stewardship®

transforming generosity

Gift Aid carry back

treating your donation as if made in the previous tax year

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Stewardship Briefing Paper

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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 6 April in one year to 5 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. The charity position is unaffected, and the then 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. Therefore, as well as setting out some of the finer points involved in 'carrying back' Gift Aid donations, we also set out the circumstances where it is advantageous for taxpayers in general to elect for one or more of their donations to be 'carried back'.

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

2 Who could benefit from this?

The legislation allows any taxpayer to benefit. But these rules are particularly relevant 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 some individual specific situations where donors can benefit from a carry back of their gift aid donation. This is then 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 (45%) HR (40%) BR (20%)	Non - taxpayer	Retirement Redundancy Giving up work
AR (45%) HR (40%)	BR (20%)	Job change Salary bonus in earlier but not later year Reduced bonus in later year
AR (45%)	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 (45%)

[1] Only tax paid on income or capital gains is eligible to 'cover' Gift Aid donations.

3.2 Notes

(a) 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.

(b) Progressive withdrawal of personal allowance:

Since 6 April 2010, individuals with an 'adjusted net income' above a certain limit have had their personal allowance withdrawn at the rate of £1 for every £2 above the limit, which is currently set at £100,000. 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 any 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/Withdrawalofpersonalallowancesforhighearners.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!

There are some subtle parts of the Gift Aid rules that could lead to donors slipping up when seeking to carry back some of their Gift Aid donations.

A 'donation' becomes a 'Gift Aid donation' when the donor gives a Gift Aid Declaration in respect of that 'donation'. There are some other conditions, but we need not concern ourselves with these.

So, if an individual gives £1,000 to charity in 2014/15, they may give the charity a Gift Aid Declaration for the full £1,000. Alternatively, they may realise, for example, that they have not paid enough tax on their income in the year to cover the full £1,000 as a Gift Aid donation and therefore they decide to declare that (say) only £400 of the £1,000 is treated as a *Gift Aid* donation.

The amount that is declared as being a *Gift Aid* donation is important when it comes to making carry back elections. This is because, having made a *Gift Aid* donation in the 'current' tax year, you can only carry back the full amount of that donation. It is not possible to only carry back part of the donation. The following examples illustrate the point being made.

Example 1: An individual makes a Gift Aid donation of £3,000 in 2014/15. If they wish to carry this donation back to 2013/14, it must be the full £3,000 or nothing.

Example 2: Another individual makes three donations of £1,000 each in 2014/15. On the basis that they have given a Gift Aid declaration for each of these, they can carry back £1,000, £2,000 or all £3,000 to 2013/14.

Varying the theme a little, it is open to an individual to make a donation and give a Gift Aid Declaration that does not cover the full amount. This may be appropriate if a donor makes a gift and then realises that they want to only carry back part of it, but not the whole gift. For example, the donor may have paid insufficient tax in the prior year to cover both Gift Aid donations made in that earlier year **and** the donation now to be carried back.

Example 3: The individual in example 1 above makes a donation of £3,000 in 2014/15, 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.

3.5 The wording of the Declaration itself is important

It will be apparent from the comments above that the wording of a Declaration is important. Each Declaration given to a particular charity may cover a single donation but, it is more common for charities to ask their donors to sign 'enduring' Declarations. An enduring Declaration from the donor usually instructs the charity to claim Gift Aid on the current donation and *all future donations* that they may make.

Therefore, if the donor wishes to carry back only part of a particular donation (for example, the £400 out of the total donation of £1,000, mentioned at the beginning of **Paragraph 3.4**), and they have signed an 'enduring Declaration' they are likely to need to revoke, or vary, the pre-existing Declaration. Having done this, both the charity and the donor will be keen to ensure that the correct form of Declaration is in place for all future gifts that the donor may make to that charity.

A variation may say something like: "with reference to the Gift Aid declaration made by me on [date], please vary this in respect of the further donation made by me on [date]. I confirm that my earlier declaration will apply to all of my future donations unless I advise you again, in writing."

4 Worked example

4.1 Mrs Smith – non taxpayer in the current year

Mrs Smith was a 40% (higher rate) taxpayer in tax year 2013/14. She was a high flyer in her job, paying £32,500 tax in that year. But she was made redundant on 1 April 2014. She has not worked since and has, in fact, decided to be a full-time mum and therefore paid no tax in 2014/15.

Given her past earning capacity, she decides to donate £30,000 to her church building fund on 10 October 2014. 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 05/04/2014 (due in by 31/10/2014 if filed in paper form, or 31/1/2015 if filed online), she can potentially claim Gift Aid by carry back.

Before any Gift Aid carry back, Mrs Smith's tax position is:

	2013/14	2014/15
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 2014/15 as if made in 2013/14, 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 2014/15 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 2013/14, her personal tax position changes:

	2013/14		2014/15
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 - £37500)	£67,500		None
Tax paid	**A**	**£32,5000**	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)	**B**	**£25,000**	Nil
Tax repayment due to Mrs Smith (B - A)	£7,500[2]		Nil
Plus:			
Tax reclaimable by the church on the donation	Nil		£7,500

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 2014/15 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.

[2] In fact, Mrs Smith will be able to reclaim slightly more tax relief as, without Gift Aid relief, the level of her income will lead to a partial withdrawal of her personal tax allowance. With the benefit of Gift Aid relief, her personal allowance is restored. Our Briefing Paper *Withdrawal of personal allowances for high earners* gives more details on this, including examples.

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 2014/15).

4.5 Additional rate (45%) taxpayers

From 6 April 2010, a new rate of income tax was introduced, known as the 'additional rate'. In the previous example, had Mrs Smith have been an additional rate (45%) taxpayer, rather than a higher rate (40%) taxpayer (for example, had her income in 2013/14 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 2013/14 would be increased from £7,500 to £9,375 (i.e. the gross Gift Aid payment of £37,500 at 45% 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 45% income tax rate*.

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, in addition, be able to 'Gift Aid' some or all of her tax repayment of £7,500 (or £9,375, if she was an additional rate taxpayer) if she so wished.

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 £14,165 in 2014/15. 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 2015. 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 2015.

She cannot carry any of the gift back to 2013/14, 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 2015. She therefore has to rely on tax paid in the current year, 2014/15:

	2014/15
Income	£14,165
Personal allowance (2013/14 level)	-£9,440
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 2014/15 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 2015, 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 2015 and then a further £3,720 several weeks later, just after 5 April 2015. This will fall into the new tax year (2014/15) 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 31 January following the end of the tax year.

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

- 31 October following the end of the tax year, where the return is filed as a paper return;
- 31 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 6/4/14 and 5/4/15;
- Carry back to 2013/14.

The donor's tax return for 2013/14 (i.e. the *previous* tax year) will be submitted between 6/4/14 and 31/10/14 (the paper filing deadline), or 31/1/15 (the online filing deadline). This means that:

- Donations made between 6th April 2014 and 31 October 2014 can be carried back to 2013/14 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 25/7/14, 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 2014 and 31 January 2015 can be carried back to 2013/14 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, 2013 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 2014 and 31 January 2015, so that it is *deemed* to have been made in the tax year ended 5 April 2014, you must send your carry back claim to HMRC, on form P810, no later than 31 January 2015.

6 Legislation

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