



HM Revenue
& Customs

Gift Aid Small Donations Scheme

Summary of Responses

10 August 2016

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1. Introduction

Issue

- 1.1 At Autumn Statement 2015 the Government announced that – as part of its commitment to encourage charitable giving - it would bring forward the review of the Gift Aid Small Donations Scheme (GASDS) that was scheduled to take place in April 2016.
- 1.2 The Government published a Call for Evidence on 9 December 2015 seeking views about the uses and effects of GASDS with the intention of simplifying the scheme rules to ensure as many eligible charities as possible can claim this relief.
- 1.3 This was followed by a full consultation setting out specific proposals for how simplification of the scheme could be achieved.

Background

Gift Aid

- 1.4 The Government recognises the important role that the charity sector plays in society, and provides support to charities and their donors through a generous package of tax reliefs worth over £5 billion per year.
- 1.5 One of the biggest reliefs available to charities is Gift Aid. Gift Aid allows charities to reclaim from HMRC the basic rate of Income Tax deducted from donations by UK taxpayers. This means that, where a basic rate taxpayer claims Gift Aid on a £10 donation, the charity can reclaim from HMRC the £2.50 of tax paid on that donation.
- 1.6 For a donation to qualify for Gift Aid the donor must complete a Gift Aid declaration confirming that they have paid, or will have paid, Income and/or Capital Gains Tax of at least the amount of Gift Aid that the organisation will claim on their donation in any given tax year.
- 1.7 This link between the Income and/or Capital Gains Tax paid by the donor and the tax reclaimed by the organisation is an essential part of the Gift Aid process, and without it tax relief under Gift Aid would not be available on these donations.
- 1.8 Where donors have paid less Income and/or Capital Gains Tax than the amount claimed by the charity or Community Amateur Sports Club (CASC) on their donations, HMRC can recover the difference from the donor.

Gift Aid Small Donations Scheme

- 1.9 GASDS was introduced on 6 April 2013. The purpose of the scheme is to support the charity sector by providing top-up payments in circumstances where it would not be feasible or practical to obtain a Gift Aid declaration in respect of small donations, for example bucket collections or church plate collections.
- 1.10 An important distinction between Gift Aid and GASDS is that Gift Aid is a tax relief, whereas GASDS is public expenditure. GASDS enables charities to claim Gift Aid style top-up payments on up to £8,000 of small cash donations (of £20 or less) every year.
- 1.11 GASDS broadly mirrors the effect of Gift Aid. This means that where the basic rate of Income Tax is 20 percent, a GASDS income of £8,000 will entitle the charity to a top-up payment of £2,000 per year.
- 1.12 GASDS contains two elements: the main top-up payment and the community buildings allowance.
- 1.13 These two elements are intended to address potential unfair outcomes arising from the different ways charities are structured.
- 1.14 Under the scheme each eligible charity is entitled to claim a main top-up payment on up to £8,000 small donations each year.
- 1.15 The 'community buildings' rules were designed to ensure that broadly similar results are achieved for 'groups' of charities structured in different ways. Without these rules, some charities would be able to claim much less under the scheme than others. The intention is for national organisations, like denominations of churches, to be able to claim similar amounts whether they are structured as a single charity nationally, or as a 'group' structure made up of individual charities.
- 1.16 The Government intends for each eligible charity, or group of connected charities, to be entitled to claim top-up payments on up to £8,000 of small donations each year. This amount is increased for charities undertaking charitable activities held in a community building.

The Consultation

- 1.17 The Government published a formal consultation on 20 April 2016 setting out proposals for simplifying GASDS. The consultation closed on 1 July 2016.
- 1.18 A copy of the consultation document can be found at <https://www.gov.uk/government/consultations/gift-aid-small-donations-scheme>
- 1.19 The consultation received 46 responses, of which five were received from individuals or from organisations which chose not to identify themselves. Other

responses were received from charities, religious organisations, representative bodies, accountancy bodies, law firms, businesses, a campaigning organisation, and the Office of Tax Simplification. A full list of respondents is provided at annexe A.

- 1.20 In addition to the above responses, HMRC Officials met with a number of stakeholders during the consultation process to discuss the proposals.
- 1.21 The Government is grateful to all the organisations and individuals that took the time to respond to the consultation.
- 1.22 Responses to the consultation were generally positive with the majority of stakeholders welcoming the Government's desire to simplify the scheme and increase take up amongst smaller and newer charities. However, a number of respondents raised important points about the need for any new changes to be explained clearly and to be supported by clear guidance.
- 1.23 A full summary of responses can be found in the next chapter.

2. Responses

The eligibility rules

- 2.1 The consultation asked for views on the eligibility requirements of GASDS. For example, it is a requirement that a charity must have been registered for at least two full tax years before it can access GASDS – the ‘two-year rule’. Charities are also required to have made successful Gift Aid claims in at least two out of the four previous tax years with no more than a two year gap between claims – the two-in-four rule.
- 2.2 These rules were designed to make sure that charities demonstrate a reasonable history of compliance with the wider Gift Aid scheme before they are able to access GASDS. This chapter provides a summary of the answers to the questions asked under each subheading of the consultation document.

Question 1 – What would the impact on your charity be of the removal of the current legislative requirement that a charity must have been registered for at least two tax years (the two-year rule) before it can access GASDS? Would this change represent a meaningful simplification of the scheme?

There were 35 responses to this question

- 2.3 While the vast majority of charity respondents to this question reported that the proposed change would have no effect on their individual circumstances because they had already been registered as charities or CASCs for some considerable time; there was wide recognition that its removal would represent simplification for newly registered charities allowing them to benefit from the scheme straightaway.
- 2.4 Some respondents further qualified this by stating that many charity workers are volunteers with little or no administrative experience so the removal of this requirement would be particularly welcomed. One suggested that the requirement currently prevents small charities from “dipping their toes in the water” to see how relatively easy GASDS administration can be.
- 2.5 Others recognised the need to see a history of compliance with Gift Aid but still felt that once charitable status had been awarded it was unfair to new charities to be made to wait an arbitrary period before being able to claim on GASDS.

Question 2 – What would the impact on charities be if the requirement that a charity must have made a successful Gift Aid claim in at least two out of the previous four tax years (the two-in-four rule) was changed to a requirement that a charity must have made a successful Gift Aid claim in the previous tax year only?

There were 36 responses to this question

- 2.6 Several respondents reported that this proposal would have no effect on their charities, primarily because they had already been in operation for several years and had established a regular pattern of Gift Aid claims. Others stated that it would be a welcome simplification particularly for those charities that had a short history of claiming Gift Aid or regularly claimed it, and that it would also make it much easier to explain the rule and simpler for charities and HMRC to administer GASDS.
- 2.7 One respondent recommended HMRC consider introducing a series of questions that the authorised person is required to complete for example an online flow chart, as part of claims to help ensure that correct claims are made.
- 2.8 However, although the intention behind the proposal was welcomed, several respondents cautioned that it could well have the opposite effect depending on how a charity operates. In particular it could have a detrimental effect on long established charities which do not claim Gift Aid in the previous tax year for a variety of reasons, but are currently eligible under the existing rule.
- 2.9 Some suggested alternatives to the proposal, for example changing the requirement to either a successful claim in the past year or a successful claim in two out of the past four years. Another suggested the condition be further simplified to a successful prior Gift Aid claim in the same or previous two tax years enabling early eligibility and preventing busy charity treasurers from having to claim Gift Aid every tax year.
- 2.10 One respondent expressed the need for this eligibility change to be thoroughly explained with practical examples.

Government response

The Government is grateful for the responses to these two questions but notes that the responses received largely reflect the experiences of established charities who already benefit from the scheme and may therefore not be representative of the wider sector.

The Government recognises that moving to a requirement that charities must have claimed Gift Aid in the previous tax year, rather than two out of the previous four tax years, could, in some circumstances, reduce the flexibility of the scheme for certain charities and is grateful for the suggestions made by some respondents to mitigate this issue.

The Government remains keen to encourage take up of the scheme, particularly amongst smaller and newer charities and will therefore bring forward legislation removing both the two-year rule and the Gift Aid history requirement entirely.

Small cash payment rules

Question 3: Does your charity currently collect donations using contactless payment technology, or are you currently considering doing so in future?

There were 33 responses to this question

- 2.11 Although many respondents reported that they did not currently collect donations using contactless payment technology and had no immediate plans to do so; others appreciated that it is becoming increasingly popular and would therefore consider introducing it in the future.
- 2.12 Several respondents were keen to see contactless payments included in the GASDS scheme but pointed out that the data collected from contactless transactions does not allow charities to identify donors, and therefore comply with Gift Aid declaration requirements.
- 2.13 A small minority of respondents are already accepting donations using contactless technology.
- 2.14 There were also calls from a minority of respondents to expand GASDS to include text donations, cheques and credit/debit cards more generally.

Question 4: Would expanding GASDS to include donations received via contactless credit and debit cards present any challenges to charities, particularly in terms of record keeping or other administrative requirements?

There were 36 responses to this question

- 2.15 Several respondents, including charities already piloting contactless giving, expressed the view that in some respects, contactless payments could reduce the administrative burden for charities, for example by eliminating any doubt around whether individual donations had amounted to more than £20.
- 2.16 A number of respondents expressed concerns about costs both in terms of purchasing the equipment and the technical knowledge required to correctly operate and administer payment. Many considered these to be too high in relation to the amount of donations actually collected.
- 2.17 One respondent suggested that GASDS take up amongst CASCs was relatively small and that contactless giving would inevitably involve the commitment of more volunteer time. They felt that this would make the technology unattractive for all but the largest clubs who have the resources to absorb the costs.
- 2.18 However, one large charity that is already accepting contactless donations expressed the view that while the technology was in its infancy, it is scalable and in the future small and medium sized charities could well benefit.

- 2.19 Other concerns highlighted were connectivity-related and the isolated locations of many charities; as well as donors in some areas preferring to use cash, cheques or bank standing orders.
- 2.20 Some respondents felt that contactless payments were simply not applicable to their charities. An example of this was the practice of assisting with bag packing at local supermarkets with members of the public placing coins in bucket collections on the checkout.

Government response

The Government welcomes the responses received both from respondents supportive of the proposal as well as those expressing concerns, and recognises that as new technology develops and the charity sector innovates it is important that the legislation continues to reflect the realities of modern fundraising.

The Government is particularly grateful to organisations that took the time to meet with its officials during the consultation period to demonstrate how the technology works in practice.

Although currently very few charities use contactless technology, the available evidence suggests that take up is likely to increase in the future. The Government is satisfied that contactless donations could be included within GASDS without imposing significant extra burdens on charities who choose to use the technology. The Government will therefore bring forward legislation to include contactless payments within GASDS.

The Government notes the representations received from some stakeholders requesting that other donation methods be brought within scope of the scheme. However, the Government's position remains that GASDS should only be available for small donations in which obtaining a full Gift Aid declaration is not practical or feasible.

Connected charities and community buildings rules

- 2.21 The connected charities and community buildings rules were designed to ensure that broadly similar results are achieved for 'groups' of charities structured in different ways. The Government has become aware that the current rules do not appear to fulfil the original policy intention and therefore remains concerned that some charities are able to claim significantly less than others because of how they are structured.

Question 5: Would the Government's proposal to allow charities to claim either under the main GASDS allowance or under the community buildings allowance, but not both, present any specific equality issues or generate any obviously unfair outcomes?

There were 34 responses to this question

- 2.22 The majority of the responses were broadly supportive of this proposal, feeling that most charities would be unaffected. No significant equality issues or unfair outcomes were identified.
- 2.23 Several respondents explained that they did not operate within a community building and therefore had no opinion about the reform.
- 2.24 Eight respondents agreed that the proposal represented a simplification of the scheme. One qualified this further by stating that so long as the maximum cap for both allowances remained the same, and that neither was unduly restrictive compared to the other, then the proposal should not present any specific equality issues.
- 2.25 Another respondent, who had put forward this proposal at the Call for Evidence stage, continued to support the suggestion and welcomed the simplification it would deliver.
- 2.26 Several respondents expressed concern that some charities had been able to claim under both allowances and therefore supported the Government's aim to ensure parity between charities structured in different ways. Others reported that although the proposal would have obvious disadvantages for a minority of charities that had successfully claimed under both parts of the scheme, the clarity of the proposed new rule would be welcome.
- 2.27 Another respondent stated that given the low take up of GASDS by some charities, it seemed strange for the Government to remove this source of income. One respondent reported that the connected charities provisions were not widely known and suggested that the proposal was unlikely to be followed in practice.
- 2.28 Others expressed concern that the proposal did not recognise the different legal and operational structures of charities particularly in relation to how local "branches" of larger charities are operated. These are usually defined by geographic boundaries, all with different methods of fundraising, decided locally according to their individual volunteer capacity, making them financially independent from their national bodies. It was feared the proposal would not fairly reflect or allow for this.
- 2.29 One respondent stated there may be equality issues in instances in which connected charities have a centralised Gift Aid system compared to neighbouring charities which did not.
- 2.30 Another respondent stated that merely restricting claims to one allowance or the other would not fully simplify matters and that charities should remain free, if necessary, to claim partly under one and partly under the other provided the total sum claimed did not exceed £8,000.
- 2.31 A small minority of respondents felt that they could not currently comment on the proposal without seeing further detail.

Question 6: What impact would this proposal have on your charity?

There were 34 responses to this question

- 2.32 Almost two-thirds of these reported that this would have no negative impact on their charities.
- 2.33 A few respondents felt that the change would reduce their entitlement to GASDS. Others felt that the reduction would be relatively insignificant and the loss would be outweighed by the benefit of having a clearer, more straightforward scheme.
- 2.34 One respondent, representing a large, religious organisation welcomed the simpler record-keeping, claiming and auditing processes, along with corresponding reductions in errors made which would result from the change.
- 2.35 Another large religious organisation reported that although a number of charities within its connected structure would no longer be able to claim a 'main' allowance, this was of minimal importance compared to the significant community building entitlement it would retain.
- 2.36 One respondent expressed concern about charities that regularly have less than 10 beneficiaries present at fundraising events suggesting that although any potential reduction in income was likely to be small - it might be significant to those charities affected.
- 2.37 Another believed that there may be circumstances in which to reach a total of £8,000 of eligible donations it may be necessary for some charities to claim partly under both allowances. However, it went on to say that it had no problem with the imposition of an overall £8,000 cap if it ensured the original policy intention of the scheme was being delivered.
- 2.38 One respondent asked for the connected charities rules to include a test of significant financial relationship, as the rules mean that although some charities have no financial connections they are still unable to claim individually. The respondent called for these to be modified to ensure they only captured those with significant financial relationships.
- 2.39 Another stated that those charities which currently benefit from both allowances are likely to be small and any reduction in income might be partially addressed by the additional reforms set out in the consultation.

Question 7: Would relaxing the community buildings rules to allow donations to be received outside of the building itself allow more charities to claim under GASDS?

There were 30 responses to this question

- 2.40 The majority of respondents welcomed any proposal to increase the uptake of GASDS and viewed this as a way to encourage more charities to participate in the scheme.
- 2.41 A small number of responses from churches welcomed the proposal, suggesting that it may allow them to benefit from certain donations which currently fall outside of the scope of the community buildings rules, such as donations received in wall safes, or collections received during events held outside of the building, such as fetes.
- 2.42 One response, from a uniformed organisation, commented that the proposal would significantly increase the entitlement of branches within its connected national structure. Another response, from a large representative body, echoed the view that uniformed groups could benefit from the proposal.
- 2.43 However, several respondents expressed concern, fearing that this proposal may increase the complexity of the community buildings rules. Respondents also queried how the proposal would work alongside the broader community buildings rules.
- 2.44 One respondent commented that specifying a set distance from the building in which additional collections could be received would be difficult for volunteer treasurers to police. Another stated that such a change would only be worthwhile to charities if the additional income received was significant.
- 2.45 Others doubted whether the proposal would have any significant impact for charities and suggested that instead of this, a small sub-threshold be introduced, for example £500 of the £8,000 maximum, for donations received outside of charitable activities undertaken within community buildings.
- 2.46 A small minority felt that the physical location of any donation should be irrelevant and could see no logical reason as to why it was required. Whilst many felt that it would have no benefit for their charity as their collections were all made within the building.
- 2.47 Others did not feel able to form an opinion without more information about how the proposal would work in practice.

Question 8: What reasonable requirements could be included to ensure that the relaxed community buildings rules still only benefit donations received in a specific local community?

There were 33 responses to this question offering a diverse range of views.

- 2.48 Several respondents suggested various geographical restrictions, for example allowing donations collected in areas that are in direct contact with the community building, such as an enclosed garden or any external pavement.
- 2.49 Others suggested allowing collections received within parish boundaries, within the same postcodes, or within the same local authority area.

- 2.50 One respondent cautioned against geographical radiuses being applied as these would have uneven applications across rural and urban areas, and felt that charities should be allowed to make reasonable determinations as to what constitutes the communities their buildings serve.
- 2.51 One respondent suggested that charities should elect which community their community building is intended to serve, with donations received from within that community eligible for community buildings purposes.
- 2.52 Another respondent suggested that donations collected outside of a community building should be collected by a beneficiary who could then pass the donations onto the charity during the next collection at the community building.
- 2.53 Of the respondents choosing to answer this question, a number raised the importance of good record keeping.
- 2.54 A few reported that it was difficult to see how any restriction could be defined or audited, and some stated that it was unlikely that charities would carry out activities in areas outside of their local communities.
- 2.55 One respondent felt that there should be a restriction to stop branches of national charities passing all their funds up to the 'head office' for national distribution. This, it was suggested, would ensure funds went to local causes.
- 2.56 Several respondents did not believe this reform would be applicable to them and declined to comment further.

Government response

The Government is pleased to note the widespread support from respondents that the scheme should deliver parity of treatment for charities structured in different ways.

Although a small number of consultation respondents suggested that certain organisations may see a reduction in GASDS income as a result of the proposal to allow charities to claim either the main allowance or the community buildings allowance, the Government believes that many of these organisations will have been claiming both allowances contrary to the original policy intention of the scheme. The Government therefore believes that this proposal is necessary to protect the integrity of GASDS.

The Government received representations from a number of organisations which were unable to benefit from the community buildings rules because most of their collections are received outside of the building itself. Although many of the organisations responding to the consultation did not feel that they would benefit from any relaxation of the community buildings rules, the Government is pleased to note the acknowledgement of some respondents that a relaxation of the rules would allow more charities to benefit from the scheme.

The Government will therefore proceed with proposals to require charities to claim either under the main allowance, or under the community buildings allowance, but not both.

It is the Government's view that groups carrying out valuable work in their local community should be able to access GASDS even when some of their donations are received outside of the community building. The Government will therefore amend the community buildings rules to allow donations received outside of the community building but within the same local authority area in which the community building is based to qualify.

Careful monitoring will be required to ensure that the relaxed rules are not abused. HMRC will therefore set out record keeping requirements in guidance.

Question 9: Are there any other reforms that you would like the Government to consider?

There were 36 responses to this question

- 2.57 A minority of respondents reported that they either had no reforms to recommend or suggested that the proposed reforms were sufficient.
- 2.58 Many respondents stated they would like to see the £20 cap raised and made various suggestions as to what this should be, ranging from £25 up to £50. Others suggested that the thresholds should be linked to inflation.
- 2.59 Several respondents suggested that other methods of donation should be brought within scope of the scheme. These included cheques, debit and credit cards, standing orders and direct debits, bank transfers and PayPal. Many responses from churches wished to see donations provided in wall safes and external collection boxes permitted.
- 2.60 A large number of responses expressed the view that the requirement that 10 beneficiaries be present under the community buildings rules should be reduced, with one suggesting that a reduction to 8 or 5 would be preferable. Others suggested that charities could be allowed to use an average of the number of attendees who attend charitable activities within the building over the course of a year.
- 2.61 A small number of responses, including submissions by representative bodies, suggested the removal of the Gift Aid matching requirement, as this would encourage take up among smaller charities who may not claim sufficient levels of Gift Aid to access GASDS.
- 2.62 A minority asked that HMRC's guidance for GASDS be simplified and for HMRC to provide examples illustrating how GASDS works in different scenarios. On the same note, one respondent suggested that the administrative burdens on volunteers could be eased by the Government setting out more clearly what it expects in terms of record-keeping.

2.63 There were also calls from a few respondents for the Government to do more to publicise and promote the scheme particularly amongst smaller charities and CASCs.

Government response

The Government has considered and noted the representations received in response to Question 9, with due weight given to proposals submitted by groups representing large numbers of organisations. However, it is not currently minded to take forward any additional reform proposals.

The Government has considered requests to increase the small donations limit from its current level of £20. However, its position remains that £20 represents a fair amount, broadly in line with what most people would reasonably consider to be a 'small donation'.

The rationale of GASDS is that it enables charities to benefit from a Gift Aid style top up in circumstances where it is not practical or feasible to obtain a Gift Aid declaration. While the Government accepts that this may apply to contactless donations, it does not believe it to be the case for cheques, SMS donations, direct debits or other electronic payments. Wider reforms to the community buildings rules may address some of the concerns raised around collections in wall boxes and safes.

The Government understands that there may be some occasions during which charities carry out activities within a community building with fewer than ten beneficiaries present. However, it believes that the wider reforms of the community buildings rules will make the rules substantially more generous and it is therefore important that the existing qualifying conditions for community buildings are retained to limit the scope for abuse.

The Government notes the concerns raised by some stakeholders, including representative bodies replying on behalf of small charities, that the matching rule limits the entitlement of some small organisations.

The Gift Aid Small Donations Scheme is designed to complement Gift Aid by providing a similar top up when it is not practical to obtain a Gift Aid declaration. The scheme is not intended to be an alternative to Gift Aid and where charities can obtain a Gift Aid declaration, they should do so. The Government therefore believes that retaining a matching requirement is important, both by providing a link with the full Gift Aid scheme and by incentivising charities to claim more Gift Aid.

In light of the reforms to the scheme which the Government will be taking forward, HMRC will carry out a full review of the existing guidance hosted on gov.uk, and will continue to review and improve this as required.

Annexe A: List of stakeholders consulted

Only organisations that responded are listed; five responses were received from individuals or on behalf of organisations for which no name was provided.

Air Training Corps
Alzheimer's Society
Amesbury PCC
Archbishops Council of the Church of England
Association of Accounting Technicians
Association of Church Accountants and Treasurers
Baptist Union of Great Britain
Cancer Research UK
Canterbury Diocese
Charity Finance Group
Charity Law Association
Charity Tax Group
Church of Scotland
Churches Legislation Advisory Service
Diocese of Liverpool
Free Church of Scotland
Institute of Chartered Accountants in England and Wales
Institute of Fundraising
Kingston Smith
Kircaldy Old Kirk Trust
Making Music
National Council of Voluntary Organisations
National Holocaust Centre
National Secular Society
Newton Aycliffe Youth & Community Centre
Office of Tax Simplification
Roman Catholic Dioceses of England & Wales
Shackleford & Peper Harow PCC
Small Charities Coalition
Southgate Church & Southgate Community Partnership
Sport & Recreation Alliance
St John's Church, Spalding
St John's Church, Woodbridge
St Mary the Virgin PCC, Silchester
St Mary's, Blyth
St Nicholas, Compton
St Paul's Church, Wokingham
St Peter & St Paul Church, Fareham
Stewardship
Turcan Connell
UK Cards Association
Wirksworth St Mary's PCC
WWF UK
Zeet Ltd