



HM Treasury

Gift Aid and digital giving

July 2013



HM Treasury

Gift Aid and digital giving

July 2013

© Crown copyright 2013

You may re-use this information (excluding logos) free of charge in any format or medium, under the terms of the Open Government Licence. To view this licence, visit www.nationalarchives.gov.uk/doc/open-government-licence/ or email psi@nationalarchives.gsi.gov.uk.

Where we have identified any third party copyright information you will need to obtain permission from the copyright holders concerned.

Any enquiries regarding this publication should be sent to us at public.enquiries@hm-treasury.gov.uk.

You can download this publication from www.gov.uk

ISBN 978-1-909790-19-3

PU1531

Preface

Subject of this consultation:	Introducing proposals to make it easier to claim Gift Aid on donations to charity made through digital channels.
Scope of this consultation:	This consultation seeks views on specific proposals about the administration of Gift Aid, in particular changes to the Gift Aid declaration and allowing non-charity intermediaries a greater role in operating Gift Aid than currently. It also asks for views on aspects of a universal Gift Aid declaration database, and on other barriers charities may experience in attracting Gift Aid on donations.
Who should read this:	The Government would like to hear from charities, intermediaries, donors and any other interested parties. The changes proposed in this consultation document will affect charities, intermediaries and donors.
Duration:	The consultation opens on 3 July 2013 and closes on 20 September 2013.
Lead officials:	Sam Anderson, Personal Tax Team, HM Treasury. Zoe Nettelfield, Charities Team, HM Revenue and Customs.
How to respond or enquire about this consultation:	Responses to this consultation can be sent by email to the address below: GiftAidDigital@HMTreasury.gsi.gov.uk Alternatively responses can be sent by post to: Gift Aid Digital Consultation Personal Tax Team HM Treasury 1 Horse Guards Road London SW1A 2HQ
Additional ways to be involved:	The proposals in this consultation raise some important implications for charities, intermediaries and donors to consider. The consultation document aims to set these out. However, subject to space constraints, HM Treasury and HM Revenue and Customs will also meet with charities, intermediaries and their representatives over the summer to explain the proposals in further detail and to hear views first hand. If you are interested in taking part in these discussions, please contact the Gift Aid Digital Giving consultation email address: GiftAidDigital@HMTreasury.gsi.gov.uk
After the consultation:	The Government will publish a summary of responses to this consultation later in the year. Where appropriate, legislation will be brought forward in either Finance Bill 2014 or Finance Bill 2015, subject to stakeholders' views on a phased approach for implementation.
Getting to this stage:	This consultation document follows announcements at Autumn Statement 2012 and Budget 2013 that the Government was examining ways to make it easier to claim Gift Aid on donations made through digital channels.
Previous engagement:	Informal discussions were held with charities, intermediaries and their representative bodies prior to Budget 2013, to inform development of the proposals set out in this consultation document.

Contents

	Page	
Foreword	3	
Chapter 1	Introduction	5
Chapter 2	The Gift Aid declaration	11
Chapter 3	Gift Aid: a greater role for intermediaries	17
Chapter 4	A universal Gift Aid declaration database	29
Chapter 5	Assessment of impacts	35
Chapter 6	Summary of consultation questions	37
Chapter 7	The consultation process	41
Annex A	List of stakeholders consulted	43
Annex B	Further background on Gift Aid	45

Foreword

Britain is a generous country and the amount of giving – in both time and money – is something we should be proud of, especially in these challenging times. This Government is committed to supporting charities and building further on this culture of giving. We have introduced a series of substantial reforms to encourage donations – large and small – and to make it easier for charities to benefit from a range of charitable tax reliefs. This includes:

- A new scheme to allow charities to claim Gift Aid style top-up payments on small cash donations, without the need for those giving to fill out any forms. Once this gets up and running, it will be worth over £100 million a year to charities;
- A new Cultural Gifts Scheme to give a tax reduction in return for donating a pre-eminent item for the benefit of the nation;
- A reduction in the rate of Inheritance Tax for those estates leaving 10 per cent or more to charity;
- Consultation on how we can increase take-up of Payroll Giving;
- A new system for filing Gift Aid claims online;
- Introduction in 2014 of a new tax relief to encourage private investment in social enterprise; and
- Easier procedures for charity shops to claim Gift Aid on donations from the sale of goods.

These reforms represent a significant package of change for charities. However, we can do more.

Gift Aid is one of the biggest and best known tax reliefs that benefits the charitable sector. Last year, over £1 billion was paid to charities under Gift Aid. I know from my conversations with the sector that Gift Aid represents a significant source of income for them, and, quite simply, means that more money goes to good causes. So I am clear: I want to see Gift Aid claimed on as many donations as possible.

The way people give is changing. New technologies allow people to make donations in ways that could not have been imagined ten years ago. It isn't easy to claim Gift Aid in some of these situations – we want to change that.

Of course, there are some challenges. Gift Aid is a tax relief, and therefore it will always involve a certain amount of information passing between the donor, the charity and HM Revenue and Customs. However we aim to make this process easier for people giving online and through their mobile phones. This will lead to take-up of Gift Aid rising, more tax efficient donations being encouraged and more money going to charity.

I hope you will engage as fully as possible with the proposals we have set out in this consultation, and help us introduce changes that mean more charities receive more Gift Aid. I believe this represents a fundamental change to the way Gift Aid works. And this is a good opportunity for your views to be heard on a broader range of questions too. The consultation document also asks for views on other significant adjustments we might make to Gift Aid, for

example a universal Gift Aid declaration database. I hope you will take this opportunity to give your views so that we can move this thinking forward and look to the future of Gift Aid.

A handwritten signature in black ink, appearing to read 'S. Javid', with a small horizontal line at the end.

Sajid Javid

Economic Secretary to the Treasury

July 2013

1

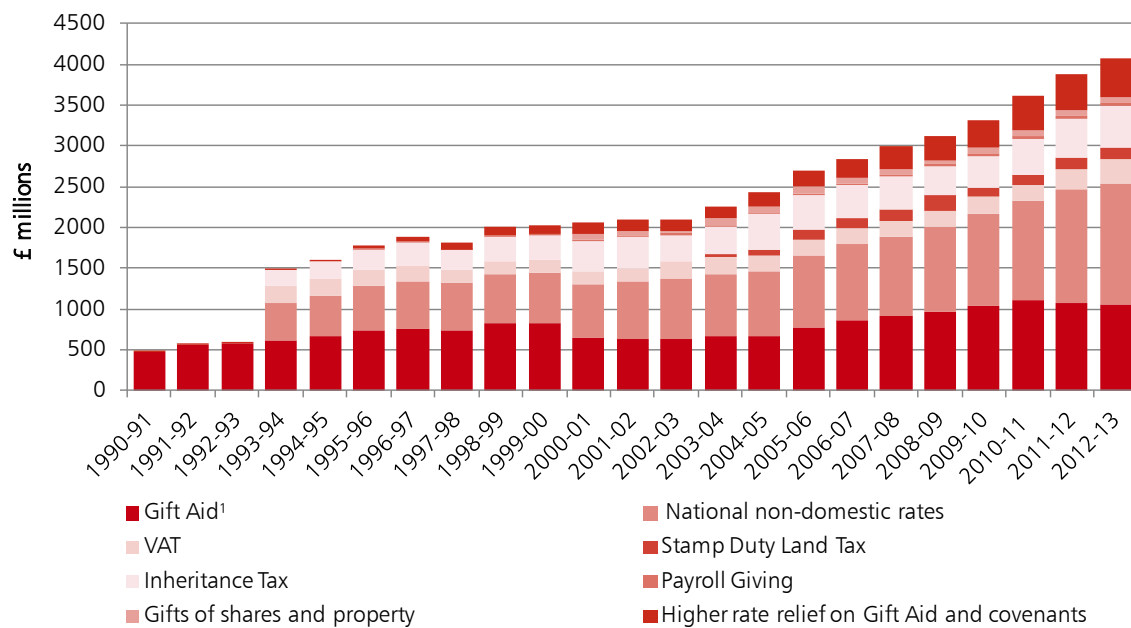
Introduction

What is Gift Aid?

1.1 Gift Aid is a tax relief on donations of money to charities and Community Amateur Sports Clubs (CASCs). When a UK taxpayer makes a donation to a charity, and chooses to Gift Aid their donation, the charity can reclaim basic rate tax paid on that donation. This means that a £10 donation with Gift Aid is worth £12.50 to the recipient charity. Higher rate and additional rate taxpayers can also claim higher rate or additional rate tax relief on their donation.

1.2 Gift Aid is a key part of the Government's strategy for supporting charities and increasing charitable giving. In the UK, charities and donors can benefit from a range of tax reliefs. These include business rates reliefs, corporation tax relief on charitable expenditure and certain VAT reliefs for charities, and reliefs on donations by companies and individuals. In 2012-13 these tax reliefs were worth around £4 billion. Gift Aid is one of the most significant reliefs, with repayments of tax to charities under Gift Aid reaching over £1 billion in 2012-13.

Chart 1.A: Total tax reliefs to charities and individuals



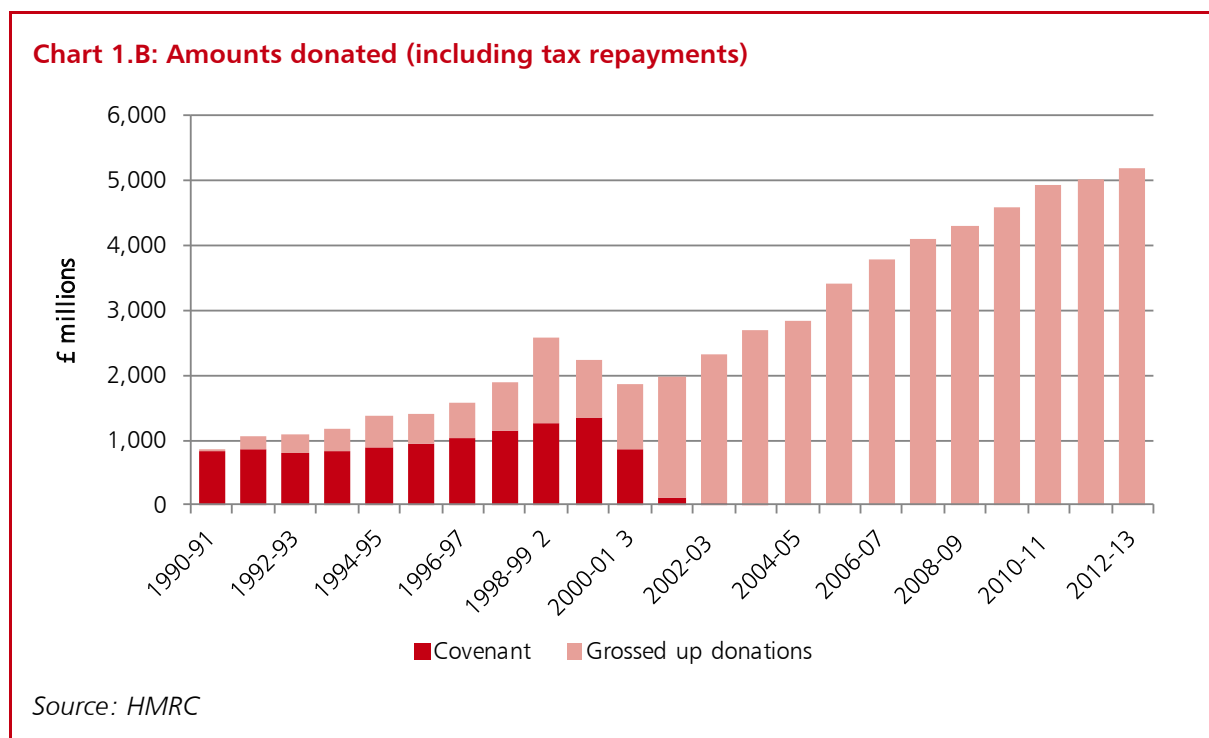
¹ Gift Aid here includes other tax repayments including transitional relief top-up, covenants, tax credits on dividends of UK companies and income received under deduction of tax.

Source: HMRC

Why does the Government want to make changes to Gift Aid?

1.3 The Government wants to encourage more people to donate by increasing the value of their gift, and to maximise the possible income to charity from each donation they receive. The Government therefore wants Gift Aid to be claimed on as many donations as possible.

1.4 To date, Gift Aid has been a success, with tax efficient donations under Gift Aid increasing from £770 million to £4.1 billion in 2012-13, since the limit on minimum donations was removed in 2000¹.



1.5 However, Gift Aid was first introduced over 20 years ago. The ways in which charities fundraise and people donate have changed significantly over that time. Donors now have an increasing array of options for donating to their chosen cause, particularly for making spontaneous donations. However, there have been no fundamental changes to the way Gift Aid is administered. Donations of cash and giving to a favourite cause through monthly direct debits remain popular and an important source of income for charities. Over half of donors gave cash in 2011-12, and the total share of value of giving through direct debit increased from 22 per cent in 2009-10 to 31 per cent in 2011-12². Gift Aid was designed for these ways of giving, and works well for direct debits in particular. This is because Gift Aid was designed with the expectation that donors would have the time and opportunity to complete a Gift Aid declaration.

1.6 The Government has recognised that it is often difficult or impossible to collect a Gift Aid declaration on small cash donations such as bucket collections. To address this problem, it recently launched the Gift Aid Small Donations Scheme which is designed to allow a Gift Aid style payment on small spontaneous gifts of cash.

1.7 But it is no longer the case that a spur of the moment donation means putting cash into a bucket or phoning up to give a donation in response to an appeal. Over recent years technological developments mean it has become possible for charities to seek donations through

¹ Source: <http://www.hmrc.gov.uk/statistics/charity/table10-3.pdf>

² UK Giving 2012: An overview of charitable giving in the UK, 2011/12, National Council for Voluntary Organisations and Charities Aid Foundation.

a wide range of channels, including text messages and online. Donors can now respond to the impulse to give while they are going about their daily business, sending a text donation after seeing a fundraising advert or making a donation when they are shopping online. But there is evidence to suggest that Gift Aid claims are not always keeping pace with donations made to charity in this way. For example, the 2010 ResPublica report on digital giving found that in a recent emergency appeal it was possible to reclaim Gift Aid on only 5 per cent of text donations³.

1.8 There could be a number of reasons why the take-up of Gift Aid is lower on these methods of giving, including:

- The current Gift Aid rules mean each time a donor wants to donate to a new charity they must fill out a new Gift Aid declaration, even though in many cases the donation is made through the same fundraising intermediary;
- The donor may not need to fill out their personal details as part of the donation process (for example text donations are charged to a donor's mobile phone bill), so providing the level of information required for the Gift Aid declaration is a significant additional burden for them;
- At present the Gift Aid declaration has to contain a certain amount of information that can mean it appears long and off-putting to donors, particularly when displayed on mobile phone screens; and
- Individual donations online or by text are often small. In these cases for the donor it may not seem worthwhile to go to the trouble of filling out a Gift Aid declaration for a small additional amount to go to the recipient charity. Of course for the charity, if all donors come to the same decision the financial impact can be significant.

1.9 In some cases digital giving providers may not offer the opportunity to claim Gift Aid at all. Sometimes this could be because the current Gift Aid rules cannot be easily accommodated by their systems for processing donations. Even where Gift Aid is available low take-up rates suggest individuals are not always being encouraged to give in a tax efficient way when they make a donation.

1.10 The Government wants the take up of Gift Aid to be as high as possible across all methods of giving to charity, including on spontaneous gifts. It is not seeking to promote one form of giving over another, but instead believes charities and donors should be able to fundraise and donate tax efficiently as they see fit.

1.11 Having identified this problem of low Gift Aid take-up rates on donations through some digital channels, the Government announced in Autumn Statement 2012 that it would:

'examine whether the administration of Gift Aid can be improved to reflect new ways of giving money to charity, in particular digital giving'.

1.12 Following informal dialogue with charity sector representatives and digital giving platform providers, the Government announced at Budget 2013 that it would:

'consult on proposals to make it easier to claim Gift Aid through a wide range of digital giving channels, including options for enabling donors to complete a single Gift Aid declaration to cover all their donations through a specific channel'.

³ 'Digital Giving: Modernising Gift Aid; Taking Civil Society into the Digital Age', ResPublica 2010.

1.13 This consultation document sets out for discussion specific proposals and ideas to help increase the take up of Gift Aid on digital donations.

Box 1.A: Important aspects of Gift Aid

Gift Aid is a tax relief, and the Government wants to ensure that it remains so. This has implications for the scope of the changes which can be made to the Gift Aid rules. Previous discussions with the charity sector on Gift Aid suggest that the sector also values its status as a tax relief.

Central to Gift Aid's status as a tax relief is the Gift Aid declaration. As Gift Aid is relief of tax paid on an individual donor's gift to charity, it is imperative that the donation can be linked back to the individual donor's tax affairs. Without this audit trail, there is no way to demonstrate for certain that the Gift Aid claimed relates to actual tax paid by a specific individual. Without that certainty, Gift Aid will no longer count as a tax relief.

The Gift Aid declaration is also necessary to demonstrate that the donor understands that they are giving their tax relief to the charity.

In order to ensure the integrity of Gift Aid and to protect the Exchequer, it is important that individuals have paid sufficient tax to cover all the donations made under Gift Aid in a tax year. (More detail on how Gift Aid works, including requirements around tax to cover, is set out in Annex B.)

Therefore any new rules regarding the administration of Gift Aid will continue to require a minimum amount of information about the individual giving the donation on which Gift Aid is being claimed.

Scope of this consultation

1.14 This consultation seeks views on proposals to change the administration of Gift Aid, in particular changes to ensure the legal framework for Gift Aid allows the relief to be claimed on as wide a range of donations as possible. Any new rules regarding the administration of Gift Aid will continue to require a Gift Aid declaration in order to maintain it as a tax relief (see Box 1.A for more information).

1.15 Gift Aid is a tax relief on donations of money to charity⁴. It does not apply to donations of goods, to payments that are not actually donations⁵ and to donations to organisations that are not charities. The Gift Aid rules state that charities can reclaim basic rate tax on donations, higher rate or additional rate taxpayers can reclaim higher or additional rate relief as appropriate.

1.16 Whilst these fundamental aspects of Gift Aid are not the focus of this consultation, the Government keeps all taxes and tax reliefs under review and would be interested to hear any views from charities and other stakeholders on these points.

Question 1. Are there any general points about Gift Aid that you would like to raise with Government?

1.17 The focus of this consultation is on making it easier to claim Gift Aid on spontaneous donations online and by text. These donations are referred to in this consultation document as

⁴ For the purposes of this discussion 'charity' means a charity or Community Amateur Sports Club recognised by or registered by HM Revenue and Customs.

⁵ For example loans and payments where there is a substantial benefit to the donor.

‘digital giving’. However, while the primary focus is on digital giving, the proposals set out here for changes to the law or the administration of Gift Aid will not be limited to digital giving channels only. They could apply to other methods for donating to charity and may help increase Gift Aid take up on those donations as well.

1.18 The consultation document also refers at various points to ‘intermediaries’. This term refers to the operators of online or mobile communications platforms that facilitate or process digital donations.

1.19 The Government considers that there are two principal areas where legislative changes could be made to address the problems identified above. These are the simplification of the Gift Aid declaration, and changes to enable a greater role for intermediaries in ensuring Gift Aid is maximised on donations made. The following chapters set out options the Government is considering for changing the way Gift Aid is administered, to make it easier for donors to Gift Aid their donations and so increase take-up:

- Chapter 2 sets out some proposed changes to the way the Gift Aid declaration works, to make it more accessible and therefore more likely donors will Gift Aid their donations;
- Chapter 3 sets out some specific proposals which have been developed on the role that intermediaries might play in administering Gift Aid, in order to make the process less burdensome for donors; and
- Chapter 4 discusses a universal Gift Aid declaration database (UGADD). While it does not set out a specific proposal for a UGADD, it highlights certain aspects the Government would like to hear views on.

1.20 The Government is also keen to hear from stakeholders any other ideas for ways in which Gift Aid would work better on digital donations, whilst remaining a tax relief. It is not the role of Government to invent new ways of giving or to incentivise one form of giving over another. However, any further ideas on how to make Gift Aid as straightforward to use as possible on digital donations would be welcomed.

1.21 The focus of this consultation document is on addressing problems around take-up of Gift Aid on digital donations. However, the Government is also keen to hear about any problems charities may have in securing Gift Aid on other types of donations.

Question 2. Beyond digital giving, what other barriers to take-up of Gift Aid do charities experience?

Timescale for introduction of changes to Gift Aid

1.22 The Government does not see the proposals set out in this consultation document as exclusive of each other. It would be possible for some or all of the proposed changes to be introduced in parallel with each other, and alongside current means of administering Gift Aid. However, as the following chapters set out, these proposals each have implications and details that need to be considered carefully. If the proposals are combined then there will be additional complexities to consider.

1.23 These proposals will all mean significant changes to the legislation and potentially to how charities operate Gift Aid in practice. Therefore a phased approach to making these changes might be preferable, with some changes introduced in Finance Bill 2014 and further changes through Finance Bill 2015. This would allow further consultation with all stakeholders on the details of the legislation, and allow time for implementation of changes by charities and intermediaries.

Question 3. Do you think a phased implementation of the changes to Gift Aid proposed in this consultation document would be the best way to proceed?

Stakeholder engagement

1.24 The Government is keen to engage with as wide a group of charities and intermediaries as possible on how to increase take-up of Gift Aid on digital donations. In the period between the Autumn Statement 2012 and Budget 2013 officials held a series of meetings with charity and intermediary stakeholders to help develop proposals for formal consultation. This included a special sub-group meeting of the HM Revenue and Customs (HMRC) Charity Tax Forum.

1.25 The proposals developed following these discussions are set out in this document for consultation with as broad a range of charities, intermediaries and other interested stakeholders as possible. Officials from HM Treasury and HMRC will be holding a series of meetings over the summer with charities, charity representative organisations and intermediaries to explain these proposals in more detail and to hear views first hand.

Supporting promotion of Gift Aid

1.26 The proposals in this consultation document are primarily aimed at making it easier to claim Gift Aid on digital donations. However, the Government has also heard feedback from charities that it can sometimes be difficult to generate interest in and awareness about Gift Aid among donors more generally.

1.27 The Government wants to see high take-up rates for Gift Aid on donations from all individual taxpayer donors to charities of all sizes. Therefore officials will be engaging with charity representatives over the coming months to develop new promotional materials on Gift Aid that are more accessible for donors and smaller charities. These materials will set out simple messages about the benefits to donors and charities of using Gift Aid, the basics of how the scheme works, how to start using it and where to find more information.

1.28 Once these materials have been developed the Government will work with the charity sector and its representatives to disseminate them. The aim of this work is to attract more interest in Gift Aid and encourage more donors and charities to use it.

Question 4. What new promotional materials – leaflets, website materials and other products – could the Government usefully provide to help increase take-up of Gift Aid?

Question 5. What should these materials contain to be most helpful in encouraging donors and charities to use Gift Aid?

Question 6. Might rebranding Gift Aid help increase take-up? How?

Question 7. How can the Government work with the charity sector and its representatives to disseminate promotional material on Gift Aid?

2

The Gift Aid declaration

Context

2.1 As highlighted in Box 1.A, the Gift Aid declaration is a key element of Gift Aid. For Gift Aid to remain a tax relief it will always be necessary for HMRC to collect a certain amount of information about the donor so that the Gift Aid claimed on a particular donation can be linked back to that specific donor's tax affairs. The proposals set out in this consultation document aim to protect that link, and so to retain Gift Aid's status as a tax relief.

2.2 The Government is also keen to protect donors from inadvertently Gift Aiding their donations where they have not paid sufficient tax, and so risking an unexpected tax bill. If the donor has not paid enough income tax or capital gains tax to cover the Gift Aid on their donation in the tax year, the current Gift Aid rules put a 'charge to tax' on the donor. This means HMRC has a legal duty to require the donor to make up the shortfall in the tax that was reclaimed by the charity on their donation. More detail on how Gift Aid works is set out in Annex B.

2.3 It can be hard to imagine this happening where donations are relatively small and a donor regularly pays income tax, for example through Pay As You Earn (PAYE). However it does happen – some examples based on anonymised real life situations are set out in the box below. Therefore a key part of the Gift Aid process is the charity's explanation to the donor that the donor will have to pay any shortfall in the tax on their donation, if they have not paid enough tax to cover the Gift Aid. If this explanation is not given, then the declaration is not valid and the Gift Aid on the donation must be repaid by the charity.

Box 2.A: Examples of Gift Aid claims where the donor has not paid enough tax to cover the claim

- **A non-working spouse:** one spouse works and earns a significant amount of money, paying tax on their income. They have a joint account, out of which the non-working spouse makes a donation to charity under Gift Aid in their own name. Whilst the money donated comes from earnings on which tax has been paid, the individual who made the donation has paid no tax themselves. Therefore there will be a tax charge on the donor for the full amount of Gift Aid claimed by the charity.
- **An individual who receives an inheritance or windfall:** someone earning £40,000 (with no other income), will pay around £6,112 in Basic Rate tax in the year. They receive an inheritance of £100,000, of which they decide to donate £25,000 to a charity under Gift Aid. The charity will claim £6,250 in Gift Aid. Therefore there is a shortfall in the tax paid of £138. If the individual made any other donations under Gift Aid in the tax year, these would also lead to a tax charge on the donor.
- **An individual whose tax position changes in the year:** someone earning £16,000 loses their job in August and has no other income for the remainder of the year. Their income will not exceed the personal allowance so they will have no liability to income tax in the tax year. Any tax they paid while in employment up to August will be repaid to them. They may have made a Gift Aid declaration in May when they made a donation to charity and had every expectation of working for the entire year (and so their income would exceed the personal allowance). They will have Gift Aided a donation to charity without actually paying any tax in the year, therefore incurring a tax charge.
- **An individual on low income, but with significant wealth:** an individual with income of £10,000 will pay around £112 in income tax. They have savings from which they make donations under Gift Aid in the tax year. Any donations totalling £450 or more would give rise to a tax charge as they would not have paid enough tax to cover the donations.

2.4 Also, significant amounts of tax are repaid to charities and donors each year under Gift Aid. Unfortunately this means charities can be vulnerable to exploitation by those who look to misuse charitable tax reliefs. This is against the interests of taxpayers and also risks damaging the reputation of the charity sector. The Gift Aid declaration helps make sure appropriate checks and balances are in place to reduce risks of fraud and error.

2.5 While the Gift Aid declaration is a vital element of Gift Aid, charities have often commented that the wording of the Gift Aid declaration can appear cumbersome and off-putting to donors. Further, when donations are made on mobile phones the declaration can appear very long and difficult to read on a small screen. This chapter therefore sets out proposals for changes to the Gift Aid declaration that aim to help overcome these difficulties.

Current Gift Aid declaration requirements

2.6 The current Gift Aid rules state that for a Gift Aid declaration to be valid it must¹:

- Include the name and address of the donor;

¹ Donations to Charity by Individuals (Appropriate Declarations) Regulations 2000

- Name the charity the donation is made to (or be made in circumstances where the charity is identified);
- Describe the gift(s);
- Include a statement that it is to be treated as a qualifying donation; and
- Be accompanied by an explanation that if the donor has not paid enough tax to cover the Gift Aid repayment claimed by the charity on their donation, then HMRC can recover the shortfall in tax from the donor. This can be provided alongside the declaration, but many charities choose to include a statement in the declaration that the donor has paid enough tax to cover the Gift Aid on the donation. It may be difficult otherwise for a charity to prove that the donor received an explanation about the potential tax charge on a donation.

2.7 If these requirements are not met, then the declaration is not valid and the charity will be required to repay the Gift Aid they have claimed on the donation. The effect of these requirements is to:

- Establish that a donor must be given sufficient information about what a donation under Gift Aid is;
- Ensure donors know that they must have paid within the tax year enough income or capital gains tax to cover the value of the Gift Aid on the donation (and any other Gift Aided donations that they make in the tax year), and understand that they can be required to pay any shortfall in this amount; and
- Collect enough information about the donor to provide a complete audit trail between the donation and the donor.

Proposal 1: Shortening the Gift Aid declaration

2.8 Charities have highlighted that the statement in the declaration about the donor's potential tax liability makes the declaration too long. It can also appear off-putting to potential donors who are not used to dealing directly with their tax affairs. This applies to all donations, not just those made digitally. However, stakeholders have said that the length of the declaration can be particularly problematic for text donations.

2.9 Under Proposal 1 charities would be able to use a shorter and more accessible Gift Aid declaration. The aim would be to make the Gift Aid declaration easier to understand and less off-putting to donors, and therefore to increase take-up of Gift Aid, particularly on digital donations.

2.10 The declaration would be shortened significantly by reducing the requirement for the charity to explain to the donor that they must have paid enough tax to cover the donation. There would still need to be a short statement to ensure donors understood that Gift Aid was linked to the tax they had paid. This ensures Gift Aid remains a tax relief.

2.11 If the statement about the tax charge is reduced, then the Government considers that it would not be fair for the donor to be liable for any unpaid tax that arose. They may not have received enough information to understand fully the consequences of making a Gift Aid donation. Therefore the Government is proposing that the potential tax charge should be moved to the recipient charity in cases where the donor had not paid enough tax to cover their donation under Gift Aid.

2.12 The requirement to place a charge to tax on the donor in cases of insufficient tax to cover a Gift Aid claim is set out in primary legislation². Therefore the change outlined in this section to make the charity, rather than the donor, liable would require a change to primary legislation. If this proposal is adopted, the Government would intend to make this change through a finance bill. Changes would also be required to supporting regulations.

Question 8. Do you agree that it would be helpful to enable charities to shorten the Gift Aid declaration in this way, provided they were prepared to accept liability for a charge to tax where the donor had not paid enough tax to cover the Gift Aid?

Implications

2.13 In practice, the proposed change might not mean a significant increase in risk for many charities. Where HMRC finds that not enough tax has been paid to cover one or more donations to a charity it usually gives the charity the opportunity to make up the shortfall, without revealing the details about the donor. Many charities prefer to repay the Gift Aid themselves in these circumstances because they want to protect their relationship with their donor.

2.14 Therefore the proposal to shift liability for the tax charge from the donor to the charity would mirror HMRC's current practice. However, currently charities can decide not to pay the tax charge, in which case HMRC approaches the donor directly. The new approach would be different in that the charity would be required to make up the shortfall in tax.

2.15 However, the Government believes it would be sensible to place an upper limit on the value of donations where the charge to tax would be put on the recipient charity. This would limit the potential exposure of charities if donors were to knowingly make a donation under Gift Aid without having paid sufficient tax to cover, in the knowledge that the charity will be liable for the shortfall in tax.

2.16 The Government therefore proposes that the new approach of placing the potential charge to tax on charities, rather than donors, should be limited to donations below a certain value.

2.17 There is a question of what this threshold should be. It should be set at a level that protects charities from the risk of unexpectedly incurring a high tax charge. It should also be set at a level that recognises the responsibility of donors who make substantial gifts to engage fully with the tax implications of making a donation under Gift Aid. With a substantial gift a donor could reasonably be expected to take the time to read and understand a longer declaration in order to make an informed judgement about whether they had paid enough tax to cover the Gift Aid claimed on their donation. With these considerations in mind the Government thinks the threshold should fall in the range of between £1,000 and £5,000.

2.18 This new approach would allow charities to use a significantly shorter Gift Aid declaration for donations below the threshold set.

2.19 Even though donors would no longer have liability for the shortfall in tax on a Gift Aid claim where enough tax to cover the donation had not been paid, charities could still choose to use a longer form of the Gift Aid declaration under this proposal. Charities would be liable for the tax, if the donation is below the threshold set. However they could choose to reduce the risk of a tax charge by making sure donors were given more information about Gift Aid. There would be a short form of declaration they could use, but it would be up to the charity to decide whether they wanted to give more information to the donor on top of this.

² Section 424(6) of the Income Tax Act 2007

2.20 The correct operation of Gift Aid and its link to the tax paid by the individual is necessary to maintain its status as a tax relief. Therefore HMRC may need to be able to apply restrictions or impose penalties on charities where significant shortfalls of tax were apparent relating to their Gift Aid claims, in order to ensure charities continued to operate Gift Aid correctly.

Question 9. Do you think a reasonable limit for individual donations that can be made using a shorter Gift Aid declaration, as set out in Proposal 1, would be £1000, £5000 or somewhere in between? If not, what limit would seem reasonable and why?

2.21 Under this proposal it would also be necessary to define how the tax charges would apply if a donor had given to multiple charities in a year and had only paid enough tax to cover the Gift Aid on some of the donations. For example, a donor might have paid £1,000 in income tax in the year, but have given 20 donations each of £500 under Gift Aid over a number of months. This means they would have only paid enough tax to cover £4,000 of their donations but not the remaining £6,000. It would be necessary to know which donations to which charities would have had enough tax to cover their Gift Aid repayments, and which charities would be faced with a tax charge.

2.22 This would be complicated to define. It would be simplest to say that all charities would need to repay all Gift Aid where there was any shortfall in tax paid by the donor in a particular year. However, this might be deemed as unfair, so it could be defined by the order in which the charities made their Gift Aid claims. However, charities can make their claims up to four years after the year in which the donation was made so this would penalise charities that wait some time to claim. It could also be defined by the order the donations were made. If a donor had only paid enough tax to cover part of the Gift Aid on their donation, the charity could be charged the remainder of the tax shortfall.

Question 10. Given the complexities outlined above, how do you think a tax charge should fall to charities where a donor has only paid enough tax to cover some of the Gift Aid on donations they have made in the year?

Consequential changes to the Gift Aid declaration

2.23 At present, under its informal process to recover underpaid tax explained at paragraph 2.13, HMRC does not tell charities the identities of donors who have not paid enough tax because that information is confidential. If a charity does not want to repay the tax then HMRC can require the donor to make the payment.

2.24 If the Gift Aid declaration was changed in this way, HMRC would have to notify the charity of any shortfall where insufficient tax has been paid to cover a particular Gift Aid claim. As the new arrangements would place a legal requirement on the charity to pay any shortfall in tax, it would seem appropriate for the charity to be informed of which donation(s) the tax charge they are facing relates to. In order to do this, HMRC would need to introduce a new power to be able to disclose the relevant information about the donor to the charity. This would allow the charity to stop claiming Gift Aid on donations from the individual where there is an enduring Gift Aid declaration, so that they didn't continue to face tax charges.

2.25 It would also be necessary for the individual to be made aware that in giving under Gift Aid, HMRC may contact the charity if the individual is not eligible for tax relief on the amount they have donated. Therefore the new declaration could include a statement advising the donor that HMRC may contact the charity about the donation in those circumstances. We would propose including this as a requirement of the declaration. The charity may also wish to inform the donor that there had been an issue with the Gift Aid on their donation and the donor would

then be able to cancel their enduring declaration with the charity and any other charities they held an enduring declaration with.

Question 11. Do you agree that HMRC should be able to tell charities which donations tax charges relate to?

2.26 HMRC has been working with charities and representative bodies for some months already to revise the guidance around the Gift Aid declaration. Given the proposals in this chapter will take some time to implement; the work on the guidance will continue to help charities in the short term.

2.27 A revised model Gift Aid declaration is set out below to illustrate the impact of the changes proposed in this chapter. This is not proposed as the final wording, as it will depend on the legislation, but is set out here to help demonstrate how the declaration could look under these proposals.

Box 2.B: New model Gift Aid declaration

I confirm I have paid enough income tax or capital gains tax this year to cover the tax the charity will reclaim on my donation. That tax will equal 25 per cent of my donation. I understand HMRC will check and may tell the charity if I have not paid enough tax.

For comparison, the current model declaration wording is:

I confirm I have paid or will pay an amount of Income Tax and/or Capital Gains Tax for each tax year (6 April to 5 April) that is at least equal to the amount of tax that all the charities or Community Amateur Sports Clubs (CASCs) that I donate to will reclaim on my gifts for that tax year. I understand that other taxes such as VAT and Council Tax do not qualify. I understand the charity will reclaim 28p of tax on every £1 that I gave up to 5 April 2008 and will reclaim 25p of tax on every £1 that I give on or after 6 April 2008.

Question 12. Bearing in mind the need to retain a link to donors' tax affairs in order to retain Gift Aid's status as a tax relief, are there any other changes you think it would be possible and helpful to make to the Gift Aid declaration?

3

Gift Aid: a greater role for intermediaries

Context

3.1 As set out in Chapter 1, recent technological developments have made it possible for charities to seek donations made through a broad range of digital channels, and for donors to make donations in a variety of everyday situations.

3.2 Donations made through these channels are often processed by a third party on behalf of the recipient charity. Some examples of this are set out in Box 3.A. For this consultation document, these third parties – text donation operators, websites or their back office partners – are referred to as ‘intermediaries’. The role of these intermediaries in processing donations means that donors can now make gifts to charity easily and swiftly. As explained below paragraphs 3.3-3.4 these intermediaries can already take a role in supporting charities in making Gift Aid claims. However, the way the current Gift Aid rules work means it is not always straightforward to operate Gift Aid in these settings. As highlighted in Chapter 1, this can lead to low take-up rates on spontaneous donations through digital channels.

Box 3.A: Fundraising through digital channels: the role of third party ‘intermediaries’

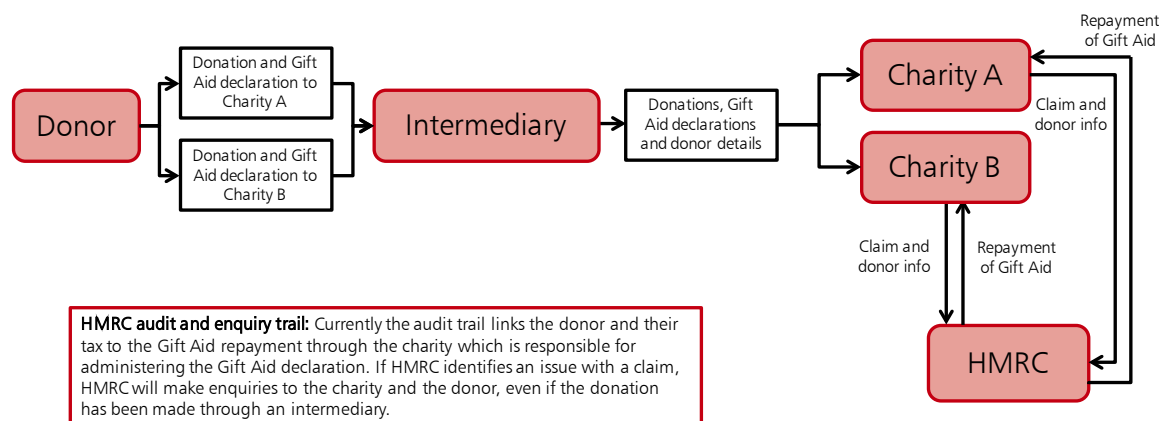
Intermediaries may take a number of different forms. Some examples are:

- A giving website where donors can donate directly to a charity or sponsor an individual fundraiser
- A text giving provider that processes the donations made by individuals to one or more different charities, that are billed to the individual’s mobile phone bill or pay-as-you-go credit
- A retailer that gives individuals the option to add a donation to a purchase at the checkout
- A website that enables individuals to sell goods or services, the profits from which can be donated to charity

Question 13. What intermediaries exist now? If the Government makes changes to Gift Aid to make it easier to claim on donations made through intermediaries, what new intermediaries might emerge to support donations to charity?

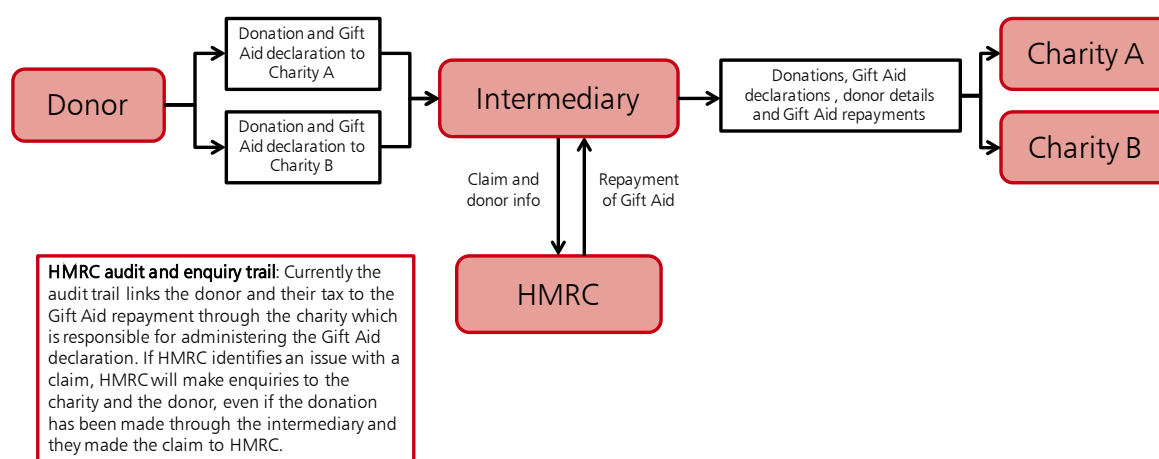
3.3 Under the current Gift Aid rules an intermediary can act as the charity’s nominee and can play a role in Gift Aid claims for charities receiving donations through them. Some nominee intermediaries collect the information required for a Gift Aid declaration for the charity and pass this on with the donation. The charity then makes the claim to HMRC for Gift Aid repayments (Model 1 as set out below).

Chart 3.A: Intermediaries' current role in Gift Aid – Model 1



3.4 Other intermediaries collect the donations and a Gift Aid declaration for the charity, submit the claim for Gift Aid to HMRC and then pass the Gift Aid along with the donation to the charity. The role played by these intermediaries acting as nominees for charities in processing donations to charities, and helping charities to claim Gift Aid, is shown as Model 2 in the diagram below.

Chart 3.B: Intermediaries' current role in Gift Aid – Model 2



3.5 However the way Gift Aid works at present does not always make it easy to operate Gift Aid where an intermediary is involved in processing donations. In particular, at present it is not possible for a donor to use the same Gift Aid declaration to cover donations to different charities. Neither is it possible for the object of a Gift Aid declaration to be anything other than a named charity.¹ In practice this means that although one intermediary may process many donations a donor makes to lots of charities, the donor must still complete a separate Gift Aid declaration for each new charity they wish to donate to through that intermediary.

¹ Because Gift Aid's objective has always been to give tax relief on gifts of money to charity, to date the object of a Gift Aid declaration has had to be a charity. Also, whilst in practice it is possible already to set up an 'enduring declaration' to a particular charity which allows Gift Aid to be claimed on all their subsequent donations to that charity, it is not possible to set up an enduring declaration covering more than one charity. It is possible under current Gift Aid rules for a charity intermediary to operate one Gift Aid declaration per donor to cover all that donor's donations to all chosen end recipient charities, because the charity intermediary itself is the object of that declaration.

3.6 Charities and intermediaries have said that the need for donors to complete a new Gift Aid declaration every time they donate to a new charity through their mobile phone or online can limit take-up of Gift Aid in these settings (see Chapter 1, paragraphs 1.7-1.8).

3.7 This chapter therefore sets out proposals that would allow donors to complete just one Gift Aid declaration to cover all their donations to all charities made through a specific intermediary. In practice this would mean that all a donor's gifts to charity by text could be covered by one Gift Aid declaration, all their donations through a particular shopping website could be covered by another declaration, all their donations through a specific social networking site by another declaration and so on. This would reduce the amount of bureaucracy faced by donors who might want to Gift Aid their donations, and might therefore increase the proportion of donations made through intermediaries on which Gift Aid can be claimed.

3.8 This could be achieved in either of two ways, set out here as Proposal 2 and Proposal 3.

3.9 The Government does not see these proposals as necessarily mutually exclusive. It is possible they could operate alongside each other, so that charities and intermediaries could select the approach that best suited their needs. Equally, these new proposals would not change the current arrangements for intermediaries or other bodies acting as nominees for charities. If intermediaries wished to continue operating under the current arrangements they could, even if the proposals below were brought in.

3.10 These proposals could be introduced together with, or separate to, the proposal in Chapter 2. In the first instance we have set out the proposals here on the basis that the Gift Aid declaration would not have changed, but the implications of the changes taking place in combination are discussed later in the chapter.

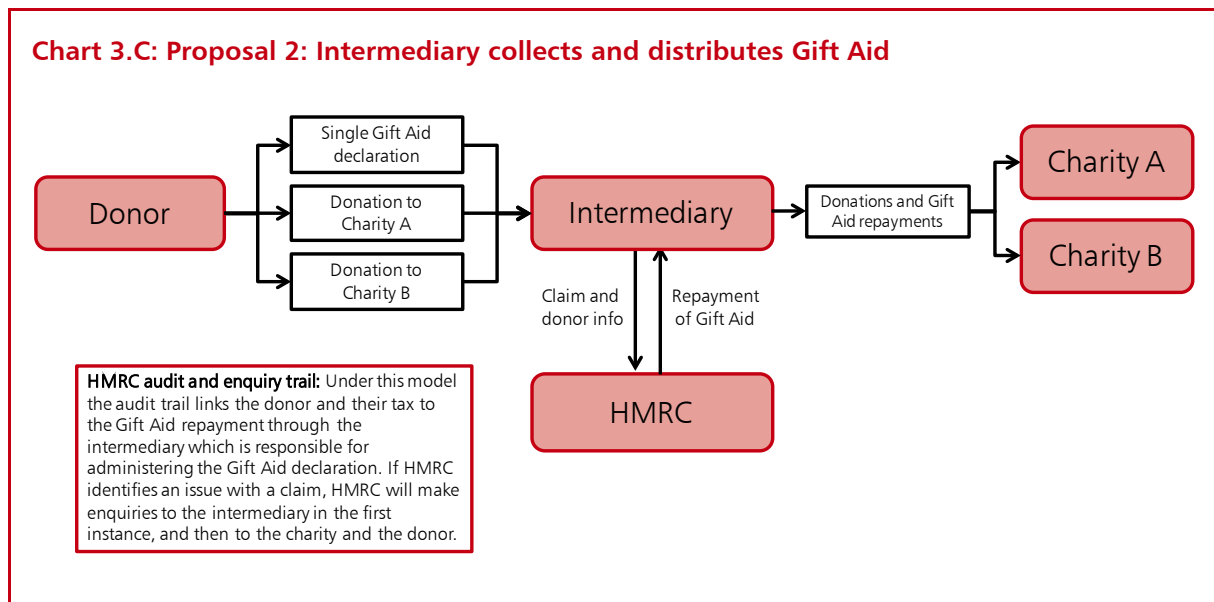
Proposal 2: Allowing non-charity intermediaries to collect and distribute Gift Aid

3.11 Under this proposal the Gift Aid rules would be changed to allow non-charity intermediary bodies to be named in the Gift Aid declaration. This means they could collect donations, claim Gift Aid and distribute these to the charity chosen by the donor. The declaration would specify that the donations were being made to charities but via the named intermediary. Donors would be able to fill out one Gift Aid declaration to cover all their donations through that intermediary. The donor would name the charity they wished to donate to each time they donated, but not have to make a new declaration on each occasion. The intermediary would then be able to claim Gift Aid from HMRC on all those donations and distribute it to the relevant charities according to the donor's wishes.

3.12 The effect of this change would be that the intermediary would become the responsible body for the correct claiming of Gift Aid. The difference between current arrangements and the new proposal is that the responsibility for the Gift Aid would rest solely with the intermediary. As the intermediary would own the Gift Aid declaration, it would be possible for HMRC to see the complete link from the donation taken by the intermediary to the donor and their tax affairs.

3.13 This approach is set out in the diagram below.

Chart 3.C: Proposal 2: Intermediary collects and distributes Gift Aid



3.14 The detail of this proposal will be finalised depending on responses to this consultation exercise. However, it is clear that the Government would need to be confident that:

- a. Gift Aid's status as a tax relief remains;
- b. the end recipient of the Gift Aid and the donation must be a charity recognised by HMRC as a charity for tax purposes;
- c. intermediaries operate Gift Aid properly and in a way that does not place charities at a disadvantage; and
- d. liability for mistakes in claiming Gift Aid rests with either the donor, the intermediary or the end recipient charity as set out in law.

3.15 To address these points Proposal 2 would have implications for intermediaries, including establishing a regulatory regime and placing some tax liabilities on them. These are set out below.

3.16 If this proposal is taken forward, then the Government would need to make changes to primary and secondary legislation, with changes to primary legislation likely to be made through a finance bill. The role of the intermediary in the collection of Gift Aid would need to be recognised in primary legislation and a definition of an intermediary set out. Powers would also need to be taken to allow HMRC to authorise and regulate the intermediaries. The detailed regulatory regime would be set out in regulations.

Regulatory requirements on intermediaries

3.17 Under this proposal it would be necessary to define 'intermediary' in law. It would be necessary to set out whether there would be any restrictions on which organisations could be intermediaries. Restrictions might be needed to ensure only legitimate companies operated as intermediaries.

3.18 HMRC would need to approve and regulate non-charity intermediaries seeking to collect Gift Aid on behalf of charities. The features of this regulatory regime would likely need to include:

- An application to HMRC by the intermediary to become an approved intermediary before they can claim Gift Aid;
- A requirement that intermediaries pass on donations and Gift Aid repayments to the specific charity/charities the donor has chosen to support. These payments

would need to be passed on to charities within a reasonable timescale, for example within 30 days of the receipt of Gift Aid repayments from HMRC;

- A requirement that donations are only passed on to charities that are themselves recognised as charities for tax purposes with HMRC;
- A requirement for individuals within the intermediary who had overall responsibility for the dispersal of Gift Aid to meet a test equivalent to the 'management condition' of charities as defined in Finance Act 2010. In practice this would mean that the relevant persons from the intermediary would have to pass HMRC's Fit and Proper Persons test. This would protect both charities and the Exchequer against fraud and abuse of the system;
- Provisions to protect both the donations and the Gift Aid repaid on them from creditors of the intermediary, to prevent for example companies in financial difficulty using either donations or Gift Aid to pay company debts;
- Powers to enable HMRC to check that non-charity intermediaries were operating the system according to these rules and, if necessary, to take action against approved intermediaries if they are non-compliant. This would include an ability to audit intermediaries and to require certain information from them in order to complete any necessary enquiries; and
- Powers to enable HMRC to impose penalties against non-compliant intermediaries and, if necessary, to remove their 'approved' status.

3.19 These requirements are broadly in line with the requirements on Payroll Giving Agencies which also process donations on behalf of charities.

Question 14. What are your views on the requirements placed on non-charity intermediaries and the regulatory powers the Government would need to take under Proposal 2?

Question 15. What sorts of features do you think intermediaries would need to have to have? What sorts of organisations should be able to be intermediaries?

Liability for tax charges

3.20 Under the current Gift Aid rules the donor is liable for any charge to tax resulting from Gift Aid claims where they have not paid enough tax to cover the amount claimed on their donation. It is therefore important to ensure the donor has sufficient control over their tax affairs to prevent them mistakenly making a donation under Gift Aid. As set out in Chapter 2 (see Box 2.A) some donors pay amounts of tax too low to cover the Gift Aid on their donations – these donors will need to keep track of the total value of donations on which they claim Gift Aid within a tax year. At present, the requirement to fill out a new declaration for each new charity they wish to donate to gives these donors a regular opportunity to actively consider whether they have paid sufficient tax to cover a donation to each new charity. The less often donors have to make such a declaration, the more likely it is that those who pay limited tax will Gift Aid donations where they have not paid enough tax to cover them and so be faced with a tax charge.

3.21 As the donor is liable for the tax charge in cases where insufficient tax has been paid to cover the Gift Aid,² then the Government believes that the decision to claim Gift Aid must

² As set out in paragraph 3.10, the proposals in this chapter assume in the first instance that the Gift Aid declaration would not have changed along the lines proposed in Chapter 2 – although the implications of the changes taking place in parallel are discussed later in the chapter.

remain 'opt in' rather than 'opt out'. In other words, donors should be given sufficient opportunity to reconsider whether they want to Gift Aid their donations to help them avoid facing unexpected and potentially significant tax bills.

3.22 The Government proposes to achieve this through the following aspects of a new regime for non-charity intermediaries:

- 1 Donors must be able to control their tax affairs and avoid the risk of donating under Gift Aid in error where they have not paid enough tax to cover it. Therefore intermediaries under Proposal 2 will be required to remind donors each time they make a donation that they have made a Gift Aid declaration covering all their donations through that channel, and to give donors an opportunity to opt out of claiming Gift Aid on each donation. This need not be a burdensome step for donors in the donation process – for example a simple tick box to indicate that they are content to Gift Aid each donation.
- 2 Gift Aid declarations covering donations to all eligible charities through a specific intermediary will be valid for one year only. This could align to the tax year (6 April to 5 April the following year). At the end of this period, donors will need to fill out another declaration covering their donations to all eligible charities through that intermediary for the next period.
- 3 The Government could also place a requirement on intermediaries to inform donors how much they have donated under Gift Aid through the intermediary in the tax year. For example, this could be in the form of a short message following each donation to inform the donor that they have donated £xx under Gift Aid in this tax year, which means they will need to have paid £yy income or capital gains tax this year to cover the Gift Aid on this donation, and remind them they might have made other donations under Gift Aid.

3.23 It should be noted that the Government's intention to time-limit Gift Aid declarations covering donations to all charities via intermediaries under this proposal does not affect the ability of individual charities to continue to operate enduring declarations. Individual charities' declarations allow a donor to give a Gift Aid declaration that covers all their subsequent donations to that charity at any time in the future³. The Government considers that the risk of donations being given under Gift Aid in error on declarations to a single charity is considerably smaller than under the approach set out in Proposal 2. It therefore does not intend to place a time limit on those declarations.

Question 16. As set out above, the Government intends to put in place two requirements under Proposal 2 – a time limit on declarations, and a requirement to ask donors if they wish to Gift Aid each donation – to reduce the risk of Gift Aiding a donation in error. Are there other methods to protecting donors against the risk of overclaiming?

Question 17. Would it be helpful to place a requirement on intermediaries to inform donors how much they had donated that year, with the amount of tax required to cover Gift Aid on those donations?

Implications of Proposal 2

3.24 There are a number of further implications to this approach that the Government is keen to seek views and reflections on.

³ However it is best practice for charities to periodically refresh these to ensure donors' details are up-to-date.

Implications for intermediaries

3.25 Whilst this proposal would make it easier for donors to claim Gift Aid on digital donations, it does have certain implications particularly for intermediaries on which the Government is seeking views. These include:

- **Taking responsibility for correctly operating the Gift Aid declaration:** Currently, the recipient charity is liable if a Gift Aid declaration is insufficient – for example, if it is clear that the declaration has not correctly explained the implications of the donor not having paid enough tax to cover the Gift Aid claim. Under Proposal 2, the declaration is made to the non-charity intermediary, and therefore they will be responsible for any problems regarding its operation. This is because under this proposal, the intermediary is the owner of the Gift Aid declaration and becomes responsible for claiming the Gift Aid correctly. The Government does not consider that the alternative – continuing to hold recipient charities responsible for the correct operation of Gift Aid declarations – is fair, if those charities are not named in the Gift Aid declaration and have no role in operating the declaration.
- **Liability for tax charges where enough tax to cover the Gift Aid on a donation has not been paid:** The proposed changes set out in Chapter 2 would make the charity responsible for any shortfall in tax paid by a donor to cover the Gift Aid on their donation. If this proposal is implemented, along with the proposal in this chapter, then it might be reasonable instead for the intermediary to assume liability for the tax where they have processed the Gift Aid for the donor. As set out in the point above, the intermediary has assumed responsibility for the operation of the Gift Aid on behalf of the charity. They have also made the repayment claim to HMRC. Alternatively, the charge could be allocated to the charity, which has after all received the Gift Aid from HMRC.
- **Checking that the end recipient of Gift Aid is a bona fide charity:** HMRC will need to be assured that where the body receiving Gift Aid is not a charity itself, the repaid tax is being passed on to bona fide charities and is being used by those charities for charitable purposes. Non-charity intermediaries will need to provide that reassurance. HMRC would expect intermediaries to seek verification from charities that they are recognised by HMRC for tax purposes. This could be achieved by charities providing intermediaries with proof of their unique HMRC tax reference number.

3.26 The issue about where liability might lie between charities and intermediaries is a complex one. It is not straightforward who should hold the responsibility in every case and there will be times when a requirement to repay Gift Aid paid on an invalid declaration or where enough tax has not been paid falls in a way that seems unfair. If the law sets out where liability lies, it will be up to the responsible party to repay the tax. However, it could be that intermediaries and charities come to contractual agreements to cover circumstances where they agree one party should bear the cost, even if the other was the liable party under law.

3.27 The Government would like to hear from potential intermediaries on whether they would be interested in processing Gift Aid claims as set out under Proposal 2, taking into account the implications set out above.

Question 18. Do you think intermediaries will offer to claim Gift Aid on behalf of charities as set out under Proposal 2?

Question 19. What do you think the consequences of the intermediary taking on liability might be?

Question 20. If the proposals in Chapter 2 are adopted, do you agree that the liability for tax charges arising where the donor has not paid enough tax to cover a Gift Aided donation should fall to the intermediary? Or would it be more appropriate for the liability to fall to the charity?

Implications for charities

3.28 The Government would also like to understand further the potential impact on charities of Proposal 2.

3.29 This includes understanding the impact on flows of information to charities about their donors. For example, at present where charities use a non-charity intermediary as their nominee to collect Gift Aid on their behalf (as explained in paragraphs 3.3-3.4), the Gift Aid rules require that intermediary to pass on the declaration to the charity. This is because the charity remains the owner of the Gift Aid declaration and is therefore responsible for its correct operation. Proposal 2 would not automatically include this requirement, given charities would no longer be responsible for the correct operation of the declaration. This in turn may have an impact on the amount of information that charities can gather about their donors.

3.30 One way of making sure charities received information about their donors would be for intermediaries to provide donors' details (name, address/phone number/email address) to the charity if the charity wanted the information. A small administration charge might be payable by the charity under these circumstances. Under this approach, intermediaries would need to ensure that any arrangement with the charity complies with the Data Protection Act.

Question 21. What might be the advantages and disadvantages of Proposal 2 for charities?

Question 22. How can charities' relationships with donors be protected under Proposal 2?

Implications for donors

3.31 For the donor, Proposal 2 has the significant advantage of allowing them to complete one Gift Aid declaration to cover all donations through that specific intermediary. This declaration might be completed when providing other necessary information in order to make the first donation through a specific intermediary (for example, providing their payment details to a shopping website). This would potentially cut down bureaucracy for the donor significantly, and therefore increases the likelihood of Gift Aid being claimed on donations.

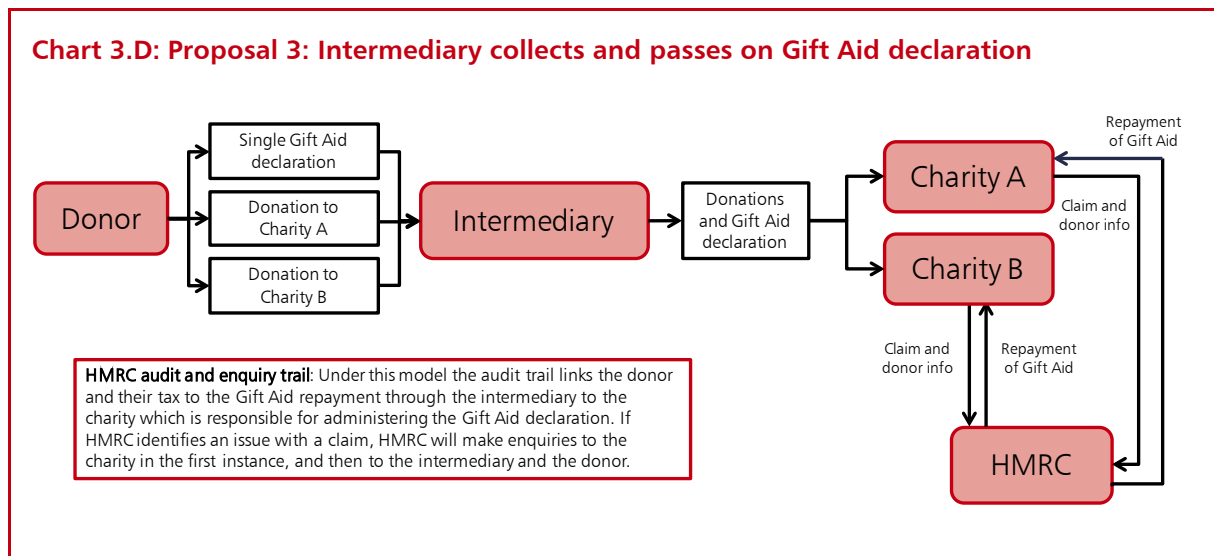
Question 23. Do you think Proposal 2 would lead to an increase in Gift Aid going to charities? What is the evidence for this?

Question 24. Do you think Proposal 2 would lead to an increase in overall donations to charities? What is the evidence for this?

Proposal 3: Allowing non-charity intermediaries to collect and pass on Gift Aid declarations

3.32 Under Proposal 2 above, non-charity intermediaries would be able to operate Gift Aid declarations and to claim Gift Aid on each eligible donation, then pass that Gift Aid on to the end recipient charity which the donor had chosen to support. Proposal 3 takes a different approach: non-charity intermediaries would be able to collect a single Gift Aid declaration from a donor who wished to make donations through that channel, but that declaration would then be passed on to each recipient charity which would then administer the Gift Aid claim itself. The donor would name the charity they wished to donate to each time they donated, but not have to make a new declaration on each occasion.

3.33 This approach is illustrated in the diagram below.



3.34 If this proposal is taken forward then, as with Proposal 2, the Government would need to make changes to primary and secondary legislation, with changes to primary legislation likely to be made through a finance bill. The role of the intermediary in the operation of the Gift Aid declaration would need to be recognised in primary legislation and a definition of an intermediary set out. Powers would also need to be taken to allow HMRC to authorise and regulate the intermediaries. The detailed regulatory regime would be set out in regulations.

Question 25. What are the advantages and disadvantages of Proposal 3 over Proposal 2?

Question 26. What are your views on the option that both Proposals 2 and 3 should be available in parallel?

Implications of Proposal 3

Implications for intermediaries

3.35 Under this proposal, the non-charity intermediary would be named in the Gift Aid declaration, rather than the end recipient charity. Therefore the intermediary would still need to be registered with HMRC and audited where appropriate. HMRC would still need to check intermediaries were operating the declarations correctly, as Gift Aid would be paid out as a result of the declarations.

3.36 The regulatory requirements set out under Proposal 2 (paragraphs 3.17-3.19) would similarly apply to intermediaries under Proposal 3. However, given the intermediary would not be handling the tax relief repayments to the charity, the regulatory requirements on it would be likely to be a bit lighter. As the intermediary would not be making the claim, it would not be the responsibility of the intermediary to check that all the charities they passed the declarations and donations onto were recognised as charities for tax purposes with HMRC. Also, as they would not be handling the repayments, it might be that the relevant managers at the intermediaries would not be required to meet the 'management condition'. However, other requirements would apply.

3.37 Under Proposal 3, the Government needs to decide where to place liability for any mistakes or problems in the operation of the Gift Aid declaration. This might include if insufficient information was given to the donor about the need to have paid enough tax to cover the Gift Aid on the donation, or if insufficient records of the declaration were kept to be made available to HMRC upon request. In these cases the Gift Aid declaration would be invalid. The most

obvious approach would be to hold the intermediary liable in these cases, and for the intermediary to repay any Gift Aid paid out on an invalid declaration, and to face any penalties for these errors. This might seem reasonable given that the intermediary, rather than the charity, would have control over how the declaration is operated under Proposal 3. The charity would not have been named in the Gift Aid declaration and would have received the declaration in good faith.

3.38 However, under Proposal 3 the intermediary would not have received any Gift Aid repayments from HMRC, so it is unclear how they might make pay these charges and penalties. It would be the recipient charity rather than the intermediary who actually claimed and received payment of Gift Aid from HMRC, so it could be argued that it should be the charity that is held liable.

Question 27. Do you agree that intermediaries should be liable for invalid Gift Aid declarations and any repayments required or penalties issued in relation to these? Or should charities be liable, given they will have received any Gift Aid paid out on these incorrect claims?

3.39 At present, if a donor Gift Aids a donation without having paid enough tax to cover it, then they are liable for the tax charge that arises. However, if the proposal in Chapter 2 was also adopted, then there is a question of who would be liable for the tax charge arising where a donor had not paid enough tax to cover the Gift Aid on their donation.

- One option would be to follow the approach in Chapter 2, so that the charity would be liable for the tax charge on a donation under the threshold set, as they would be claiming and receiving the Gift Aid repayments. The intermediary would have collected the declaration in good faith, but the donor may still not have paid the tax.
- The alternative would be that the intermediary would be liable for the tax charge. They would be directly responsible for collecting the Gift Aid declaration, including giving the explanation to the donor that Gift Aid is a tax relief. So the responsibility could be placed with them. However, as noted above, the intermediary will not have received any Gift Aid repayments from HMRC and so it is not clear how they would pay for the tax charge.

3.40 The Government would be grateful for views on which of these options is more appropriate.

Question 28. If Proposal 1 (in Chapter 2) and Proposal 3 are adopted in combination, should the charity be liable for tax charges where the donor has paid insufficient tax to cover the Gift Aid on the donation? Or should the liability for the tax charges fall on the intermediary?

3.41 The Government would like to hear from potential intermediaries on whether they would be interested in operating Gift Aid declarations as set out under Proposal 3, taking into account the requirements set out above.

Question 29. Would intermediaries be content to operate Proposal 3?

Implications for charities and donors

3.42 The Government would also like to understand further the potential impact on charities and donors, including giving behaviour, of Proposal 3. From the charity's perspective, Proposal 3 might allow them to see who their donors are, because intermediaries would need to pass on the declaration in full to the charity. On the other hand under Proposal 3 charities would be administering Gift Aid claims themselves, which would require more resource from them.

3.43 For donors, Proposal 3 would seem to have the same attraction of Proposal 2, in that only one Gift Aid declaration would have to be completed to cover all donations to all charities through that channel for the relevant period.

Question 30. What would be the advantages and disadvantages to charities of Proposal 3? Are there any advantages or disadvantages for donors?

Proposal 4: More bespoke guidance and support from HMRC for digital platforms

3.44 HMRC already works closely with intermediaries to ensure their operational procedures work within the Gift Aid rules. However, some intermediaries may wish to have a clearer understanding of the current rules, supported by more guidance and input from HMRC, to help identify areas where their administration of Gift Aid could be improved.

3.45 For example, it is possible under the current rules to tailor communications with donors in a way that reduces the amount of information donors need to provide each time they want to claim Gift Aid on a donation through a specific intermediary. An intermediary could recognise a donor when they make a donation and remember their preferences from when they made a previous donation, including their Gift Aid preferences and their personal details. This might mean the donor didn't have to provide this information again but just confirm the details were correct and that they wanted to Gift Aid this donation as well.

3.46 However whilst approaches like this can work under the current Gift Aid rules, they do not appear to be widely used at present. Sharing best practice amongst intermediaries and additional guidance and support from HMRC might help more intermediaries develop and operate systems that provide a smoother donor experience.

Question 31. Do you think additional HMRC guidance and support would help digital providers to operate Gift Aid more efficiently and make it easier for donors to claim Gift Aid on their donations through digital channels?

Question 32. What sort of support could HMRC usefully provide in this area?

Question 33. Would more support in this way be sufficient to improve the user experience of Gift Aid?

4

A universal Gift Aid declaration database

Context

4.1 As discussed in the previous chapters, one of the key concerns of charities is to make it as easy as possible for donors to claim Gift Aid on their donations – for example by not having to fill out new Gift Aid declarations for each charity they wish to support. Proposals 2 and 3 as set out in the previous chapter aim to address this issue. However, some stakeholders have asked the Government to consider going further.

4.2 Charities and intermediaries have shown a significant interest in proposals that have been made by some in the sector for a universal Gift Aid declaration. This would allow donors to sign a single declaration to cover all their donations to charity, however they choose to donate. Some way of storing these declarations and for charities to check whether a donor had a valid declaration would be needed. Therefore a database has been proposed that would provide these functions. It is often referred to as a universal Gift Aid declaration database, or UGADD. For the purposes of this consultation, we will use this terminology.

4.3 Whilst the Government has no current plans to build or operate a universal Gift Aid database, it would consider how it could support the introduction of a database if a suitable model could be developed. The Government would particularly like to use this consultation to find out more about views from charities, donors and other interested parties on certain aspects of the idea.

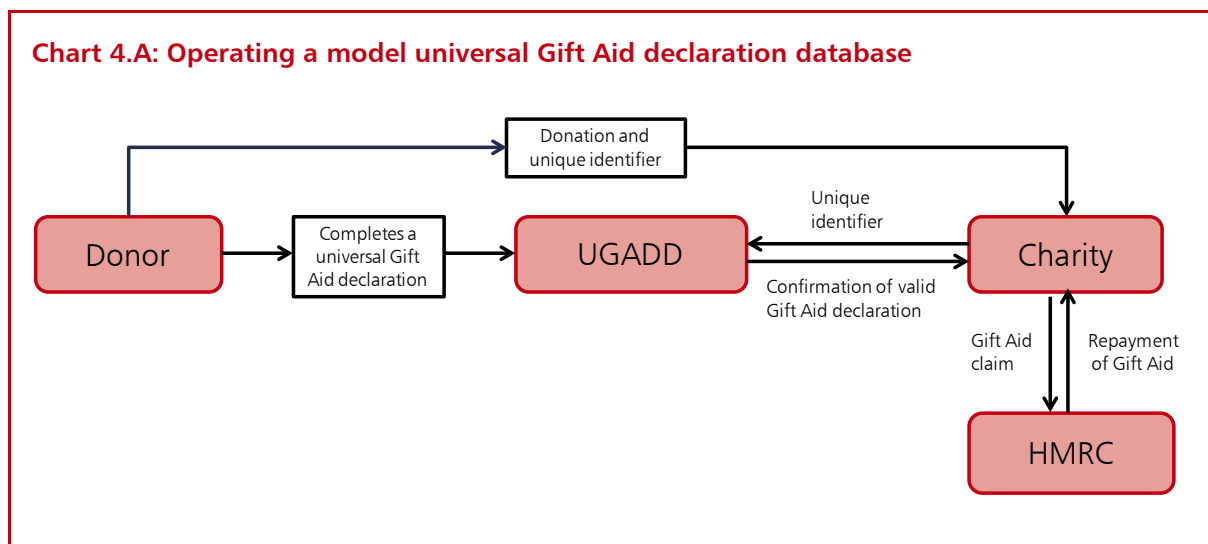
Proposals for a Universal Gift Aid Declaration Database

4.4 There have been various proposed models for operating a UGADD. Common elements include:

- Donors fill out a single Gift Aid declaration covering all their donations to all charities that are registered with the UGADD, and submit it to the UGADD administrator;
- Donors' declarations are held on a single database;
- Donors are given a unique identifier, which is provided to the charity along with their donation;
- When charities receive a donation the unique donor identifier is used to check the database to see if the donor has a valid Gift Aid declaration; and
- Gift Aid is claimed from HMRC using the declaration held in the UGADD.

4.5 In some variations the charity interrogates the UGADD to see if the donor has a valid declaration, and makes the Gift Aid claim to HMRC itself. In other variations the claim is made electronically from the UGADD to HMRC and the charity is paid any Gift Aid owing without needing to make a claim itself.

Chart 4.A: Operating a model universal Gift Aid declaration database



4.6 To enable a UGADD:

- The Government would need to change the Gift Aid rules to allow an enduring declaration to be made to more than one charity;
- HMRC would need to approve the operator of the UGADD to allow it to collect Gift Aid on behalf of charities or simply to administer the Gift Aid declaration;
- A third party database would need to be developed to hold all the declarations. The database would need to be able to be interrogated by charities when they received a donation to see if there was a valid declaration held for the donor; and
- The declaration made to the UGADD administrator would need to be able to be used by all the charities that the donor gave to on all donations received, regardless of the channel through which the donation had been made.

4.7 New legislation would be necessary to enable any UGADD to be set up. The first two points above look similar to the proposals set out in Chapter 3. However, the final point is different. The proposals set out in Chapter 3 apply to donations made to charity through a specific digital channel – to enable a UGADD to take a role in processing Gift Aid for donations made through *any* channel, or made *direct to a charity*, would require further legislative change.

Implications

4.8 A UGADD would, in theory, make it easier for donors to Gift Aid their donations, and therefore increase the take-up of Gift Aid on eligible donations.

4.9 The success of a UGADD would depend on it having both a significant database of users and a high proportion of charities signed up to the service. It is important, therefore, that any model should have the widespread support of the charity sector. However, informal discussions with charities and intermediaries suggest that there is not yet a consensus on how a UGADD should operate or whether it is a desirable outcome. Therefore this consultation does not set out a specific proposal for a UGADD. Instead, it highlights and seeks views on the various issues that would need to be considered in developing a UGADD.

4.10 HMRC's approval of the operator would depend on it meeting the Government's access and data security requirements (set out in more detail below).

General questions on a UGADD:

Question 34. What model for a UGADD would you prefer to see in place?

Question 35. What are the advantages and disadvantages of a UGADD compared to either Proposal 2 or 3 set out in the previous chapter, for charities, donors and intermediaries?

Question 36. How might the introduction of a UGADD fit with charities' current systems for managing Gift Aid? Would the benefits outweigh any costs?

Specific areas to explore further

4.11 The Government is keen to hear a range of views on the advantages and disadvantages of a UGADD and how it might work. In particular, views are sought from charities, non-charity intermediaries and donors on the following specific points:

4.12 Functions of a UGADD: paragraphs 4.4-4.5 and Chart 4.A show the basic characteristics of how a UGADD might work. However, the details are not yet clear. For example, because charities currently receive the Gift Aid declaration themselves they know who their donors are. There are also different views about whether charities should continue to make claims to HMRC for repayment of Gift Aid, or whether this should be processed by the UGADD.

Question 37. What functions should a UGADD have, and why?

Question 38. What information should a UGADD pass on to charities about their donors? How, and why?

Question 39. Should Gift Aid be claimed directly by the charity, or should the UGADD claim the Gift Aid on the charity's behalf?

4.13 Development of a viable UGADD: As mentioned in paragraph 4.9, the success of a UGADD would depend on it having a significant uptake by both donors and charities. Otherwise, donors will face a situation where they still have to fill out multiple Gift Aid declarations, and many of the benefits of a UGADD will be lost. The Government is seeking views on how a UGADD might best develop. It might be that charities taking declarations would ask donors if they wished their declaration to be added to the UGADD. Alternatively donors could be directed to the UGADD by charities to sign up with it directly. However a critical mass of donors and charities using it would be required before it would be of significant benefit to either.

Question 40. How could a UGADD best be encouraged to emerge? What might be the best role for Government in supporting a UGADD's development?

4.14 Identifying donors: to enable Gift Aid to operate as a tax relief, the Government would need to be assured that charities could identify donors' Gift Aid declarations on the database accurately and securely. Proposals for a UGADD have suggested that donors would be given a unique identifier when they sign up to the UGADD. Donors would then pass this on to charities when they make their donation. Charities would then use the unique identifier to search the database and establish whether the donor's Gift Aid declaration was valid.

4.15 The Government would need to be satisfied that the identifier was unique to the donor. For example, a telephone number can be reallocated, so it cannot be guaranteed that it would only ever belong to the donor. Some other form of information would likely be needed alongside a telephone number, if that was used as an identifier. Alternatively a unique user number could be issued by the UGADD administrator to the donor. It is worth considering

whether a donor would be likely to remember and use this identifier, rather than providing their name and address to complete a normal Gift Aid declaration.

Question 41. How should the UGADD and charities identify donors, given the Government's requirements on accuracy and security as set out above? Would donors find this easier than providing a new Gift Aid declaration?

4.16 Accessibility of a UGADD for all charities: donors may come to see signing up to a UGADD as the only step they need to take to ensure Gift Aid is claimed on their donations. However, the Government will want reassurance that a UGADD is accessible to all charities whatever their means. This will help prevent a two-tier system developing whereby larger charities are able to benefit from efficiencies resulting from use of a UGADD whilst smaller charities are not. Therefore the fees for using a database like this will need to enable all charities to access it. Balanced against this will be the cost for the building and maintenance of the database.

Question 42. How can a UGADD be developed in a way that allows access for a wide range of charities?

4.17 Liability where Gift Aid is not operated properly: As described in Chapter 2, there is a risk that Gift Aid can be claimed where it is not due. This may be either because the Gift Aid declaration is not fit for purpose, or because the donor has not paid enough tax to cover the value of their donation. Therefore HMRC must be able to claw back Gift Aid if it has been incorrectly claimed. It is not clear where responsibility for such errors should lie in the UGADD model – the answer would, in part, depend on what shape the final UGADD took (as outlined in paragraph 4.4-4.5). It will also depend on the outcome of the consultation on the proposals in Chapters 2 and 3.

Question 43. Where a Gift Aid declaration has not been taken correctly so it is invalid, should the UGADD administrator or the charity be liable for the repayment of the Gift Aid? Why?

Question 44. Where a donor has paid insufficient tax to cover a Gift Aid claim made on a donation, should the donor, the charity or the UGADD operator be liable to make up the shortfall in tax? Why?

4.18 Data security: the operator of a UGADD will have access to a significant amount of information about taxpayers and their giving habits. The Government will want assurances that this data is protected, and appropriate security measures are put in place.

Question 45. How can the Government get sufficient assurance that taxpayers' confidential information is adequately protected by the operators of a UGADD?

4.19 Costs of a UGADD: charities and intermediaries have provided a range of estimates for how much it would cost to build and operate a UGADD. Some of these have been comparatively low – in the low millions of pounds.

4.20 There is also a question of how the costs of building and operating a UGADD should be met. It may be that the operator would seek to recover costs by charging charities for use of the UGADD, and seek initial investments for the start-up costs from interested parties.

Question 46. How much do you think it would cost to build and/or administer a UGADD, and how do you get to that figure?

Question 47. How do you think the costs of building and/or operating a UGADD should be covered?

Question 48. If charities had to pay to use a UGADD, how can these costs be kept low and transparent, to avoid greater Gift Aid administration costs than is currently the case?

Question 49. Do you believe that the costs to charities of using a UGADD would be outweighed by the benefits e.g. a higher take-up of Gift Aid?

5

Assessment of impacts

5.1 The table below sets out the Government's current assessment of the impacts of the proposals set out Chapters 2 and 3 of this document. The consultation exercise will be used to inform the final assessment of impacts, which will be published in the form of a Tax Information and Impact Note (TIIN) alongside draft legislation.

Summary of impacts

Exchequer impact (£m)	2013-14	2014-15	2015-16	2016-17	2017-18
	This measure is expected to decrease net receipts by approximately £15 million per annum. The final costing will be subject to scrutiny by the Office for Budget Responsibility, and will be set out at Budget 2014.				
Economic impact	This measure is not expected to have any economic impacts.				
Impact on individuals and households	This measure will impact individuals so far as it encourages higher levels of charitable donations.				
Equalities impacts	No impacts are anticipated in respect of groups sharing protected characteristics.				
Impact on businesses and Civil Society Organisations	<p>This measure is likely to impose some additional one-off burdens on businesses and charities who choose to adopt these proposals for operating Gift Aid, depending on the detail of the changes implemented.</p> <p>These burdens will include the transitional costs to implement the new system changes, training staff and reading guidance. There may also be some ongoing costs to charities or intermediaries from operating these proposals, although these may be offset by efficiency savings for charities where intermediaries undertake a greater role in operating Gift Aid on their behalf.</p> <p>The benefits will include an expected higher level of Gift Aid on donations, giving a direct benefit to Civil Society Organisations who are registered for Gift Aid.</p>				
Impact on HMRC or other public sector delivery organisations	There will be an impact on HMRC from administering and monitoring this scheme, and dealing with enquiries from customers. The degree of impact will depend on the detail of the changes implemented.				
Other impacts	Other impacts have been considered and none have been identified.				

The Government is keen to augment the evidence base on digital giving and Gift Aid, and would welcome responses to the following questions:

Question 50. In your view, what proportion of relevant donations to charity are made through 'new' digital giving channels compared to more traditional forms of giving?

Question 51. Are these genuinely new donations, or would they otherwise have been made through a different channel?

Question 52. What proportion of the donations made through new digital channels is currently Gift Aided? How does this compare with other donations of a similar size?

Question 53. Given the size of the donations, what is the maximum proportion of these donations that might practically be Gift Aided?

Question 54. In your view, what effect might the proposals in this document have on the proportion of donations that are Gift Aided, taking into account:

- a only donations made through 'new' channels;
- b all donations?

Question 55. In your view, would the proposals in this document have the effect of imposing extra costs on your organisation? How? Would these be start-up costs or ongoing costs? How large would they be?

Question 56. Do you agree with the assessment of impacts set out in the summary of impacts table? In your view, are there any impacts that have not been mentioned here?

6

Summary of consultation questions

Chapter 1: Introduction

Question 1. Are there any general points about Gift Aid that you would like to raise with Government?

Question 2. Beyond digital giving, what other barriers to take-up of Gift Aid do charities experience?

Question 3. Do you think a phased implementation of the changes to Gift Aid proposed in this consultation document would be the best way to proceed?

Question 4. What new promotional materials – leaflets, website materials and other products – could the Government usefully provide to help increase take-up of Gift Aid?

Question 5. What should these materials contain to be most helpful in encouraging donors and charities to use Gift Aid?

Question 6. Might rebranding Gift Aid help increase take-up? How?

Question 7. How can the Government work with the charity sector and its representatives to disseminate promotional material on Gift Aid?

Chapter 2: The Gift Aid declaration

Question 8. Do you agree that it would be helpful to enable charities to shorten the Gift Aid declaration in this way, provided they were prepared to accept liability for a charge to tax where the donor had not paid enough tax to cover the Gift Aid?

Question 9. Do you think a reasonable limit for individual donations that can be made using a shorter Gift Aid declaration, as set out in Proposal 1, would be £1000, £5000 or somewhere in between? If not, what limit would seem reasonable and why?

Question 10. Given the complexities outlined above, how do you think a tax charge should fall to charities where a donor has only paid enough tax to cover some of the Gift Aid on donations they have made in the year?

Question 11. Do you agree that HMRC should be able to tell charities which donations tax charges relate to?

Question 12. Bearing in mind the need to retain a link to donors' tax affairs in order to retain Gift Aid's status as a tax relief, are there any other changes you think it would be possible and helpful to make to the Gift Aid declaration?

Chapter 3: Gift Aid: a greater role for intermediaries

Question 13. What intermediaries exist now? If the Government makes changes to Gift Aid to make it easier to claim on donations made through intermediaries, what new intermediaries might emerge to support donations to charity?

- Question 14.** What are your views on the requirements placed on non-charity intermediaries and the regulatory powers the Government would need to take under Proposal 2?
- Question 15.** What sorts of features do you think intermediaries would need to have to have? What sorts of organisations should be able to be intermediaries?
- Question 16.** As set out above, the Government intends to put in place two requirements under Proposal 2 – a time limit on declarations, and a requirement to ask donors if they wish to Gift Aid each donation – to reduce the risk of Gift Aiding a donation in error. Are there other methods to protecting donors against the risk of overclaiming?
- Question 17.** Would it be helpful to place a requirement on intermediaries to inform donors how much they had donated that year, with the amount of tax required to cover Gift Aid on those donations?
- Question 18.** Do you think intermediaries will offer to claim Gift Aid on behalf of charities as set out under Proposal 2?
- Question 19.** What do you think the consequences of the intermediary taking on liability might be?
- Question 20.** If the proposals in Chapter 2 are adopted, do you agree that the liability for tax charges arising where the donor has not paid enough tax to cover a Gift Aided donation should fall to the intermediary? Or would it be more appropriate for the liability to fall to the charity?
- Question 21.** What might be the advantages and disadvantages of Proposal 2 for charities?
- Question 22.** How can charities' relationships with donors be protected under Proposal 2?
- Question 23.** Do you think Proposal 2 would lead to an increase in Gift Aid going to charities? What is the evidence for this?
- Question 24.** Do you think Proposal 2 would lead to an increase in overall donations to charities? What is the evidence for this?
- Question 25.** What are the advantages and disadvantages of Proposal 3 over Proposal 2?
- Question 26.** What are your views on the option that both Proposals 2 and 3 should be available in parallel?
- Question 27.** Do you agree that intermediaries should be liable for invalid Gift Aid declarations and any repayments required or penalties issued in relation to these? Or should charities be liable, given they will have received any Gift Aid paid out on these incorrect claims?
- Question 28.** If Proposal 1 (in Chapter 2) and proposal 3 are adopted in combination, should the charity be liable for tax charges where the donor has paid insufficient tax to cover the Gift Aid on the donation? Or should the liability for the tax charges fall on the intermediary?
- Question 29.** Would intermediaries be content to operate Proposal 3?
- Question 30.** What would be the advantages and disadvantages to charities of Proposal 3? Are there any advantages or disadvantages for donors?
- Question 31.** Do you think additional HMRC guidance and support would help digital providers to operate Gift Aid more efficiently and make it easier for donors to claim Gift Aid on their donations through digital channels?
- Question 32.** What sort of support could HMRC usefully provide in this area?

Question 33. Would more support in this way be sufficient to improve the user experience of Gift Aid?

Chapter 4: A universal Gift Aid declaration database

Question 34. What model for a UGADD would you prefer to see in place?

Question 35. What are the advantages and disadvantages of a UGADD compared to either Proposal 2 or 3 set out in the previous chapter, for charities, donors and intermediaries?

Question 36. How might the introduction of a UGADD fit with charities' current systems for managing Gift Aid? Would the benefits outweigh any costs?

Question 37. What functions should a UGADD have, and why?

Question 38. What information should a UGADD pass on to charities about their donors? How, and why?

Question 39. Should Gift Aid be claimed directly by the charity, or should the UGADD claim the Gift Aid on the charity's behalf?

Question 40. How could a UGADD best be encouraged to emerge? What might be the best role for Government in supporting a UGADD's development?

Question 41. How should the UGADD and charities identify donors, given the Government's requirements on accuracy and security as set out above? Would donors find this easier than providing a new Gift Aid declaration?

Question 42. How can a UGADD be developed in a way that allows access for a wide range of charities?

Question 43. Where a Gift Aid declaration has not been taken correctly so it is invalid, should the UGADD administrator or the charity be liable for the repayment of the Gift Aid? Why?

Question 44. Where a donor has paid insufficient tax to cover a Gift Aid claim made on a donation, should the donor, the charity or the UGADD operator be liable to make up the shortfall in tax? Why?

Question 45. How can the Government get sufficient assurance that taxpayers' confidential information is adequately protected by the operators of a UGADD?

Question 46. How much do you think it would cost to build and/or administer a UGADD, and how do you get to that figure?

Question 47. How do you think the costs of building and/or operating a UGADD should be covered?

Question 48. If charities had to pay to use a UGADD, how can these costs be kept low and transparent, to avoid greater Gift Aid administration costs than is currently the case?

Question 49. Do you believe that the costs to charities of using a UGADD would be outweighed by the benefits e.g. a higher take-up of Gift Aid?

Chapter 5: Assessment of impacts

Question 50. In your view, what proportion of relevant donations to charity are made through 'new' digital giving channels compared to more traditional forms of giving?

Question 51. Are these genuinely new donations, or would they otherwise have been made through a different channel?

Question 52. What proportion of the donations made through new digital channels is currently Gift Aided? How does this compare with other donations of a similar size?

Question 53. Given the size of the donations, what is the maximum proportion of these donations that might practically be Gift Aided?

Question 54. In your view, what effect might the proposals in this document have on the proportion of donations that are Gift Aided, taking into account:

- a only donations made through 'new' channels;
- b all donations?

Question 55. In your view, would the proposals in this document have the effect of imposing extra costs on your organisation? How? Would these be start-up costs or ongoing costs? How large would they be?

Question 56. Do you agree with the assessment of impacts set out in the summary of impacts table? In your view, are there any impacts that have not been mentioned here?

7

The consultation process

7.1 This consultation is being conducted in line with the Tax Consultation Framework. There are five stages to tax policy development:

Stage 1 – Setting out objectives and identifying options

Stage 2 – Determining the best option and developing a framework for implementation including detailed policy design

Stage 3 – Drafting legislation to effect the proposed change

Stage 4 – Implementing and monitoring the change

Stage 5 – Reviewing and evaluating the change

7.2 This consultation is taking place at Stages 1 and 2 of the process. Its main purpose is to seek views on some specific options for making it easier to claim Gift Aid on digital donations by changing the rules around the Gift Aid declaration and allowing non-charity intermediaries a role in operating Gift Aid. These proposals are set out in Chapters 2 and 3. However it also seeks views on less developed options such as a universal Gift Aid declaration database (Chapter 4), and on whether charities experience barriers to take-up of Gift Aid in other contexts (Chapter 1).

How to respond

7.3 A summary of the questions in this consultation is included at Chapter 6.

7.4 Responses should be sent by Friday 20 September 2013, by email to:

GiftAidDigital@HMTreasury.gsi.gov.uk

or by post to:

Gift Aid Digital Consultation
Personal Tax Team
HM Treasury
1 Horse Guards Road
London
SW1A 2HQ

7.5 When responding please say if you are a business, individual or representative body. In the case of representative bodies, please provide information on the number and nature of people you represent.

Confidentiality

7.6 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 (FOIA), the Data Protection Act 1988 (DPA) and the Environmental Information Regulations 2004.

7.7 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 to us why you regard the information you have provided as confidential. If we receive a request for disclosure of the information we will take full account of your explanation, but we 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 Treasury.

7.8 HM Treasury 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.

Consultation Principles

7.9 This consultation is being run in accordance with the Government's Consultation Principles. The consultation will run for slightly short of the usual 12 week period, to allow sufficient time to analyse responses and include proposals in Finance Bill 2014 if necessary.

7.10 HM Treasury and HM Revenue and Customs officials will be holding a series of consultation meetings over the summer to explore the proposals in more detail with charities, intermediaries and their representative bodies. Subject to space constraints officials will try to meet with interested stakeholders.

7.11 Stakeholders interested in taking part in these discussions should contact the Gift Aid Digital Giving consultation email address:

GiftAidDigital@HMTreasury.gsi.gov.uk

7.12 The Consultation Principles are available on the Cabinet Office website:
<https://www.gov.uk/government/publications/consultation-principles-guidance>

7.13 If you have any comments or complaints about the consultation process please contact:

Amy Burgess
Consultation Coordinator
Budget Team
HM Revenue & Customs
100 Parliament Street
London
SW1A 2BQ

Email: hmrc-consultation.co-ordinator@hmrc.gsi.gov.uk

Please do not send responses to the consultation to this address.

A

List of stakeholders consulted

A.1 Between Autumn Statement 2012 and Budget 2013, HM Treasury and HM Revenue and Customs officials met with a range of stakeholders to help develop the proposals set out in this consultation document. A list of the organisations involved in this informal consultation is given below.

National Deaf Children's Society

British Red Cross

Womankind WorldWide

Alzheimer's Society

Stewardship

Sport and Recreation Alliance

Philanthropy Impact

Charities Aid Foundation (CAF)

Institute of Fundraising (IOF)

National Council for Voluntary Organisations (NCVO)

Cancer Research UK

Charity Tax Group

Charity Finance Group

Givey

Mission Fish/Paypal Giving Fund

Ecomodo

Virgin Money Giving

Timto

JustGiving

PositiveBid

British Heart Foundation

Payments Council

UK Cards Association

B

Further background on Gift Aid

How does Gift Aid work?

B.1 Gift Aid is a tax relief for gifts of money by individuals to charity. It allows charities to claim the basic rate of tax an individual donor has paid on the value of a donation. In order for a charity to be able to claim Gift Aid on a donation the donor must:

- be an individual UK tax payer;
- have paid income tax or capital gains tax on the value of their donation; and
- have signed a valid Gift Aid declaration.

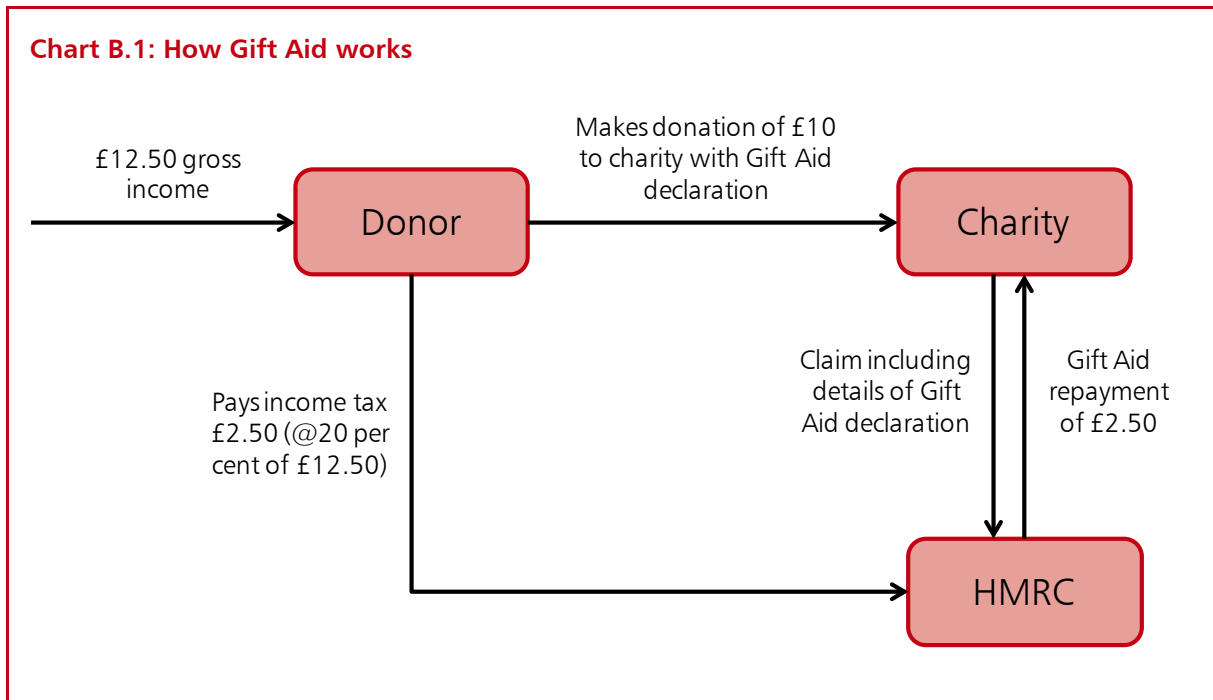
B.2 A donation made under Gift Aid is treated as being made net of basic rate income tax. The donation is 'grossed-up' by the basic rate of income tax and the charity can claim a repayment of the income tax paid on the grossed-up donation. The basic rate of tax is currently 20 per cent. This means that if a donor gives £10 to charity from their income after tax and chooses to Gift Aid their donation, the charity can claim a repayment of the £2.50 in tax that the donor has paid on their donation.

B.3 Higher Rate and Additional Rate tax payers can reclaim the difference between the basic rate tax and their marginal rate of tax through Pay As You Earn or Self-Assessment.

B.4 Under the Gift Aid rules, where a donor is a UK taxpayer and has given their consent, a charity or CASC receiving a donation can reclaim the basic rate tax on that donation. If the donor is a higher or additional rate taxpayer, they can reclaim the difference between the basic rate tax and the higher or additional rate tax (as appropriate) through the Self Assessment system.

B.5 For example, given the basic rate of tax is 20 per cent, if a UK taxpayer donates £100 to a charity, the charity can reclaim £25 on that donation. If that donor is a higher rate taxpayer with a 40 per cent marginal rate of tax, they can also reclaim £25 through self assessment. If they are an additional rate taxpayer with a 45 per cent marginal rate of tax, they can reclaim £31.25.

Chart B.1: How Gift Aid works



B.6 Because Gift Aid is a tax relief, the donor must have paid enough ‘tax to cover’ the amount reclaimed under the Gift Aid system. This can be either income tax or capital gains tax, but taxes such as Council Tax or VAT are not taken into account when considering whether a taxpayer has paid sufficient tax to cover a Gift Aid claim. To help ensure donors have paid sufficient tax to cover reclaims under Gift Aid, it must be possible for HMRC to trace the donor and connect them to the donation they have made. This is achieved through the Gift Aid declaration, which donors must fill out if they want Gift Aid to be reclaimed on their donation.

B.7 The Gift Aid declaration also has an important role in informing the donor about the responsibility they have under the Gift Aid rules to only claim Gift Aid on donations where sufficient tax has been paid to cover the amount reclaimed. To retain Gift Aid’s status as a tax relief, and to make sure donors are not put at risk of ‘overclaiming’ Gift Aid where they have not actually paid enough tax to cover, HMRC will continue to require a certain amount of information about the donor and the donation.

B.8 Under the current Gift Aid rules, a new Gift Aid declaration is required to cover donations to each new charity that a donor wishes to support. It is possible under the current rules to set up an ‘enduring declaration’, covering all subsequent donations to one particular charity, but not to a range of charities.

HM Treasury contacts

This document can be downloaded from
www.gov.uk

If you require this information in another
language, format or have general enquiries
about HM Treasury and its work, contact:

Correspondence Team
HM Treasury
1 Horse Guards Road
London
SW1A 2HQ

Tel: 020 7270 5000

E-mail: public.enquiries@hm-treasury.gov.uk

ISBN 978-1-909790-19-3



9 781909 790193 >