

Stewardship Briefing Note 2015/1
**why all churches should be
registered as charities**
April 2015



Important note:

This Briefing Note supersedes and replaces BN 2012/1 and BN2012/3

CONTACT DETAILS

Stewardship
1 Lamb's Passage, London EC1Y 8AB
t: 020 8502 5600
e: enquiries@stewardship.org.uk
w: stewardship.org.uk

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1 Introduction

1.1 Summary of this Briefing Note

Following very recent changes in tax law, it is now essential that churches that are not registered as charities do so immediately; if the law states that they must be registered. Registration is with the Charity Commission (in England and Wales), the Office of the Scottish Charity Regulator (OSCR) in Scotland, or in the near future, the Charity Commission for Northern Ireland.

Many churches incorrectly believe that, because they are a church or a place of worship, they do not need to be registered. This is not the case. There is no blanket exemption from registration. Some, but not many, churches in England and Wales do not *currently* have to register. But these exceptions are now very limited and are subject to expected future changes in the law and to the changing individual circumstances of the church.

The tax law changes mean that churches that are not registered (but should be, by law) risk losing out on all of the charity tax reliefs that they are used to receiving. Further, donors making gifts to the church (whether by gift aid, by gift of qualifying assets, or in their Will) will also lose out. In addition, the church risks not being able to participate in the Gift Aid Small Donations Scheme, introduced in 2013. Readers interested in learning more about that Scheme should refer to our two separate Briefing Papers:

[Gift Aid Small Donations Scheme – A practical guide](#) and [A comprehensive guide](#).

1.2 Content

This Note explains:

- which churches must, by law, be registered with their charity regulator;
- how changing circumstances can affect the legal requirement to register;
- the consequences of not registering;
- how this may impact on eligibility for the Small Donations Scheme; and
- how Stewardship can assist.

2 Charity Registration – the Legal Requirements

The legal requirements for charity registration¹ depend on which part of the United Kingdom the church is situated and differ slightly between each constituent country.

2.1 Churches in England and Wales

The relevant regulator is the Charity Commission and registration is governed by the Charities Act 2011². Charities (including churches) *must register if their annual income exceeds £5,000 per annum*.

¹ It is unlikely that an informal gathering of people meeting as a 'church' will be legally required to register, unless and until they become formally constituted. However, such a group will not qualify for charity tax reliefs.

² The Charities Act 2011 came into force on 14 March 2012. Prior to that, charity registration was governed by Charities Act 2006. The 2011 Act does not change the provisions of the 2006 Act.

However, some (but only some) churches are temporarily *excepted* from this registration requirement if:

- their gross income is less than £100,000;
- they are connected with one or more of the following bodies:
 - The Methodist Church;
 - Baptist and Congregational churches;
 - Independent churches affiliated to the Fellowship of Independent Evangelical Churches;
 - The Calvinistic Methodist or Presbyterian Church of Wales;
 - The Church of England;
 - The Church in Wales;
 - The Religious Society of Friends (Quakers);
 - The United Reformed Church.

Churches that fall within one or more of the above denominations will have a compulsory requirement to register if gross income exceeds £100,000 (rather than £5,000).

2.2 Exception from Registration is only a Temporary Measure!

The £100,000 income threshold above is a transitional measure. Prior to Charities Act 2006, all English and Welsh churches in the above denominational groupings were excepted from charity registration. The 2006 Act removed this exception for those churches with an income above £100,000. By law, this financial threshold can only be reduced but the more likely outcome is that the current exception provisions will be withdrawn entirely on the next major review³.

The current Exception Order that provides the £100,000 threshold expires on 31 March 2021⁴.

2.3 Exceeding the income threshold

It would be fairly easy for a charity that is presently within the Exception Order (because its income is below £100,000) to slip above that figure and not think about the need to register with the Charity Commission. Following the tax changes outlined below, it is essential that churches in this category remain alert to the need to register when the time comes.

Equally, churches should not ignore *temporary* income changes. For example, if a building fund appeal takes the church's income above £100,000 for one or two years only, when the church would otherwise have continued to be excepted from registration, it is essential to take prompt action to check the registration position with the Charity Commission. It is possible that the Commission will give a legal determination to allow the exception to continue, but it is by no means certain in every case.

³ This was the recommendation of the Hodgson Review, 16 July 2012, which was endorsed by the Law Commission Consultation 'Technical Issues in Charity Law', 20 March 2015.

⁴ The Charities (Exception from Registration) (Amendment) Regulations 2014 (SI 2014/242).

For more guidance on dealing with fluctuating income, please refer to our earlier Briefing Paper entitled '[Churches: registration with the Charity Commission under Charities Act 2006](#)'. Whilst this Paper is not fully updated, the principles behind dealing with fluctuating income still hold good.

2.4 Registered Places of Worship

One of the reasons for confusion over registration concerns 'registered places of worship'. These are still excepted from registration with the Charity Commission. But what does this extend to?

Registration as a Place of Worship is a registration under the Places of Worship Registration Act 1855. This registration is *only* in respect of the building (which is the registered 'place') rather than any working (or congregational) funds of the church. Therefore, such a church is required, in addition, to register with the Charity Commission, if its annual income exceeds the relevant £5,000 / £100,000 income threshold (as above).

2.5 Churches in Scotland

The relevant regulator is the Office of the Scottish Charity Regulator ('OSCR') and registration is governed by The Charities and Trustee Investments (Scotland) Act 2005. In Scotland, all charities (including churches), regardless of their annual income, must register with OSCR.

2.6 Churches in Northern Ireland

The relevant regulator is the Charity Commission for Northern Ireland ('CCNI') and registration is governed by The Charities Act (Northern Ireland) 2008. As in Scotland, all Northern Irish charities (including churches) are required to register with CCNI, regardless of their annual income.

However, the charity register in Northern Ireland is in its infancy. Charities that have not yet been called forward by CCNI should refer to their website (www.charitycommissionni.org.uk) for up to date advice on the action that trustees must take. At the time of writing, this can be found at: www.charitycommissionni.org.uk/manage-your-charity/register-your-charity/

2.7 HMRC Registration

In addition to registration as a charity, churches that are not, as yet, recognised by HMRC will need to apply separately. This process involves applying through the HMRC online service found at www.gov.uk/charity-recognition-hmrc. Note that regardless of where the church is situated within the UK, they will need to satisfy the charitable purposes requirements of Charities Act 2011 (the *England and Wales* Act). In Scotland and Northern Ireland the definition of 'charitable purposes' is similar, but not identical, to that in England and Wales.

3 The tax changes

3.1 When did these changes take place?

The changes that follow were introduced in Finance Act 2010.

3.2 Context

Following changes in European law, the UK tax authorities now have to treat charities based anywhere in the EU / EEA on the same basis as charities that are established in the UK. This means, for example, that a UK taxpayer can make a gift to a charity in (say) Germany and both the donor and the German charity can claim relief under Gift Aid.

As a result of this, the UK Government felt a need to protect the Exchequer from abuse and the Finance Act 2010 toughens up the rules that charities need to meet in order to qualify as a charity for *tax purposes*. As European law requires overseas EU charities to be treated in the same way as domestic charities, churches based in the UK will also have to meet these tougher rules.

3.3 Overview

Finance Act 2010 redefined the meaning for tax purposes so that, amongst other requirements, a charity *must be registered with the charity regulator* in its own legal jurisdiction *if the law of that jurisdiction requires the charity to be registered*. Failure to meet this condition means that the charity will no longer be eligible for the charity tax reliefs that would otherwise be available to it.

3.4 What charity tax reliefs are at stake?

There are a large number of tax reliefs that are available to charities and their donors. It is not necessary to list them all here, but the following list shows some of the more common reliefs that come within the scope of the 2010 changes.

Income tax

- Gifts to charity under gift aid, including repayment of basic rate tax to the church, and repayment of any higher and additional rate tax to the donor.
- The Gift Aid Small Donations Scheme (which is separate from, but complements, the main Gift Aid Scheme).
- Donations under the Payroll Giving Scheme.
- Donor reliefs for gifts of qualifying shares, securities and property to the church.

Capital gains tax

- Donor exemption for gifts of any asset chargeable to capital gains tax, to the church.

Corporation tax

- Qualifying charitable donations made by a company.
- Corporation tax exemption for gifts of assets chargeable to corporation tax, to the church.



Value added tax

- Exemption from paying VAT on property rents.
- Zero rating of the construction of new buildings and independent annexes.
- Reduced rate of VAT for fuel and power costs.
- Zero rating for advertising.

Inheritance tax

- The reduced rate of Inheritance tax applying to estates where 10% or more of the 'net estate' is left to 'charity'.
- Exemption from Inheritance tax for legacies to the church.

Stamp Duty / Stamp Duty Land Tax / Stamp Duty Reserve Tax

- Exemption from Stamp Duty on purchase of a property by the church.

4 How can Stewardship help with Charity Registration?

Stewardship provides a charity formation and registration service which is specifically tailored to the needs of churches. A flexible approach is taken to ensure that the needs of your denomination or stream are met. For further information, visit our [Charity Formation Service](#) page.

If you would like to discuss any of these matters in further detail, Stewardship has an accessible Consultancy Helpline service. Click [here](#) to learn more.

5 Enquiries

If you have any comments or questions in regards to this Briefing Note, please contact Kevin Russell, Technical Director via kevin.russell@stewardship.org.uk.