to 31 March 2010 are covered in detail in our Briefing Paper entitled 'Gift Aid Claims & Declarations – are you too late?' issued in March 2006.

2 Gift Aid and Transitional Relief - overview

- 2.1 Gift Aid in its current form was introduced in April 2000. It allows a charity to reclaim the basic rate tax paid by the donor where that donor has made a 'qualifying payment' to the charity and the charity holds a valid 'Declaration' from the donor.
- 2.2 For donations made between 6 April 2008 and 5 April 2011, HMRC will also pay 'transitional relief', automatically along with the Gift Aid claim. This is effectively a further 3.2% on the amount of the net gift aid donation and was introduced to help charities adjust to the 2% fall in the basic rate of tax on 6 April 2008.
- 2.3 However, unlike the Gift Aid tax itself, for **transitional relief** to be payable, the Gift Aid claim must have been made within **two years** of the end of the fiscal year (to 5 April), or the end of the charity's accounting period in which the donation falls for unincorporated charities. No further mention is made of transitional relief in this Paper.
- 2.4 A donor can give a Declaration to cover a specific donation or any donations that they have made in the past, provided that the charity has received this prior to the time limit for reclaiming the tax from HM Revenue and Customs. This normally provides for a time frame of around 6 years after the donation for the Charity to obtain a Declaration from the donor. The specific time limits are set out below.

3 Time limits

The time limit for making a claim depends on whether the charity is treated as a trust or a company for tax purposes. As the time limits are different, it is essential that you know what status your charity has.

3.1 Charities that are trusts

Your charity is likely to be a trust if its governing document is a trust deed. If you are unsure of its status, you should check with your accountant or legal adviser.

For charities that are trusts, the time limit for making a claim is ***no later than four years after the end of the tax year to which the claim relates.***

Example

Donations are made to your charity between 6 April 2006 and 5 April 2007

- The donations are made in the tax year 2006/2007

- Therefore, claims in respect of the above donations must be with HM Revenue & Customs no later than 5 April 2011 (4 years after 5 April 2007)

Transitional Period

During the switchover from the old (Pre 1 April 2010) rules to the new (Post 1 April) rules, the application of 2004/05 time limit can be a little confusing. The following table illustrates the position for all years since 2005:

Year of claim	Existing time limit ¹	New time limit ²	Change
Year ended 5 April 2005	31 January 2011	31 March 2010 ³	Reduced by 10 months
Year ended 5 April 2006	31 January 2012	5 April 2010	Reduced by 22 months
Year ended 5 April 2007	31 January 2013	5 April 2011	Reduced by 22 months
Year ended 5 April 2008	31 January 2014	5 April 2012	Reduced by 22 months
Year ended 5 April 2009	31 January 2015	5 April 2013	Reduced by 22 months

3.2 Charities that are companies

It is not uncommon for many Churches and Christian charities to be established as Companies Limited by Guarantee. These will be companies for tax purposes. But so will other forms of charity that are not trusts. So, again, if you are in doubt as to the tax status of your charity, seek professional advice.

Companies choose their own financial accounts year end date, usually at the time that the company is incorporated. Common year ends are 31 December and 31 March, but they can be any date in the year.

For company charities, the time limit for making a gift aid claim is, from 1 April 2010, reduced to **4 years from the end of the accounting period to which the claim relates**. The term 'accounting period' has a technical meaning for tax purposes but, in most cases, this is the same as the financial year for which accounts are normally prepared.

So, when you consider any payments made under the Gift Aid scheme in the *tax year*, you will need to establish which **accounting period** each donation falls into. In the company case, this presents an additional complication: **There may be different time limits for donations received in the same tax year depending on the year end date (the accounting period)**. Note: If you have prepared accounts for a period of longer than 12 months, there will be more than one accounting period for tax purposes and these will not be the same as the financial accounts period. In such a case, you should take early professional advice.

Transitional Period

During the switchover from the old (Pre 1 April 2010) rules to the new (Post 1 April) rules, the application of the time limits for accounting periods ending in 2004 and 2005 can be confusing. The following table illustrates the position for typical accounting years ending during this period:

¹ That is, five years after 31 January following the tax year of claim.

² The rules change on **1 April 2010**.

³ From 1 April 2010, the time limit for this year would have changed to 5 April 2009. So, a claim made on 31 March 2010 is competent (under the old rules) but one made the next day will be out of date (under the new rules).

Financial Year	Existing time limit ⁴	New time limit ⁵	Change
Year ended 30 April 2004	30 April 2010	31 March 2010 ⁶	Reduced by 1 month
Year ended 31 December 2004	31 December 2010	31 March 2010 ⁶	Reduced by 9 months
Year ended 31 March 2005	31 March 2011	31 March 2010 ⁶	Reduced by 1 year
Year ended 31 December 2005	31 December 2011	31 March 2010 ⁶	Reduced by 21 months
Year ended 31 December 2006	31 December 2012	31 Dec. 2010	Reduced by 1 year
Year ended 31 March 2009	31 March 2015	31 March 2013	Reduced by 2 years

4 A word about Declarations

Strictly speaking, the Declaration that is needed from a donor in order for a donation to qualify for gift aid relief does not need to be dated.

Therefore, all that is needed is for a valid Declaration to be held at the time that the Claim for repayment is made to HMRC. This means that, depending on circumstances, a Declaration can be obtained in some instances almost 5 years after the donation was made.

5 Conclusions and Advice

- 5.1 The first step is to consider if there are any donations in the past that potentially qualify for gift aid relief. If a previous treasurer has not made claims for earlier years, or no one realised that claims could be made for back years as outlined above, your charity could be in for a pleasant windfall. But some groundwork will be needed. Therefore, start on this process as early as possible.
- 5.2 You will probably need to research old accounting records in sufficient detail to identify donors and amounts. You will then need to establish whether or not a claim has already been made in respect of that donation and whether or not a valid Declaration exists to cover both that donor and the particular donation.
- 5.3 Where seeking new Declarations to cover past gifts, make sure that your Declarations are worded so as to cover 'all donations that I have made since [earliest date for which a claim can be made]'. Alternatively, the wording could refer to 'all donations that I have made in the last four years' but be aware here that a valid claim could be made almost 5 years after the donation, as above.
- 5.4 By using wording like this, there is then no need to obtain a separate Declaration for each gift. But, a word of caution: the donor needs to have paid sufficient income tax or capital gains tax (at any rate or rates of tax) in the relevant *tax year* to cover the amount being reclaimed by the charity. The *tax year* is the relevant period here, regardless of whether the charity is a trust or company.

⁴ That is, six years after the end of the accounting period.

⁵ The rules change on **1 April 2010**.

⁶ From 1 April 2010, the time limit for this year would have changed to a date prior to 1 April 2010. So, a claim made on 31 March 2010 is competent (under the old rules) but one made the next day will be out of date (under the new rules).

- 5.5 At the outset, check what is the earliest deadline for claims for your charity and claim all that you are able to within the time limit. Do not wait for the return of the odd Declaration here and there from a few donors and prejudice the rest of the claim by trying to submit it late. **HM Revenue and Customs will refuse late claims.**
- 5.6 When tax is repaid well after the tax year to which it relates, the charity taxpayer is entitled to have interest added. In appropriate cases, make sure that your repayment has had 'repayment supplement' added.

6 Further help

Further help is available from Stewardship's Consultancy Helpline. For details of this service, please visit <http://www.stewardship.org.uk/smartweb/support-services/support-services> or call Kevin Russell or Stephen Mathews on 020 8502 5600.