

Response to HM Treasury – Gift Aid consultation

September 2007

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table of contents

	Page
1 Small and local charities	4
2 The Donors	6
3 Wealthy donors and higher rate taxpayers	8
4 Gift Aid in respect of rights of admissions	12
5 The record keeping and auditing process	13

Response to HM Treasury, Office of the Third Sector and HMRC

Gift Aid Consultation

Stewardship is a financial support services charity and representative umbrella body for the Christian charitable sector. The charity currently provides a range of professional services to Christian churches and charities with a mission purpose of sharing knowledge and encouraging good practice in law and finance; including training in Gift Aid, charity tax and accounting and preparation and reporting on charity accounts. Its gross income which predominantly comprises of Gift Aid receipts is approximately £40 million per annum.

We work with approximately 20,000 donors and a similar number of charity beneficiaries ranging from the smallest to large international operations. We also assist approximately 300 charities (both companies and non-companies) with end of year accounting and reporting with income in the range of £10,000 to £700,000 per annum.

Collectively therefore, we have a considerable experience in working with Trustees, paid and volunteer treasurers, auditors, examiners and regulators in the smaller charity sector. This gives us particularly useful insights into the Gift Aid system and the issues facing both small and relatively large charities within our constituency.

We are grateful for the opportunity to respond to this consultation which is of direct relevance to the sector we serve and the services we provide. Our responses have focussed on the issues faced by our constituents rather than on our own position which is possibly somewhat unique. However, where appropriate, we have drawn on our own direct experiences of the Gift Aid system.

Enquiries

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1 Small and local charities

How can the Government work with charities to increase their overall awareness and understanding of Gift Aid?

We are of the view that in most cases, there are perceived rather than actual complexities with the Gift Aid scheme. Our responses are made in that context.

We believe that, particularly for smaller and local charities, there are three challenges:

- Gaining the confidence of the charities to take advantage of Gift Aid;
- Providing guidance in terms that are simple and understandable to the laymen (including those less familiar with the English language and the UK tax system); and
- Ensuring that the right target audience receive the Gift Aid message, in particular difficult to reach groups and / or those that are reluctant for what ever reason to use the Gift Aid opportunity.

We would therefore propose short guidance which presents a brief and clear overview of the Gift Aid 'opportunity'. This would cover a non technical description of the Gift Aid Scheme, how to establish one within a charity, basic rules on obtaining and recording Declarations and with sample copies of the key HMRC forms (including a case study and example completed forms).

We would favour this being prepared from within the sector to give a non-regulatory feel but available for download from the HMRC website. The Charity Commission and Office of the Third Sector websites could also promote the document by a link to the HMRC download page.

Other sector bodies (umbrella organisations, Head Offices of branch charities etc.) could make the guide available in hard copy and from their own websites with the aim of it becoming the established 'marque' for this purpose.

The guide could be written by the recently formed and HMRC sponsored Gift Aid Best Practice Forum (GABPF) who would liaise with and obtain sign off from HMRC and other interested Departments.

The (GABPF) guide could be provided to new charities by the Charity Commission as a matter of routine on their registration with the Commission.

We also propose a similar guide for potential donors (for which see our response to Question 2).

In more general terms:

- Consideration should be given to promoting Gift Aid through more 'casual' or 'modern' advertising means – for example web banners, television or poster advertising (with an informal modern approach)
- The Government could sponsor advisors available to talk to charities and charity supporters about the Scheme and any concerns they may have. It is suggested these are not HMRC officials which risks a 'regulator' feel which may then be a barrier to take up especially with those from the ethnic minorities where there may be a greater acceptance of those that 'speak the same language'. For the same reason, sub sectors within the charity community may be more accepting of their umbrella or representative bodies providing this advice.

What proportion, if any, of your donations is made using Gift Aid? If this proportion is small, why do you think this is the case? If this proportion is relatively large, what challenges do you face and how have you overcome them?

Our experience as Independent Examiners of some 200 charities' annual report and accounts suggest that amongst middle class supporters the take up is very high – approximately 70-90% in the large majority of smaller or local charities.

Part of the reason for this take up not being higher, even for donors that use planned giving, is a (cross cultural) irrational fear of having to deal with HMRC – this is mainly an issue for are those whose income is dealt with wholly under PAYE and who do not receive an annual tax return for completion.

Amongst ethnic minority churches and charities the proportion is *very considerably lower*. This is because of:

- Lack of awareness of the benefits and practical issues
- Language issues
- Increased anxiety / misunderstanding of the role of the tax authorities.
- Lack of volunteers to operate the scheme

Do you make Gift aid repayment claims? If not, why not?

This is generally covered by our response to 1.2 above

What kind of guidance or mechanisms do smaller charities need to support them in the Gift Aid process and what format should this take?

We would re-iterate our responses in Paragraph 1.1 above. The difficulties with the take up will not be solved by more *formal* guidance. In particular, the approach needs to cover:

- Public awareness
- Minority languages
- Inherent distrust of tax authorities

This should involve:

- Promotion as set out in Paragraph 1.1 above
- Information available in non-technical language that covers specific aspects of the scheme together with better overviews and video / graphical / flowchart type help
- Information in a wider variety of languages
- Regional advisors who are adept at discussing matters from the charity perspective who are not themselves HMRC officials.

2 The Donors

Do you find that Gift Aid encourages your donors to give more?

Virtually all of our own donors (approaching 100%) use Gift Aid (where applicable) and are incentivised to do so by the Gift Aid relief.

One of the major benefits that we promote our giving accounts on is the Gift Aid tax relief. The resulting annual growth in Gift Aid receipts is evidence in itself of the incentivisation to donate provided by the Gift Aid Scheme.

Amongst other donors, the concept of the Government effectively 'partnering' with their chosen charitable causes can be and is a significant motivator.

What do you think are the perceived barriers to using Gift Aid amongst the general public?

Perceived barriers can be summarised as:

- The need for more effective donor communication, education and promotion (See Paragraph 2.3 below)
- Where typical donations are small, the charity not wanting to bother with the hassle of claiming gift aid because of the necessary paperwork. This may be the case for smaller local charities, street collections and the like.
- For some charities, they may be put off from claiming simply because of the *perceived* paperwork. They therefore do not encourage donors to donate under Gift Aid – this links in with the preceding point.

- Busy people (who may be cash rich but time poor) who donate to charity may not want to be bothered with giving Declarations for each and every charity that they make donations to (this is where Stewardship and other voucher charities play an important role since one Declaration can cover all giving to a range of charities).
- Caution of anything to do with tax and the tax authorities. There is uncertainty and unease when the wider implications for the donor are an 'unknown'. To a lesser extent, some charities may exhibit similar caution.
- The formality of language used in some of the guidance and documentation. This gives rise to a sense of complexity amongst some sections of the public whether they be donors, potential donors or the charities themselves.
- The potential for a tax claw back on the individual if it turns out they haven't paid enough tax in the year. This would be reduced if HMRC and the charity had the facility for the claw back to come from the charity and not the individual.

How can the Government work with the sector to raise the awareness of Gift Aid amongst donors?

As for promoting Gift Aid in general (Paragraph 1.1 above), we would propose similar short sector written guidance for donors presenting a brief and clear overview of the Gift Aid 'opportunity' in non technical language. This would include the effect of making a donation under Gift Aid (without resorting to a technical description of the mechanics by which this happens), the need for the donor to have paid sufficient tax, a description of the Gift Aid declaration and the impact on the donor where they are later found to have not paid sufficient tax. Copies of sample declarations would illustrate the different kinds of declaration that can be given by a donor.

We would favour this guidance being prepared from within the sector to give a non-regulatory feel but available for download from the HMRC website. The Charity Commission and Office of the Third Sector websites could also promote the document by a link to the HMRC download page.

Other sector bodies (fundraising bodies, umbrella organisations, Head Offices of branch charities etc.) could make the guide available in hard copy and from their own websites with the aim of it becoming the established 'marque' for this purpose.

The guide could be written by the recently formed and HMRC sponsored Gift Aid Best Practice Forum (GABPF) who would liaise with and obtain sign off from HMRC and other interested Departments.

The Charity Commission could draw attention to the availability of this guide to all newly formed charities.

Consideration should also be given to promoting Gift Aid to potential donors through more 'casual' or 'modern' advertising means – for example web banners, television or poster advertising (with an informal modern approach)

The Government could sponsor advisors available to talk to charities and charity supporters about the Scheme and any concerns they may have. It is suggested these are not HMRC officials which risks a 'regulator' feel which may then be a barrier to take up especially with those from the ethnic minorities where there may be a greater acceptance

of those that 'speak the same language'. For the same reason, sub sectors within the charity community may be more accepting of their umbrella or representative bodies providing this advice.

3 Wealthy donors and higher rate taxpayers

Before responding to the particular questions raised in the Consultation Document, we wish to raise an important and fundamental point in relation to charitable giving by wealthy donors.

The introduction of the Substantial Donor legislation (s54 Finance Act 2006) has provided a considerable barrier and disincentive to wealthy donors. This is because this piece of anti-avoidance legislation is very poorly targeted and gives rise to unnecessary tax liabilities on perfectly innocent transactions. Further because of the 'connected party' rules within s54, circumstances beyond the control of both the donor and charity can give rise to a tax liability.

The provisions of s54 not only give rise to a considerable disincentive to donors but also is causing significant compliance costs to charities.

This is entirely unnecessary and is a 'sledge hammer to crack a nut' approach to anti – avoidance. The sector is wholly supportive of tax reliefs not being abused. But charities are paying a huge price out of all proportion to the abuse that these provisions are seeking to counter.

We comment on this in more detail in Paragraph 3.8 below.

Stewardship have made detailed representations to HMRC Charities (and HM Treasury) on these points and, along with the Institute of Chartered Accountants, the Charity Tax Group and Philanthropy UK, are pursuing potential solutions with HMRC Technical and Policy staff.

We do not want this Gift Aid Consultation to overlook these significant problems. HM Treasury and The Office of The Third Sector can obtain a copy of our Representations on request.

What proportion of your donors giving large sums of money donates using Gift Aid?

The experience in the evangelical Christian sector is that there is a very high take up of Gift Aid by wealthier donors. In most churches / Christian charities this is approximately 80-90% of those eligible. The people groups where take up is less tend to be:

- The self-employed: as there is caution over the highly variable amounts of taxation that may be paid especially amongst sole traders and micro businesses.
- Ethnic minority groups – probably stemming from a lack of promotion from the charities (as noted above) and also a higher level of uncertainty over all matters relating to tax.

In relation to our own donors, 100% of eligible gifts are donated under gift aid. The fact that there is simplicity for cash rich, time poor individuals in using a voucher charity such as Stewardship, serves to increase gift aid take up. Part of this simplicity is the need for only one Gift Aid declaration at the point of opening the account with us. Wealthy donors also appreciate our highly developed systems of distribution of funds to beneficiary causes.

Do you believe that the higher rate relief encourages wealthy donors to give? If so, what evidence do you have of this?

Very much so. The additional tax relief may not make the difference to the absolute question of whether an individual gives or not but certainly does increase the amount that is given. Once it is understood that there is a substantial Government input the increase is often at least as much as the amount of the higher rate tax and sometimes more as individuals see a 'multiplier effect' on their personal giving.

There is a common perception that this is 'good tax planning' for higher income groups to donate in this way.

These conclusions are borne out in our own experiences of donor interactions but also in surveys such as Philanthropy UK's research report entitled 'Why Rich People Give'. Additional evidence of this comes from:

- Work among 'high net worth individuals' in personal tax and finance planning discussions.
- The degree of interest in briefing papers and other information we publish on higher rate tax relief.
- The degree of take up we have as a charity by high net worth individuals.
- The degree of additional use of 'carry back' of Gift Aid to obtain the higher rate relief from the earlier tax year.

**Have you employed any particular methods to increase awareness of the higher rate relief?
How successful has this been?**

We employ a variety of methods to maintain or increase awareness of the higher rate relief. These methods include:

- Periodic articles in our own Magazine which is sent to donors, beneficiaries and other interested parties.
- Contributions to other sector newspapers and magazines on tax effective giving which will include reference to the relief for higher rate taxpayers
- We produce free Briefing Papers available to supporters and the general public via our website which include tax efficient giving methods.
- Tailored Briefing Papers for individual charities based on our general Papers. These will be sent to a charity's donor base by the charity itself, thus increasing the impact.
- Teaching on gift aid via our annual seminar programme which is open to charities and their supporters.
- Via our general and legal and financial e-mail bulletins to our donor base and charities trustees and leaders.

Feedback from these initiatives has always been very positive. Our aim is to communicate in an accessible and non technical manner. It is not possible to measure the success in quantitative terms but we believe from the unsolicited feedback that we receive that for a number, these publications have 'turned the light on' to the benefits of higher rate taxpayers giving generously to charity.

In your experience, do higher rate taxpayers also donate the tax relief that they receive on Gift Aided donations? Which mechanisms are they using to do this?

Higher rate tax payers do, largely, donate the higher rate tax relief. This is often an implicit calculation is setting the amount that they give in the first instance rather than a clear exercise of giving on of the amount recovered.

Are you promoting the use of SA Donate? If so, how?

We do not promote SA Donate for a number of reasons:

- Receiving monies by this method introduces administrative inefficiencies: The information given with bank credits is limited and needs to be separately captured in to our accounting systems. Further, where the sum donated is itself gift aided, the basic rate tax refund is sent separately and equally requires manual capture into our accounting systems which introduces considerable additional work.
- Actual take up of SA Donate by our regular supporters is minimal not justifying any changes to our IT systems. There are less than a handful of SA Donate donations against a volume of other donations each month running into tens of thousands.
- The use of SA Donate is considered to be risky to donors. For example, if a taxpayer authorises all of their tax refund to be given to charity thinking that this

will be £200 and it turns out to be £2,000. Equally, giving a specific amount by this method may not achieve their objectives when the tax repayment is different to the value expected.

- In the Christian evangelical sector there tends to be a more calculated approach to giving, whether by regular amounts or one offs, which is not affected by whether there is a 'direct mechanism'.

What, in your view, are the key reasons for higher rate taxpayers not donating their additional tax relief?

In the Christian evangelical sector there tends to be a more calculated approach to giving. So, in these cases, the higher rate relief is taken into account without a separate exercise to donate back the higher rate relief.

For others, particularly those whose affairs are dealt with wholly under PAYE and may not receive an annual tax return for completion, they may be unaware of their higher rate taxpayer status. They therefore miss the opportunity to consider if they want to increase their charitable giving as a result.

What measures might encourage higher rate donors to donate their additional tax relief?

- A specific donor communication / guide along the lines of those proposed above, but tailored to the needs and aspirations of higher rate taxpayers. This may include a section on how donors can ascertain if they are higher rate taxpayers.
- Communication on key HMRC communications that alerts higher rate taxpayers to the additional benefits of gift aid donations. This could be an 'alert' on PAYE coding notices along the lines of "You appear to be paying tax at the higher rate of tax. You may therefore be able to obtain additional benefits from making donations to charity under the gift aid scheme. Further details can be obtained from [www.hmrc.gov.uk/...](http://www.hmrc.gov.uk/)". A similar alert could be added to relevant SA Calculation notices for HR taxpayers but stating "You **are** a higher rate taxpayer ..."
- Providing a facility for higher rate taxpayers to make a Supplementary Declaration to a charity to assign their 18%/20% relief to the receiving charity. This could be registered by them or by the charity through an online form which would operate to 'mark' the taxpayer's record for verification at the fiscal year end or the charity repayment claim would include a flag which (a) increases the charity's reclaim on that donation by the 18% / 20% and (b) operates to mark the donor's taxpayer record for later verification of the higher rate tax paid. Consideration could be given as to whether such a scheme is a practicality for an enduring Supplementary Declaration (SD) or whether this should be limited to SD's for each and every donation. If the latter though, this may operate to reduce take up.
- Carry back of higher rate relief beyond the current short period of the earlier of the tax return submission date and the 31 January following.
- Adding a Government supplement (as with the initial take up of Payroll Giving) for a limited period of (say) 2 years.

How can the government work with the sector to raise awareness of the higher rate relief amongst wealthy donors?

- A specific donor communication / guide along the lines of those proposed above, but tailored to the needs and aspirations of higher rate taxpayers. This may include a section on how donors can ascertain if they are higher rate taxpayers.
- Promotion by the Government making it clear that this is desired outcome and part of the Government's long term strategy of support for the Third Sector.
- Introduction of incentives such as those suggested in the final two points of Paragraph 3.7 above.
- **Very importantly: removing the barriers that have been introduced by the misconceived legislation on 'substantial donors' introduced in the Finance Act 2006.** This has the following major weaknesses which, unless addressed, is likely to have a **very major negative impact** on giving by wealthy individuals:
 - The fact that, without a **significant amount of care and professional assistance**, a major donation can **cost the charity more than the value of the donation**.
 - The **practical administrative obstacles** that a charity now has if it has 'substantial donors' which **seriously reduces the benefit** to receiving large donations.
 - The **implied message** that wealthy donors are – on the hole seeking to abuse the system that arises from the questions and restrictions that come by necessity as part of compliance with the legislation.

The overall impact of this legislation has created the largest negative influence to the Government's stated objective of increasing the take up of Gift Aid. It is forecast that it is likely to reduce the take up by 'wealthy donors' – and in some sectors this will have a **very major detrimental effect**.

4 Gift Aid in respect of rights of admissions

We have no comment to make as this is not applicable to the sector in which we operate.

5 The record keeping and auditing process

Do you operate Gift Aid repayment claims? If so, what are the main challenges that you face in reclaiming Gift Aid?

Yes. As well as ourselves the vast majority of our 'constituents' make claims. We ourselves do not have any particular problems either with record keeping or the auditing process. However, Gift Aid is a major part of what we do and therefore, we have uncharacteristically well developed systems and the ability to devote significant resources to the Gift Aid process that is not typical of our constituents (predominantly churches and Christian charities)

For our constituents, the main challenges are:

- The uncertainty over whether they know all they should know. For this, they need user friendly technical information and assistance and the mechanisms to communicate knowledge and experience to non-technical volunteers.
- Finding systems and procedures that adequately record and link key documentation together (such as Declarations) and storage of documents so that they can be readily retrieved when they undergo an audit.
- The maintenance of audit trails in relation to cash donations and maintaining the systems and procedures around that in the context of often entirely voluntary and changeable staffing.
- These issues are now significantly exacerbated by the compliance requirements required of the 'substantial donor' legislation (mentioned above) if there is *any* prospect of receiving substantial donations – which are out of all proportion in many instances to the benefit to the charity sector.

How do you keep track of your donors, donations and claims?

See our response in Paragraph 5.4 below.

Could the claim process be simplified? If so, how?

On line submission of gift aid claims would be a helpful development. This could then have in built data validation and error trapping reducing costs for both HMRC and charities.

Is there anything that would encourage you to operate a Gift Aid system if you do not?

Please see our comments in Paragraph 1 above. Further, sector led guidance on record keeping is likely to be well received, especially by smaller charities. Again the Gift Aid Best Practice Forum may be an appropriate body to author such guidance.

Do you use the record keeping process to follow up with donors that have made gifts through Gift Aid?

Yes.

Do you use information technology to support your organisation to keep a record of Gift Aid declarations? If so, what do you use and how helpful is it? Are there other ways that IT systems could support the process?

Yes, but many of our constituents (approximately 15%) use manual systems.

The main IT systems used by our constituents are:

- Excel spreadsheet
- 'Gift' package by Data Developments
- Standard accounting packages such as Sage Line 50 and QuickBooks.
- Personalised databases
- The helpfulness of these is variable. Excel is obviously dependent of the ability and experience of the user but has the advantage of relative simplicity. Standard accounting packages are of very limited use in the Gift Aid context. Specialised packages such as those from Data Developments are more helpful but have the drawback of additional cost and training.

On line submission of gift aid claims would be a helpful development. This could then have in built data validation and error trapping reducing costs for both HMRC and charities.

What has your experience been of the Gift Aid audit process and what challenges have you faced?

Generally good both from our own point of view and those of our constituents. Their major difficulties have been in storage and locating of Gift Aid declarations with a small minority having problems over unexpected repayments as a result of errors by volunteers through limited understanding.

If you have faced any particular difficulties, how do you think the process could be improved?

The following comments address several of the **fear factors** within the Gift Aid Scheme. These fears may operate to discourage some smaller charities from making use of Gift Aid.

Gift Aid Declarations

Where a charity is unable to locate a small number of Declarations during the audit process, we believe that there should be an element of leniency so that there is not automatic extrapolation to the whole population in respect of past years' gifts and claims.

Where appropriate, charities could be invited to find declarations for a much larger sample covering different claim years in order to establish whether or not the error rate is typical of the whole population. Their findings would then be reported back to the relevant compliance officer at HMRC.

We propose this procedure because, particularly with smaller charities that rely on volunteers to maintain the Gift Aid records and for whom volunteer personnel can change frequently, the error rates in one period may not be typical of all other periods. The extended exercise would also be seen by charities as fair treatment rather than HMRC being heavy handed or seeking to reclaim tax on the basis of an unproven case. This is particularly so for charities whose trustees and officers are unfamiliar with statistical sampling theory.

Recovery of unpaid tax

Allied to this is the real fear of unknown liabilities. Where a liability is identified by HMRC following on from an audit, recovery can present real problems. Charities, unlike commercial concerns, are not permitted by charity law and practice to carry larger reserves to cover unforeseen circumstances.

Therefore, charities facing a sometimes large and unexpected tax liability (plus possible interest) relative to the charity's size can significantly curtail charitable operations and, in extremis, threaten the ongoing viability of the charity. It is not easy to appeal to supporters to help meet such a liability! Indeed, that approach could have a *negative* impact on future financial support.

We therefore propose that Taxes Management law is amended to allow, for charities only, a spreading of the recovery period (preferably without interest continuing to run unless a scheduled recovery payment date is missed). This spreading could be related to the period since the last audit visit and / or the fiscal periods over which the liability relates to. For example, where an error has been found to go back six years but where the trustees have acted in all good faith, a greater period on time could be allowed on the basis that the liability is going to be larger than an isolated error in a recent fiscal period.

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