



HM Treasury

# **Simplifying the Gift Aid donor benefits rules:**

response to the consultation and  
further consultation

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November 2016





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# 1 Introduction

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**1.1** Gift Aid provides additional funding to charities that helps them to achieve their charitable objectives and provide support to the communities they serve. The government recognises the value of Gift Aid to the charity sector and is looking at ways to simplify and improve the current Gift Aid regime. Recent improvements include the introduction of online filing and the introduction of a shorter, simpler Gift Aid declaration form.

**1.2** The conditions that govern the benefits that charity donors can receive as a consequence of a Gift Aid-eligible donation (the Gift Aid donor benefit rules) are an important element of the Gift Aid regime. It is important for donors, for charities and for the government that robust, clear rules are in place. These rules should fairly incentivise charitable giving while at the same time ensuring that Gift Aid is only claimed on genuine donations. The current Gift Aid donor benefit rules are set out at Annex A.

**1.3** At Autumn Statement 2014 the government announced that it would review the Gift Aid donor benefit rules with the intention of simplifying them. Following a call for evidence last year, the government launched a consultation on 18 February 2016 setting out a range of options for simplifying the current rules. The consultation closed on 12 May 2016.

**1.4** The government received 61 responses to the consultation, mainly from charities and their representative bodies but also from some professional advisors and individuals. A list of the organisations that responded is provided at Annex B. The government is grateful to all those who contributed their views during the consultation process.

**1.5** The aim of this document is to summarise the responses received, and to set out the government's response and how it intends to proceed. A very wide range of views and opinions were expressed by respondents and these have informed the further development of specific options for reform, which are set out in Chapter 4.

**1.6** The underlying policy intention of these reforms remains simplification. The government hopes that its reforms will make it easier to claim Gift Aid on eligible donations and so increase the overall number and value of claims.

**1.7** A number of new questions relating to these proposals are highlighted in Chapter 4. **The government would welcome views on these proposals from representatives of the charity sector and others with an interest in the Gift Aid donor benefit rules.** Respondents are asked to focus their responses on the questions posed, although all views within the scope of the consultation are welcomed.

**1.8** The deadline for submitting responses is 3 February 2017. Full details of how to respond are set out in Chapter 6.





# Reforming the relevant value test

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**2.1** The relevant value test is a set of monetary thresholds that determine the value of benefits that charities may give to donors as a consequence of a donation and still claim Gift Aid on that donation. Currently:

- for donations up to £100, the value of the benefit can equate to a total of 25% of the donation
- for donations between £100 and £1,000, the value of benefits is capped at £25
- for donations over £1,000, the value of the benefit can equate to a total of 5% of the donation, up to a maximum annual benefit value of £2,500

**2.2** This chapter reviews responses to questions posed in the previous consultation concerning possible reforms to the relevant value test.

### Removing the monetary thresholds

Question 1: Would calculating the 'net' amount of donations on which Gift Aid can be claimed by deducting the cost of providing donor benefits from a charity's gross donation receipts represent genuine simplification for you? Please provide detail to support your response.

Question 2: Would removing the relevant value test and aggregate value test and operating Gift Aid donor benefits through an extension of the split payment rule represent genuine simplification for you? Please provide detail to support your response.

Question 3: Do you agree that this proposal would mitigate the administrative burden on charities? Please provide details to explain your response.

Question 4: What negative implications, if any, do you foresee this proposal having on your ability to claim Gift Aid? Please provide details to explain your response.

### Responses received

**2.3** Only a small number of respondents considered that calculating a 'net' amount of donations on which Gift Aid could be claimed (as per Question 1 above) would represent a genuine simplification of the current rules. Many more respondents disagreed with this view. Notable comments and concerns regarding this proposal were that the process for notifying donors of the amount of Gift Aid claimed in respect of their donation was not clear, and to the extent that the process was clear it appeared administratively complex – particularly as it would mean retrospective notifications and a year-end administrative bottleneck. Nearly half of all respondents questioned whether donors would be able to calculate how much of their gift would be eligible for Gift Aid when completing a Gift Aid declaration.

**2.4** More than half of respondents said it would be inequitable to offset the full cost of all benefits, including those provided to donors of funds ineligible for Gift Aid. Nearly a quarter of

respondents highlighted one aspect of the proposal – valuing benefits at their actual cost – as being a simplification or improvement to current requirements, while slightly fewer felt that the basis for valuation was insufficiently clear (e.g. the treatment of third party benefits and incentives, opportunity and indirect costs, and discounts, was not set out).

**2.5** Question 2 of the consultation invited views on extending the ‘split payments’ approach. This is one of a small number of Extra Statutory Concessions currently permitted by HM Revenue and Customs (HMRC) which, whilst not included in legislation, give charities certain prescribed flexibilities. The split payment rule allows a charity to deduct the market value of a benefit from the gross donation and claim Gift Aid on the rest of the money donated, if it can accurately establish the benefit’s market value *and* if the benefit is sold separately and offered to the general public.

**2.6** Only a few respondents felt that splitting all donations into a market value ‘purchase’ of benefits and a remaining ‘donation’ element in this manner would represent a welcome simplification of the current rules, while more than half disagreed.

**2.7** In considering this proposal, around a third of respondents commented on how the market value of a benefit might be established, highlighted the difficulty and/or inequity of doing so, and stated their preference for valuing benefits at cost instead. A similar number of respondents also suggested that this system would be administratively cumbersome and/or that it would require very detailed record-keeping that might well exceed that currently undertaken by some, particularly small, charities. Some respondents said that, in some cases, the ‘split payments’ approach, unless combined with a low value disregard of some kind, would reduce the value of donations on which Gift Aid could be claimed.

**2.8** Overall, very few respondents (less than 10%) felt removing the monetary thresholds altogether and replacing them with one of the alternatives discussed above would mitigate the administrative burden on charities. More than half of respondents explicitly said that they would not.

**2.9** When considering the practical consequences of either of these options for charities, a range of concerns were cited, including:

- the loss of the ability to ‘operate under the threshold’ (i.e. to ensure that the value of benefits offered to donors is never high enough to warrant consideration of the donor benefits rules)
- significant process and systems changes
- the need for more systematic and detailed record-keeping and tracking than at present
- the administrative challenges of retrospective notifications and adjustments
- the need to notify all donors of the amount of Gift Aid claimed per donor
- labour-intensive year-end processes
- the challenge of explaining these alternative approaches to donors
- the work involved in establishing market values

## Reducing the number of thresholds

Question 5: Would you consider reducing the number of thresholds, from three to one, to be a useful simplification of the current donor benefit rules? Please provide details to explain your response.

Question 6: Would you consider expressing this remaining threshold in terms of the value of the benefit as a percentage of the associated donation a useful simplification of the donor benefit rules? Please provide details.

### Responses received

**2.10** On the question of whether reducing the number of thresholds from three to one would be a useful simplification, nearly twice as many respondents felt that it would be as those who disagreed; however the majority of respondents did not express a clear preference. More than a third of respondents pointed out that a single percentage would disadvantage those charities that are heavily reliant on small donations. A similar number commented on the accompanying requirements for valuing donor benefits. They suggested that establishing a market valuation – as required at present - creates an additional administrative burden for charities, and expressed a preference for moving to valuing benefits at cost.

**2.11** There was significant support for moving to a percentage-based threshold system: nearly three-quarters of respondents to question 6 supported a percentage-based system and most of these indicated a degree of support for a single threshold. However these responses were often caveated (most usually in relation to the level at which the threshold should be set and the method used to value benefits), or highlighted difficulties or drawbacks alongside the indication of support.

Some respondents felt that there was little or nothing wrong with the existing system of thresholds. Some supported three thresholds but felt these should all be based on either a percentage or a cash threshold rather than the current mix of both. Some respondents expressed the view that the generosity of the system is more important than its design, and/or said they needed to know the level at which a single percentage threshold would be applied in order to decide whether this would be a welcome simplification.

### Choosing between removing or reducing current thresholds

Question 7: Do you think that this proposal is preferable to Proposal 1a (above), namely removing the thresholds altogether? If so, please provide details.

Question 8: Would any of the options set out in Section 1 represent a welcome simplification of the existing rules? If so, please identify which and provide details to explain your response.

### Responses received

**2.12** Offered the options set out in the consultation document, there was a clear preference among respondents for a threshold(s) system based on percentage(s) of donations. Responding to the binary choice offered at question 7 between a single percentage threshold and removal of

the thresholds altogether, more than half of respondents preferred the single threshold against less than a quarter who disagreed. Asked whether any of the options set out in the consultation would be a welcome simplification, more than half of respondents indicated a preference for a percentage threshold-based system, though not all favoured a single threshold and responses were often caveated. A few respondents said either of the options involving removal of the current thresholds would be their preference, while a small number of others identified the calculation of 'net' donations specifically.

**2.13** One respondent used question 7 as an opportunity to highlight an anomaly in the current system of thresholds that allows twice the value of benefits for an increase in the donation made of just £1 (where the donation increases from £1,000 to £1,001). Other respondents raised the same point elsewhere in their responses.

## **The government's response**

**2.14** As set out in the consultation, the government was keen to hear the charity sector's views on removing the monetary thresholds in order to better understand the practical implications of doing so. Responses received set out in detail some administrative difficulties and implementation challenges that would need to be addressed in order to pursue either of the options set out.

**2.15** The responses also indicated that whilst there is a very wide range of views on these options and enthusiastic support for them from some respondents, the weight of opinion is significantly against either of them being welcome simplifications. Consequently the government does not intend to pursue reforms that wholly remove monetary thresholds.

**2.16** The government has noted the very wide range of views and concerns expressed relating to the current thresholds and to the proposal to move to a single threshold. It has also noted the high level of concern expressed regarding the possible effect of reforms on the benefits available to those making small donations.

**2.17** Given the lack of a clear consensus around any single reform proposal, the government does not believe that it would be right to proceed with implementing any of the reforms proposed at this stage. Instead it has developed a further set of reform proposals aimed at reflecting more specifically the preferences and concerns expressed by respondents. These are set out in Chapter 4. The government invites further responses from interested parties to the questions posed regarding these proposals.

**2.18** The issue of the valuation of benefits is addressed separately, in Chapter 5.

## 3 Additional simplifications

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**3.1** This chapter reviews responses to the questions posed in the consultation concerning additional simplifications that could supplement either of the two broad options for reforming the relevant value test.

### A disregard for low value benefits

Question 9: To what extent would a disregard for low value benefits simplify the donor benefit rules for charities? Please explain your answer.

Question 10: To what extent would a specific disregard for benefits below the value of £3 represent a valuable simplification for charities? Please explain your answer.

Question 11: What would be the impact on your organisation of applying a disregard for low value benefits according to an annual 'per donor' limit rather than a 'per donation' limit? The government would welcome all views on this proposal, and specifically on the potential administrative impacts and any effect it may have on charities' ability to incentivise their donors.

### Responses received

**3.2** A significant majority of respondents felt that a disregard for low value benefits would be a simplification. Several respondents highlighted that a disregard of this sort would facilitate low-cost administration for charities offering low value 'under the threshold' benefits; however the same number raised issues and concerns relating to the notion of 'low value', pointing out that many low value benefits are not offered for sale and thus a 'market' value can be hard to establish.

**3.3** Some respondents stressed the need for clear guidance on what constitutes a low value benefit and on the valuation process and requirements. A few felt it was particularly important to introduce a low value disregard if the current thresholds were to be removed or reduced in number. Some respondents commented on the importance – and the challenge – of setting a reasonable and appropriate threshold for a disregard.

**3.4** Asked about a £3 disregard specifically, more than half of respondents supported this, although several based their support on the assumption that benefits would be valued at cost rather than at market value. Around a third of respondents did not agree that a disregard at this value would be a valuable simplification.

**3.5** Other comments on the proposal were varied. One pointed out that the proposal would only be of benefit in relation to donations of less than £12, one suggested that the disregard should be a percentage of the donation rather than a fixed sum, and one expressed the view that monetary limits tend to remain in place for many years and that in this context £3 is very low. A few respondents thought that the full value of all benefits directly relating to the charity's purpose and aims (an example provided was that of a bird box provided by a charity seeking to protect birds) should be disregarded.

**3.6** There was strong resistance to operating a disregard on a ‘per donor’ basis: more than three-quarters of respondents were opposed, and most of these respondents cited difficulties tracking a per donor basis and increased administrative burden and complexity as a result.

### **A disregard for low value benefits – the government’s response**

**3.7** The concept of a disregard is clearly attractive to the sector. The government is open to adding one alongside any revised threshold(s), subject to affordability constraints.

**3.8** A low value disregard would operate on the basis that the *total* value of all benefits offered in respect of each donation must not exceed the disregard limit. Where the *total* value of all benefits exceeds the disregard then it would not apply, and the relevant value test monetary threshold(s) would be applied in respect of the cumulative value of all benefits offered.

**3.9** Many charities benefitting from any low value disregard will be in competition with non-charitable organisations. These organisations might consider excessive government support for the charity sector to put them at a disadvantage and thus to be an unfair intervention.

**3.10** In particular, for as long as the UK continues to be a member of the EU it must continue to comply with EU law. This includes strict provisions limiting the extent to which national governments can provide state aid to companies, industries or sectors which compete with others within the EU who do not receive the same aid and are therefore placed at a disadvantage.

**3.11** The government is mindful of these limits and of competition concerns more generally. It must ensure that the level of any low value disregard is proportionate to the issue it seeks to address (i.e. charities offering only low value donor benefits having to engage with the donor benefits regulations), while not being excessive or weakening the fundamental principle that Gift Aid provides tax relief on genuinely charitable donations.

**3.12** The government must be mindful of the overall affordability of reforming the donor benefits rules. The level (and therefore associated cost) of the disregard therefore needs to be considered alongside the other reforms to the relevant value test that are under consideration (as set out in Chapter 3). Were the government to set the disregard higher, other reforms might have to be reconsidered or made less generous.

**3.13** Given the range of views expressed regarding the level at which a disregard should be set, and the other considerations set out above, the government invites further responses from interested parties to the additional questions posed on this subject in Chapter 4.

**3.14** The issue of the valuation of benefits is addressed separately, in Chapter 5.

### **The future of currently permitted Extra Statutory Concessions**

**3.15** While not included in legislation, HMRC currently permits some Extra Statutory Concessions that give charities certain prescribed flexibilities to provide benefits above and beyond the strict limits set out in the legislated donor benefit rules. These are:

- **the split payment rule:** If a charity can accurately establish a benefit’s market value and that benefit is sold separately and offered to the general public, the charity can deduct its market value from the gross donation and claim Gift Aid on the rest of the money donated

- **averaging method:** The charity can average the cost of a benefit over a number of donors (for example, if the benefit is a dinner the charity would divide the overall cost by the number of guests attending the meal)
- **10 year rule for a 'lifetime' benefit:** For a lifetime benefit, the total cost is valued over a 10 year period
- **literature is of inconsequential value:** Broadly, literature that describes or promotes the work or objectives of the charity is assigned no financial value

**3.16** As the consultation made clear, following a legal ruling the government is required to either withdraw or legislate these Extra Statutory Concessions.

Question 12: Would you consider the inclusion of a split payments rule in legislation to be a useful clarification of the donor benefit rules? Please provide details.

Question 13: Would the requirement to proactively inform donors of the amount of Gift Aid claimed on split payment donations impose significant extra burdens on charities? If so, please provide details.

Question 14: Would you consider the inclusion of the averaging method in legislation to be a useful simplification of the donor benefit rules? Please provide details.

Question 15: Would you consider the inclusion in legislation of literature being considered of inconsequential value to be a useful simplification of the donor benefit rules? Please provide details.

Question 16: How, if at all, would the removal of the lifetime benefits rule create problems or complexity for charities? Please provide specific examples to support your answer.

## Responses received

**3.17** On split payments, more than half of respondents considered that legislating would be a useful clarification. However more than a third disagreed: most of those who provided an explanation were concerned that legislating might draw attention to the availability of benefits-only packages and thus encourage potential donors to buy these packages instead; some expressed the view that legislation is not necessary because these separate packages are already sold.

**3.18** More than half of respondents said that a requirement to proactively inform donors of the amount of Gift Aid claimed where split payment calculations had been made *would* impose a significant extra burden on charities. Around a quarter of respondents expressed the view that the level of detail charities are already required to provide regarding Gift Aid and benefits-only packages in their literature, emails and websites, means donors already have sufficient information regarding their donation and so a separate notification should not be necessary. The same number commented that the requirement would create extra administrative work through having to record details as well as inform donors.

**3.19** Some respondents observed either that they already proactively inform donors of the amount of Gift Aid claimed on split payment donations, or that this is already a requirement; some said this was best practice and an entirely reasonable requirement, or that whilst it would impose some additional burden this would not be too onerous. One respondent suggested that this should only be a requirement where a donor requests such a notification.

**3.20** The overwhelming majority of respondents were in favour of legislating both the averaging method and that literature describing or promoting a charity's work or objectives is considered to be of inconsequential financial value. On the latter, more than half of respondents called for electronic literature to be included within this broader definition (which the consultation had indicated was likely to be the case, whilst pointing out that alignment of the treatment of printed and electronic literature for VAT purposes would *not* be possible). More than a third of respondents called for postage costs to be included. Several respondents requested clear definitions and guidance.

**3.21** On the lifetime benefits rule, the majority of respondents said removal of the rule would not create problems or complexities; however around a quarter said that it would and set out a number of reasons why the rule should be retained. Most common was the observation that where charities do use the rule it greatly simplifies their calculations; other reasons included:

- the need for some method of calculation for lifetime memberships to avoid them being excluded from Gift Aid
- the risk that valuation over full life expectancy would result in the threshold being exceeded
- a risk of abuse

### **Extra Statutory Concessions – the government's response**

**3.22** By law, all Extra Statutory Concessions must be either legislated or withdrawn: there is no 'do nothing' option available.

**3.23** It is clear from the responses received that the split payments rule, the averaging method and the literature disregard are widely used and valued by charities. Whilst apparently not frequently or widely used, the lifetime benefits rule appears to be of value to some charities and the government is persuaded that there are good reasons to retain it. The government therefore intends to legislate the effect of all 4 of the Extra Statutory Concessions.

**3.24** With regard to proactive notification to donors of the amount of their donation on which Gift Aid has been claimed, the government needs to balance simplifying requirements for charities against the need to protect taxpayers by ensuring they have all the information they require in order to comply with their own obligations in relation to paying tax.

**3.25** At present, when claiming Gift Aid using the split payments method, HMRC requires that the donor is aware of the value of the benefit they receive (as opposed to the separate value of their donation, which will be eligible for Gift Aid), at the time they make their donation. If the donor makes a single payment to cover both the donation and the acquisition of the benefit (as opposed to making two separate payments), then both the charity and the donor should keep evidence of how this payment was split.

**3.26** When legislating the split payments rule, the government intends to require charities to explain to donors how much of their donation is eligible for Gift Aid. The government considers that such a requirement strikes the correct balance between the interests of charities and of donors.



# 4 Further consultation on detailed reform proposals

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## Reforming the relevant value test

**4.1** Having considered the views of respondents on the options set out previously, the government is clear that the monetary threshold(s) underlying the relevant value test should be retained in some form. This section sets out three specific proposals for reform, on which the government would welcome stakeholders' views. The current maximum annual benefit value of £2,500 would continue to apply in all cases.

## Retaining three thresholds

**4.2** The government recognises that some within the charity sector are of the view that the current system of thresholds is satisfactory and that reform is unnecessary. However it accepts the argument that the move from the £25 threshold for donations up to £1,000 to a 5% threshold for donations above this level creates an anomaly, in that the value of benefits allowed increases substantially as the size of donation increases above £1,000 – even if only by £1 or less. This merits correction if the current system of three thresholds were to be retained.

**4.3** The government would address this issue through minor changes to the current thresholds, as follows:

- the current 25% limit on benefits for donations up to £100 would remain unchanged

For donations over £100:

- the upper limit for the £25 threshold would be reduced from £1,000 to £499
- the 5% threshold would apply to donations of £500 and over

## A single threshold

**4.4** Responses indicated a fair level of support for moving to a single percentage threshold but this was often subject to confirmation of the rate at which the threshold would be set.

**4.5** For a single threshold option, the government would be likely to set the single threshold at a rate in the region of 10% if accompanied by a disregard for low value benefits (see Chapter 3 and below) or in the region of 15% without a disregard. A final decision on threshold rates will not be made until after the consultation process, as per 4.10 below.

## Two thresholds

**4.6** Some respondents suggested that two thresholds could simplify the system to some extent, whilst also protecting the value of benefits for small donations. Given the level of concern expressed regarding the possible effects of a single threshold on small donations, the government believes there could be some merit in this approach.

**4.7** A two threshold system that operates in the same manner as the current system – i.e. that one threshold, determined by the size of the donation, applies to the entire donation - would be

likely to create a 'cliff edge', i.e. a sudden reduction in the value of benefits permitted at the point where the second threshold cuts in.

**4.8** The government therefore proposes an alternative approach to a two threshold system. This would involve calculating the donor benefits allowed for a single donation using two different percentage rates, i.e. applying one percentage rate to the first element of a donation and a different rate to any amount exceeding this. The *total* of these would be the permitted limit to the value of donor benefits. On this basis, the government would be likely to set rates in the region of:

- 25% of the first £100 of a donation
- *plus*, in the region of 2 to 4% of any additional amount donated if a disregard operated alongside, or 5% of any additional amount donated if not accompanied by a disregard

**4.9** This 'sliced' structure avoids any cliff edge effect and instead ensures that the value of permitted benefits continues to rise as the amount donated rises.

**4.10** The rates and thresholds set out above are indicative only. The government will decide the final rates and thresholds to be applied in due course, in particular in parallel with a decision regarding a low value disregard (discussed below) and taking account of responses to this consultation and the overall affordability of the package of reforms as a whole.

#### **New questions for consultation**

Question 18: Would any, or all, of the three relevant value reforms above – three thresholds with an adjustment to the upper limit for the £25 threshold, two thresholds operating to a 'sliced', or cumulative, design, or a single threshold – represent a useful simplification of the current thresholds? If so, which one(s)? Please explain why.

Question 19: Which of these relevant value reforms do you consider would be simplest for the charity sector overall? Please explain your reasons.

## **A disregard for low value benefits**

**4.11** As set out in Chapter 3, the government notes the high level of support for a low value disregard in principle and is open to creating one alongside the relevant value test monetary threshold(s). However any such disregard needs to be of genuine value to the charities sector, whilst also being affordable, appropriate, and consistent with EU rules on state aid.

#### **New questions for consultation**

Question 20: Would you consider a low value disregard a welcome simplification if the government does not move to a single threshold but instead either retains three thresholds or moves to a two threshold system? Please explain your answer.

Question 21: In your opinion, what is the minimum level at which a low value disregard would be useful to charities? Please give reasons for your answer.

# 5 Other issues

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**5.1** The consultation invited respondents to suggest other reforms to the Gift Aid donor benefit rules that they would like the government to consider. This chapter summarises some of the key reforms suggested and sets out the government's views on these suggestions.

Question 17: Are there any other major aspects of reform that you would like the government to consider? Please provide details.

## Valuation of donor benefits and HM Revenue & Customs rules

**5.2** A significant number of respondents made reference to difficulties and complexities relating to the valuation of benefits and they raised a wide range of concerns. Specific issues raised included: difficulties associated with valuing some benefits at market value, where valuation in terms of cost to the charity would be easier; the treatment of benefits provided by third parties; the treatment of benefits declined by donors; the value of intangible benefits (e.g. priority booking or naming rights) and celebrity-endorsed goods; and the requirement to advertise a benefits-only, no-donation 'price' for membership packages.

**5.3** A number of respondents raised other issues regarding the donor benefit rules. These include the 'in consequence' rule (on whether a benefit is the result of a donation or vice versa), the definition of a gift (e.g. whether promotions using a 'buy a brick/sponsor a seat' approach result in gifts or purchases), and rules on reciprocal arrangements between charities and other organisations.

**5.4** Several respondents called for consideration of the interaction between Gift Aid rules and VAT rules and for better guidance in this area. Many asked for clearer guidance – more examples, more technical detail, guidance for fundraisers, and improvements to information available at [www.gov.uk](http://www.gov.uk). Some respondents simply asked for greater clarification and consistency from HMRC.

## The government's response

**5.5** How donor benefits are valued and many of the other related concerns raised are not set out in legislation. HMRC publish guidance for charities to assist them in understanding these.

**5.6** As the consultation made clear, the government is committed to updating and improving the guidance on the donor benefit rules that is available online from HMRC. Given the feedback received from respondents, the government intends to broaden this work. The government will form a working group comprised of HMRC, HM Treasury and charity sector representatives, to consider both guidance and also HMRC's interpretation and application of legislation relating to donor benefits, including with reference to relevant tribunal decisions. The aim of this work will be to provide consistency of understanding across the charity sector and HMRC.

**5.7** As set out in the consultation, the government's aim is to review the donor benefit rules with the intention of simplifying them: VAT is not within the scope of this review. There may however be some limited scope for the working group to consider specifically whether the donor benefits rules have unintended consequences for charities with regard to their VAT liabilities.

## Proactive outreach to the charities sector

**5.8** Some respondents commented that the government should make greater efforts to reach a wide range of charities when consulting on changes affecting the sector. One respondent suggested involving the Charity Commission in disseminating information about consultations. Another suggestion was that HMRC's knowledge of all organisations claiming Gift Aid and its email contacts for them should be utilised to spread awareness more widely.

### The government's response

**5.9** The government is keen to communicate with the charity sector as widely as possible. The consultation process works best when responses are received from a very wide range of those who will be impacted by the changes under consideration, even if only indirectly or to a minor extent. The government routinely contacts major representative bodies of the charity sector when publishing consultations on charity-related matters, to raise awareness: it looks to these bodies to disseminate this information to their members. The government also engages with the charity sector regularly via meetings and events with representatives from the sector; and policy reviews are highlighted via social media.

**5.10** The government will look into the use of HMRC resources and also those of other public bodies, to see whether these might provide an additional means of proactively communicating with the charity sector even more widely in future.

**5.11** The government would welcome specific suggestions from stakeholders regarding how it could improve its approach to communicating future reviews.

### Extending the 'admissions disregard'

**5.12** The Gift Aid donor benefit rules currently allow heritage charities to claim Gift Aid on the total revenue from the sale of a ticket where *either* the ticket gives the buyer access to a heritage site for a full year, *or* the buyer pays a 10% Gift Aid 'premium' on top of the standard admission price. A significant number of respondents asked that the government extend this scheme beyond heritage charities either to other specific types of charities (small sports clubs and arts organisations were suggested) or more broadly to all live performances, or all ticket sales by charities. The most common call was for the disregard to apply to live performance art (more than half of those calling for this change were theatres or their representative bodies, or represented music, dance and opera).

### The government's response

**5.13** While the government understands that extending the admissions disregard would increase the generosity of the current rules for some charity groups, it is not clear that it would be consistent with this review's aim of simplification. Extending the disregard to particular types of charities or activities would require clear definition of the types of charities and admissions to which it applies. This would be necessary to provide clarity and certainty for both charities and their donors, but it might require complex new rules and guidance.

**5.14** The government also needs to consider the call to extend the disregard in the context of the overall affordability of reforming the Gift Aid donor benefit rules. Extending the admissions disregard would involve a significant cost to the Exchequer. This extra expenditure would be concentrated on a particular subset of charities – whether a particular type of charity, those engaging in particular activities, or those selling admission tickets.

**5.15** As with the low value disregard discussed at Chapter 3 above, the government is mindful that many charities could find themselves in competition with non-charitable organisations

where they provide benefits to donors and it must consider the effect of any government support in this regard. In particular, and again as with the disregard, for as long as the UK continues to be a member of the EU it must continue to comply with EU law relating to state aid (see 3.10 above). In the case of live performances, charities will frequently be regarded as being in direct competition with non-charitable organisations offering similar performances, including in other EU Member States. The government would need to be satisfied that any extension was justified, proportionate, and not distortive, and compatible with relevant EU and international law.

**5.16** For these reasons the government does not intend to extend the Gift Aid admissions disregard rules beyond their current scope. The government has noted charities' concerns about what some consider to be preferential treatment given to some heritage and other charities under the present rules. As with all aspects of the tax system, it will keep this matter under review.

## **Allowing donors to donate higher and additional rate Gift Aid relief**

**5.17** Many respondents suggested that the government should facilitate higher and additional rate taxpayers donating all of the relief available on their donation direct to the charity in question – perhaps through a change to the model Gift Aid declaration.

### **The government's response**

**5.18** While the government acknowledges that some representatives of the charity sector would welcome this kind of reform, the government does not consider that a change of this sort falls within the scope of this review, i.e. the simplification of the donor benefits rules.

## **Transitional arrangements for the introduction of any changes to the Gift Aid donor benefit rules**

**5.19** A number of respondents suggested that charities should have plenty of notice of any changes to the donor benefit rules resulting from this review.

### **The government's response**

**5.20** The government is aware that many charities are operated by volunteer staff and/or with limited resources. The government fully appreciates the importance of the charity sector to society and the valuable role it plays. It also appreciates the work of the many volunteers involved. The government accepts that charities will need time to absorb and make preparations and adjustments to implement changes. It will therefore ensure that changes are announced at least six months ahead of their implementation in order that the transition to any reformed rules is as smooth as possible.



# Options for reform: how to respond

## 6

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**6.1** This chapter summarises the new consultation questions on which the government would welcome stakeholders' views and provides information on how to respond to this consultation.

**6.2** The government would welcome stakeholders' views on the following questions:

**Question 18:** Would any, or all, of the three relevant value reforms above – three thresholds with an adjustment to the upper limit for the £25 threshold, two thresholds operating to a 'sliced', or cumulative, design, or a single threshold – represent a useful simplification of the current thresholds? If so, which one(s)? Please explain why.

**Question 19:** Which of these relevant value reforms do you consider would be simplest for the charity sector overall? Please explain your reasons.

**Question 20:** Would you consider a low value disregard a welcome simplification if the government does not move to a single threshold but instead either retains three thresholds or moves to a two threshold system? Please explain your answer.

**Question 21:** In your opinion, what is the minimum level at which a low value disregard would be useful to charities? Please give reasons for your answer.

**6.3** Responses should be sent by 3 February 2017, by e-mail to:

charitypolicy.taxteam@hmrc.gsi.gov.uk

or by post to:

Donor Benefits Consultation,

Room G45,

100 Parliament Street,

London

SW1A 2BQ

**6.4** When responding please say if you are a business, charity, individual or representative body. In the case of representative bodies, please provide information on the number and nature of people or organisations that the body represents.

### Confidentiality

**6.5** Information provided in response to this consultation, including personal information, may be published or disclosed in accordance with the access to information regimes. These are primarily the Freedom of Information Act 2000 24 (FOIA), the Data Protection Act 1998 (DPA) and the Environmental Information Regulations 2004.

**6.6** If you want the information that you provide to be treated as confidential, please be aware that, under the FOIA, there is a statutory Code of Practice with which public authorities must comply and which deals with, amongst other things, obligations of confidence. In view of this it would be helpful if you could explain why you regard the information you have provided as confidential. If the government receives a request for disclosure of the information it will take full account of your explanation, but it cannot give an assurance that confidentiality can be maintained in all circumstances. An automatic confidentiality disclaimer generated by your IT system will not, of itself, be regarded as binding on HM Revenue and Customs (HMRC).

**6.7** HMRC will process your personal data in accordance with the DPA and in the majority of circumstances this will mean that your personal data will not be disclosed to third parties.

**6.8** If you have any comments or complaints about the consultation process please register them using [gov.uk](http://gov.uk).



# The Gift Aid donor benefit rules

## A

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**A.1** Gift Aid is one of the largest reliefs available to the charities sector. It was first introduced in 1990 and allows charities to reclaim from HMRC the basic rate of income tax deducted from donations made by UK taxpayers. In 2015-16 Gift Aid was worth around £1.3 billion to charities.

**A.2** A fundamental principle of Gift Aid is that relief can only be claimed on money that is freely donated – a genuine gift. As Gift Aid evolved, rules were introduced allowing certain benefits to be given to donors as a ‘thank you’. Provided that these benefits fall within prescribed limits (set out below), Gift Aid can be claimed on the full amount of a donation.

**A.3** The following limits determine the value of benefits that charities may give to donors and still claim Gift Aid on the full amount of a donation. This is usually known as the relevant value test. For donations

- up to £100, the value of the benefit can equate to a total of 25% of the donation
- between £100 and £1,000, the value of the benefit is capped at £25
- over £1,000, the value of the benefit can equate to a total of 5% of the donation, up to a maximum annual benefit value of £2,500

**A.4** An ‘admissions disregard’ is available to certain heritage charities. If a donor pays an additional 10% (‘the 10% rule’) on a standard admission ticket, or the charity provides access to the building for the full year (‘the 12 month rule’), the charity can claim Gift Aid on the full amount paid. This disregard is limited to buildings, grounds or other land, plants or animals, works of art or artefacts, and buildings of a scientific nature.

**A.5** The disregard explicitly excludes live performances. It also excludes admission rights to the use of sporting or other facilities to charities and CASCs.

**A.6** Additionally, while not included in legislation, HMRC currently permits a select number of Extra Statutory Concessions that give charities certain prescribed flexibilities to provide benefits above and beyond the strict limits set out above. These are:

- **the split payment rule:** If the charity can accurately establish a benefit’s market value and that product is sold separately and offered to the general public, the charity can deduct its market value from the gross donation and claim Gift Aid on the rest of the money donated
- **averaging method:** The charity can average the cost of a benefit over a number of donors (for example, if the benefit is a dinner the charity would divide the overall cost by the number of guests attending the meal)
- **10 year rule for a ‘lifetime’ benefit:** For a lifetime benefit, the total cost of a benefit is valued over a 10 year period
- **literature is of inconsequential value:** Broadly, literature that describes or promotes the work or objectives of the charity is assigned no financial value

**A.7** Extra Statutory Concessions are published easements not provided by statute but consistently allowed by HMRC. Following a legal ruling the government is required to withdraw or legislate Extra Statutory Concessions. This issue is being considered as part of this consultation.

**A.8** Further detail on the current rules can be found in the HMRC guidance, which is available at <https://www.gov.uk/gift-aid-what-donations-charities-and-cascs-can-claim-on>.

# B List of respondents

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**B.1** This annex provides a list of those organisations that responded to the government’s first consultation on the Gift Aid donor benefit rules. Only organisations that responded are listed; in addition, there were 6 responses from individual members of the public.

**B.2** Respondents represented widely differing numbers of members and/or organisations; some respondents provided details of research they had conducted among members to inform their responses. The government is grateful to all those individuals and organisations who responded.

Almeida Theatre

Arts Council England

arts depot

Association of Accounting Technicians

Association of British Orchestras

Barbican

Bircham Dyson Bell

British Film Institute

Cancer Research UK

Cause 4

Charity Finance Group, Institute of Fundraising, National Council for Voluntary Organisations and Small Charities Coalition (joint response)

Charity Law Association

Charity Tax Group

Churches' Legislation Advisory Service

City & Cambridge Consultancy Ltd

Creative Industries Federation

Crowe Clark Whitehill

Diocese of Liverpool

English National Ballet

Epilepsy Action

Free Word

ICAEW

Kingston Smith LLP

Landmark Trust

London Philharmonic Orchestra  
Lyric Hammersmith  
Marie Curie  
National Galleries of Scotland  
National Theatre  
National Trust  
Old Vic Theatre Trust 2000  
Park Theatre  
Partnerships for Jewish Schools & Board of Deputies of British Jews (joint response)  
Polka Theatre  
Punchdrunk  
Rambert  
RNLI  
Roman Catholic Diocese of England and Wales  
Roundhouse Trust  
Royal Court Theatre  
Royal Free Charity  
Royal Liverpool Philharmonic  
Royal Opera House  
Sports & Recreation Alliance  
Stewardship  
The British Horse Society  
The Halle Concerts Society  
Tricycle Theatre  
Turcan Connell  
Tyne & Wear Archives & Museums  
UK Theatre Association & Society of London Theatre (joint response)  
Victoria & Albert Museum  
Watermill Theatre Ltd  
WWF-UK  
Young Vic Theatre



### **HM Treasury contacts**

This document can be downloaded from  
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SW1A 2HQ

Tel: 020 7270 5000

Email: [public.enquiries@hmtreasury.gsi.gov.uk](mailto:public.enquiries@hmtreasury.gsi.gov.uk)