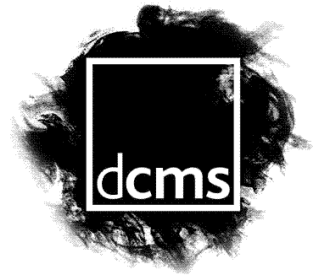


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department for
culture, media
and sport

CULTURAL GIFTS SCHEME

(the “CGS” or the “Scheme”)

A Scheme for the Gifting of Pre-Eminent Objects in Exchange for Tax Reductions

Scheme and Guidance

Our aim is to improve the quality of life for all through cultural and sporting activities, support the pursuit of excellence, and champion the tourism, creative and leisure industries.

CULTURAL GIFTS SCHEME (the “CGS” or the “Scheme”)

A Scheme for the Gifting of Pre-Eminent Objects in Exchange for Tax Reductions

Purpose of this document

1. The provisions contained in Schedule 14 to the Finance Act 2012 set out how a tax reduction will be applied to an individual's or a company's tax liability when an object (or collection of objects) has been donated to be held for the benefit of the public or the nation. Under paragraph 1(2)(c) of Schedule 14, the donation must be made in accordance with a scheme set up by the Secretary of State for Culture, Media and Sport. This document constitutes the Scheme for the purposes of that Schedule and aims to provide practical guidance on how to make an application under the Scheme.
2. This document also provides a brief summary of how certain aspects of the tax reduction relevant to the application and acceptance process of the CGS will operate. Please note however that this document is not intended to provide a detailed description of the tax rules and does not replace or supersede the information in the HM Revenue & Customs (“HMRC”) Guidance Manuals or Notes. The forms of tax liability which are eligible for reduction under the Scheme are income tax, capital gains tax and corporation tax.

Who should read this document?

3. If you are thinking of offering to give an object (or collection of objects) to be held for the benefit of the public or the nation, in exchange for a reduction in tax, you should read this document to find out more about the circumstances in which an application will be capable of being accepted. If you decide to proceed, the “How to Apply” section at the end of the document explains what you will need to do next.
4. This document is also a point of reference for public museums, galleries, libraries, record offices and other cultural institutions which may be invited or which may wish to apply to receive objects given under the CGS to hold them for the benefit of the public or the nation.
5. If, having read this document, you require further information about the Scheme, please contact the Acquisitions, Exports, Loans and Collections Unit of Arts Council England (“Arts Council”). See also paragraph 61 for a list of contacts who can answer questions about specific areas of the Scheme.

Background

6. In the Budget announcement in March 2011, a range of measures were announced by the Chancellor to encourage charitable giving and philanthropy amongst other things. These measures included a proposal to encourage people to donate, during their lifetime, objects which are pre-eminent for the benefit of the public or the nation, in return for a reduction in the donor's tax liability.
7. The provisions contained in Schedule 14 to the Finance Act 2012 set out the circumstances in which the donation of an object will qualify for a tax reduction. The circumstances require the object to be pre-eminent and to be donated for the benefit of the public or the nation. The donation must also be made, registered and accepted in accordance with the Scheme. As well as constituting the Scheme for the purposes of Schedule 14 to the Finance Act 2012, this document is also intended to help potential applicants understand how the CGS operates,

who is eligible to apply and the types of objects that may be considered for donation. It also explains how objects offered for donation will be valued, aspects of how the tax reduction will be calculated and which institutions will be eligible to hold objects accepted for the benefit of the nation (“eligible institutions”).

8. Although the CGS shares many similarities with the Acceptance in Lieu Scheme (the “AIL Scheme”) which allows works of art, land and buildings to be accepted into public ownership in lieu of inheritance tax¹, the CGS is different in a number of respects. In particular, the CGS provides an opportunity, where certain conditions are met, for owners of objects or collections of objects, who wish to see those objects placed in eligible institutions in the UK, to make a gift of the object during their lifetime and in the knowledge that objects will be transferred to an eligible institution, subject to certain conditions, including to hold and manage the object, to maintain it in good condition and to make it accessible to the public. The CGS also differs from the AIL Scheme because the CGS does not allow the eligible institution to which the object is transferred to fund the difference between the amount of tax reduction available and the amount of the object’s agreed open market value (called a “hybrid offer”). The CGS is not appropriate for gifts of land and buildings which may, in suitable circumstances and subject to certain conditions, qualify for forms of tax relief.
9. The CGS, together with the AIL Scheme, will operate within a £40 million annual limit for both schemes. This means that the annual reduction in tax liabilities and amount accepted in lieu of tax under both schemes must, together, not exceed £40 million in each tax year, starting 6 April. The Acceptance in Lieu Panel (“the Panel”) will take into account the value of any other gifts of cultural objects and offers in lieu of tax it has already recommended or is considering recommending before making a new recommendation in relation to an offer to a Minister, so as not to exceed the annual limit. When presenting its recommendations to Ministers on donations under the CGS, the Panel will also seek agreement from the Secretary of State for Culture, Media and Sport that acceptance of the gift will not breach the annual limit for the relevant year. The Secretary of State for Culture, Media and Sport will have overall responsibility for ensuring that the annual limit is not exceeded.
10. Arts Council will provide DCMS with a report 8 months into each financial year on the progress of the two schemes setting out what proportion of the annual limit has been used to date. This will be supplemented by the provision of a report on the 1st working day of each month illustrating the current financial position for AIL and CGS.

Overview of the Scheme

11. The CGS will work as follows:
 - (a) A person (an individual acting in a private capacity) or a company with a tax liability in the UK who wholly owns an object, considered to be pre-eminent, offers to donate the object for the benefit of the public or the nation;
 - (b) Offers to donate objects which are considered pre-eminent should be made to the Arts Council. Each offer will be registered as set out in this document. Applications will be considered by the Panel on a first come, first served basis;
 - (c) Objects which the Panel assesses as not being pre-eminent will be rejected. Applications may also be rejected by the Panel where acceptance would cause the annual limit for AIL and CGS to be exceeded, if negotiations have not been concluded within 2 years (see paragraph 57) or if the Panel otherwise considers that the offer should not be

¹ or one of its predecessors, Capital Transfer Tax and Estate Duty

accepted. There should be no presumption that an object will be accepted automatically if it is considered pre-eminent. Where applications are rejected, the Arts Council will write to the applicant informing them of the decision and explaining the reason(s) for it;

- (d) Where the Panel considers that the requirements of the Scheme have been met and that an object is pre-eminent, the object's fair market value has been agreed by the Panel and the Panel considers that the gift should be accepted for the benefit of the public or the nation, the Panel will then make a recommendation to the relevant Minister (being either the Secretary of State for Culture, Media and Sport, the Welsh Ministers, the Scottish Ministers or the Northern Ireland Department for Culture, Arts and Leisure) regarding the pre-eminence, valuation and (if applicable) the proposed allocation;
- (e) Following the agreement to the recommendation by the relevant Minister and confirmation from the Secretary of State for Culture, Media and Sport that acceptance is within the annual limit, the applicant will receive a letter of acceptance. The letter of acceptance will include: the agreed value of the object or objects; a schedule of how the tax reduction or reductions will be applied; and the name of the institution to which the object will be transferred if already known. The applicant will need to accept the terms within 30 days of the date of the letter of acceptance. The terms in the letter of acceptance, once accepted by the donor, are the "agreed terms" for the purposes of the Scheme;
- (f) The gift will then be made pursuant to the agreed terms and the object will transfer from the donor to be held for the benefit of the public or the nation;
- (g) The Arts Council will inform HMRC of the donation, and, where the donor is an individual, provide details of how the tax reduction is to be applied. HMRC will not apply the tax reduction to a person's tax liability unless and until the Panel has confirmed to HMRC that the relevant conditions for the tax reduction have been met;
- (h) As set out in Schedule 14 to the Finance Act 2012, the maximum value of the tax reduction is 30% of the agreed value of the object that is being donated where the donor's liability is to income tax and capital gains tax, and 20% of the agreed value of the object where the donor's liability is to corporation tax. For individuals, the tax reduction can be spread across a maximum of five tax years, beginning with the tax year in which the offer is formally registered by the Arts Council (the "offer registration date" described in paragraphs 16 and 17 below). Alternatively, individual donors can choose to apply the tax reduction to a single year being either the tax year in which the application is registered or one of the subsequent four tax years. Companies will not be able to spread the tax reduction: the tax reduction can be used only to offset the company's corporation tax liability generated in the accounting period in which the offer was registered by the Arts Council;
- (i) Subject to the rules and exceptions contained within Schedule 14 to the Finance Act 2012, the donor will not be liable for capital gains tax or inheritance tax on the donation. Schedule 14 also contains provisions relating to objects which have previously been conditionally exempted from inheritance tax or where estate duty has been deferred.

Eligible donors

12. The CGS will be open to individuals acting in a private capacity who have a liability to UK income tax or capital gains tax and also to companies with a liability to UK corporation tax. Trusts, trustees and personal representatives will not be eligible to participate in the Scheme. Donors must be legally and beneficially entitled to the object and the object must not be owned jointly (or in common) with others. An object jointly owned would not therefore be eligible for consideration. Artists may donate their own work. In general, when a professional artist donates their own work, they automatically trigger a charge to tax and may also be liable

for VAT. This will continue to apply to donations made under CGS. To find out more about what is required, please contact HMRC. The contact details are at paragraph 63.

Eligible objects

13. An application to the CGS can be made in relation to any object but only objects which are considered by the Panel to be “pre-eminent property” will be capable of being recommended for acceptance under the Scheme. Objects associated with a significant building are included in the definition of “pre-eminent property”, which is contained in paragraph 22 of Schedule 14 of the Finance Act 2012 for the purposes of the CGS. The concept of “pre-eminent property” is explained further in paragraph 27. Works by living artists can be considered by the Panel to be pre-eminent.
14. For the purposes of the Scheme, “object” includes a collection or group of objects, which would include, for example, a collection of manuscripts or archives.

The application process

15. The process for all applications under the CGS will be administered by the Arts Council. Applications to donate objects are to be made in writing to the Arts Council using the application form at the end of this Guidance.
16. Subject to the annual limit not already having been exceeded, the Arts Council will normally register the application under the Scheme within 30 days of receiving all the required information (the “offer registration date”). The required information is set out in paragraph 19 below. Applicants who do not provide all the required information will be contacted by the Arts Council and requested to provide this as soon as possible. The application will not be formally registered until the Arts Council is satisfied that it has received all the required information. In addition, an application may not be registered where the value set out in the application is considered by the Panel to be wholly unsupported by the evidence submitted by the applicant or by any other information known to the Panel. Registration of the application by the Panel should not give rise to any expectation by the applicant that the value set out in the application will be agreed.
17. The offer registration date has consequences for valuation and tax purposes. Whereas the Panel may take some time to agree the value of an object, the final agreed value will be the value of the object as at the offer registration date. The Arts Council will notify the offer registration date to HMRC within 30 days after the offer registration date. The offer registration date will be recorded by HMRC for tax purposes, should the application succeed.
18. The registration of an application should not give rise to any right or expectation that the object will be accepted under the Scheme and it is not to be taken as approval that any of the conditions of the CGS have been satisfied.
19. The application must include the following information:
 - (a) Full details of the object, for example, artist or designer, title, medium, dimensions, date, provenance, exhibition history and any associated literature or correspondence which might help illustrate any of these points. Applicants who are considering donating archival material may find it helpful to refer to notes which apply to the AIL Scheme and which are available from the Arts Council’s website via the link - <http://www.artscouncil.org.uk/what-we-do/supporting-museums/cultural-property/tax-incentives/acceptance-lieu/>;

- (b) A valuation and information about who has provided the valuation, together with evidence of auctions, sales or other information which may help to justify the valuation (see paragraphs 20 and 21 for further advice on valuations);
- (c) Evidence of good legal title and detailed evidence of provenance, including details of the ownership of the object between 1933-1945, where applicable. The applicant must confirm, by completing the application form, that they have full and unencumbered title to the object, with unrestricted right to transfer title free from all third party rights or claims (including, where appropriate, copyright claims);
- (d) At least three good quality colour photographs and a high resolution jpeg of the object. Where an application relates to intangible objects, e.g. video installations or other electronic records, any printed images relating to the objects should be provided, where these are available;
- (e) A current condition report;
- (f) A statement setting out why the object is considered to be pre-eminent (see paragraphs 27 to 30);
- (g) Contact details of the applicant or their agents and details of where the object can be inspected;
- (h) An Interim Tax Reduction Schedule (the "Interim Tax Schedule") will need to be completed and signed by the donor in relation to their tax affairs. The Interim Tax Schedule will specify, on the basis of the applicant's valuation, the amount and, for individuals only, state which tax years (for up to five tax years beginning with the year in which the offer is registered) the applicant would like the tax reduction to be spread and which tax they would like to offset first (income tax or capital gains tax). Alternatively, individual donors can choose to apply the tax reduction to a single year being either the tax year in which the application is registered or one of the subsequent four tax years. This form must be submitted with the application form;
- (i) In the event that negotiations are prolonged, the applicant may apply to HMRC to suspend the payment of the tax. This only applies to the tax liability that the tax reduction would, if agreed by Arts Council, be expected to offset. Applicants will need to write to HMRC once the Arts Council has confirmed to HMRC that it has registered the offer. Suspension of an individual's tax liability is at HMRC's discretion and HMRC will consider each application on a case by case basis. Applicants should be aware that a request to suspend tax does not mean that it will be automatically approved. Any suspension request received prior to confirmation from ACE to HMRC of registration will be rejected. For individuals, a Suspension Request Form is included for information in the application pack. Companies will need to contact HMRC directly;
- (j) Details of an individual's Tax Office, their Unique Tax Reference and National Insurance Number. Donors will also be required to sign a declaration, giving their consent to the Arts Council, HMRC and DCMS to exchange information relating to their proposed donation and the tax reduction associated with it, where the exchange of this information is necessary for the consideration of their offer and the administration of the Scheme;
- (k) The preferred eligible institution (if any) to which the applicant would wish to see the object transferred and the reasons for their preference (see paragraphs 35 to 37); and
- (l) The donor will need to sign the application form as well as the Interim Tax Schedule.

How should the object be valued?

20. Applicants are required to provide information concerning the object's estimated value. The value of each object should be its fair market value. This is taken to mean the price at which the object could reasonably be expected to change hands in an open and unrestricted market, where buyer and seller are both knowledgeable, informed and prudent, with neither being under any compulsion to buy and sell and where the value is unaffected by any consideration relating to past or future transactions between the parties.
21. The objective therefore is to agree an estimate of what the object might have fetched in the saleroom, i.e. the open market value at the time of registration. The valuation should be fully justified by the applicant in their application and should be accompanied by substantiating evidence. The value will not take into account any costs of disposal, i.e. the costs of professional fees or tax are excluded.
22. The costs to the applicant of establishing and agreeing the value of the object, and of transferring title to the object, will not be taken into account when determining the fair market value and will be the sole responsibility of the applicant.
23. Based on the applicant's valuation, an applicant will need to provide an Interim Tax Schedule. If they wish to spread the tax reduction beyond the tax year in which the offer is registered they will need to include this information in the Interim Tax Schedule. This is described in paragraphs 47 to 49.
24. Applicants should note that the value set out in the application does not give rise to any right or expectation that the value will be accepted by the Panel. As set out in paragraphs 31 to 32, the Panel will consider the valuation and may seek to agree a revised value.
25. The date at which the value of the object is to be agreed for the purposes of the CGS will be the offer registration date (see paragraphs 16 and 17 above).

Consideration by the Panel

26. The Panel will assess the information submitted with the application. In particular, it will assess whether the object is pre-eminent, whether the value stated on the application is the object's fair market value as at the date of registration and whether a preferred institution is an eligible institution. The Panel will take such expert advice as it considers necessary to assist it in its assessment. The Panel will also take account of the annual limit for the relevant year to ensure that acceptance of any object will not exceed that limit.

Pre-eminent property

27. As set out in paragraph 22 of Schedule 14 to the Finance Act 2012, an object is "pre-eminent property" for the purposes of the CGS if it falls into one of the following categories:
 - (a) any picture, print, book, manuscript, work of art, scientific object or other thing that the relevant Minister is satisfied is pre-eminent for its national, scientific, historic or artistic interest; or
 - (b) any collection or group of pictures, prints, books, manuscripts, works of art, scientific objects or other things if the relevant Minister is satisfied that the collection or group, taken as a whole, is pre-eminent for its national, scientific, historic or artistic interest; or
 - (c) any object (or collection of objects) that is or has been kept in a significant building if it appears to the relevant Minister desirable for the object to remain associated with the building. For these purposes, a "significant building" is any building:

- i. which has been, or is to be, accepted in satisfaction or part satisfaction of inheritance tax or of estate duty; or
 - ii. which belongs to or holds an interest for Her Majesty in right of the Crown or of the Duchy of Lancaster, or belongs to the Duchy of Cornwall or belongs to a Government department or is held for the purpose of a Government department; or
 - iii. of which the Secretary of State, Welsh Ministers or Scottish Ministers is guardian under the Ancient Monuments and Archaeological Areas Act 1979 or which the Department of the Environment for Northern Ireland is guardian under the Historic Monuments and Archaeological Objects (Northern Ireland) Order 1995; or
 - iv. which belongs to a body named in Schedule 3 to the Inheritance Tax Act 1984.
28. The concept of “national interest” includes interest within any part of the UK. In determining whether an object or collection or group of objects is pre-eminent, the Panel will have regard to any significant association of the object, collection or group with a particular place. The Panel will consider applications only on the basis that the object, if accepted, will be held for the benefit of the public or the nation, i.e. displayed in a space under the control and management of an eligible institution (see paragraphs 33 to 37). It will not consider offers for the donation of objects which are to be placed on extended or permanent loan to an institution which is not an eligible institution. Unlike the AIL Scheme, the CGS will not consider hybrid offers (see paragraph 8 above).
29. The Panel will also take into account the physical condition of the object. If an object is in poor condition the Panel is likely to reject it.
30. The Panel will reject an application if it does not consider the object to be pre-eminent. Similarly, the Panel may reject an application, even where the object is pre-eminent, where acceptance of the object would or could breach the annual limit, if negotiations have not been concluded within 2 years, or where other objects which are pre-eminent are preferred. The Panel may agree to review its recommendations in exceptional circumstances, for example, where new and important evidence comes to light.

Valuation

31. Where the Panel finds that an object is pre-eminent, it will then confirm that it is prepared to recommend the value or, where appropriate, advise the applicant of an alternative value at which it would recommend acceptance of the object.
32. For individual applicants, once the value of the object has been agreed between the Panel and the applicant, the applicant will have the opportunity to amend the Interim Tax Schedule if the agreed value is different from the value provided at the offer registration date.. Any amendments need to be agreed by the Panel. This will then become the Agreed Tax Reduction Schedule (the “Agreed Tax Schedule”) and will then form part of the agreed terms and no amendments or other revisions will be permitted. This means that if, in any of the prescribed years, the donor’s actual tax liability is less than the amount of tax reduction set out in the Agreed Tax Schedule for that year, the difference cannot be carried forward into any future years and will therefore be lost to the donor. On the other hand, if the donor’s tax affairs are such that, in any of the prescribed years, the donor’s actual tax liability is more than the amount of tax reduction set out in the Agreed Tax Schedule for that year, the donor will only be able to claim the amount of tax reduction set out in the Agreed Tax Schedule for that year. Any remaining tax will need to be paid on time. This allows the Panel to have certainty for future year commitments when managing the annual limit.

Eligible institutions

33. Objects may only be transferred to eligible institutions. For the purposes of the CGS, an eligible institution is an institution or body that is willing to accept an object and which falls within categories (a) or (b) below:
- (a) any museum, art gallery, library, archive or other similar institution having as its purpose or one of its purposes the preservation for the public benefit of a collection of historic, artistic or scientific interest; or
 - (b) any body having as its purpose or one of its purposes the provision, improvement or preservation of amenities enjoyed or to be enjoyed by the public.
34. Where the application does not specify a preferred institution, the availability of the object will be advertised by the Arts Council on its website. Where a gift of manuscripts or archives is made without a wish, the National Archives will advertise the availability on its website and may, if it considers it appropriate, place additional adverts in other media. In these cases, the National Archives will advise the Panel on the appropriate eligible institution. The Panel will assess the responses to the advert and consider the merits of each before making a recommendation on transfer to the relevant Minister, who will have ultimate responsibility for deciding on the transferee.
35. Applicants may express a wish on the application form that the object be transferred to an eligible institution of their choice. The Panel will consider any such preferred institution and take into account factors such as:
- (a) the institution's collections policy;
 - (b) its existing holdings;
 - (c) the level of public access that it will provide;
 - (d) its ability to provide proper care and maintenance for the object;
 - (e) its security and environmental controls; and
 - (f) any connection it has to the owner, the object, or its creator.
36. Whilst an applicant may express a wish for an object to go to a particular institution, the Panel will also take overall account of the regional spread of allocations, particularly outside London, to ensure that regional museums and galleries are well supported.
37. If the Panel considers the preferred eligible institution is not appropriate for any reason, it will advise the applicant and provide an opportunity for the applicant to name an alternative eligible institution, before any recommendation is put forward for approval by the relevant Minister. If an eligible institution cannot be agreed the Arts Council will advertise the object as described in paragraph 34.

Recommendation to the Relevant Minister

38. Where the Panel considers that an application meets all the requirements, and that the offer should be accepted, it will make a recommendation to the relevant Minister that the object is pre-eminent and (subject to the availability of funds) should be accepted on behalf of the nation. The identity of the relevant Minister who will agree to the recommendation that an object is pre-eminent will depend on where the object is located and whether there is a wish as to where the object is displayed. This is discussed further in paragraphs 53 to 55.

39. Where the relevant Minister accepts the Panel's recommendations the Arts Council will ensure that the Secretary of State for Culture, Media and Sport has confirmed that the acceptance of the gift is within the annual limit for the CGS and AIL Schemes. Only when it is satisfied that accepting the gift will not breach the ceiling will the Arts Council write to the applicant accepting the gift. The Secretary of State for Culture, Media and Sport is responsible for ensuring that the CGS and AIL schemes remain within the agreed annual limit. The Arts Council will then issue a letter of acceptance to the donor which will include the agreed valuation; a schedule of how the tax reduction or reductions will be applied; and the name of the institution to which the object will be transferred where this is already known. The applicant will need to accept the terms within 30 days of the date of the letter of acceptance. The terms in the letter of acceptance, once accepted by the donor, are the "agreed terms" for the purposes of the Scheme;

Transfer of objects from the donor

40. The donor will be required to sign a deed to transfer title. The legal and beneficial title in the object would usually transfer from the donor to the relevant Minister in return for the tax reduction. It is possible, however, in cases where an eligible institution is agreed at an early stage, following recommendation by the Panel, for title to the object to transfer, at the direction of the relevant Minister, from the donor directly to the agreed eligible institution, i.e. instead of to the relevant Minister.
41. In cases where the eligible institution is not identified at an early stage, e.g. because the donor has not expressed a wish and the availability of the object is advertised, then, following recommendation by the Panel, title to the object may transfer from the donor to the relevant Minister. Until such time as an eligible institution is identified, the relevant Minister may direct that the object is transferred to a nominated person (which will also be an eligible institution) to hold and manage the object on a temporary basis. Once an institution is identified for permanent transfer, the object will transfer from the relevant Minister to that institution.
42. Objects will be transferred to the eligible institution on such conditions as the relevant Minister directs. The conditions of transfer will usually include the following, as appropriate, to ensure each object is protected and accessible to the public:
- (a) The eligible institution shall, at its own expense, maintain the object in its existing condition and make good any repairable damage.
 - (b) The object shall be made accessible to the public. This may be on such terms as are appropriate to the nature and condition of the object, taking into account the long term preservation of the object. Where appropriate this may be reflected in a requirement that the object is available to the public for a number of days per year and in most cases this will amount to a minimum of 100 days. For other objects, particularly archive and manuscript material, this may not be appropriate and "available to the public" may require the object to be available for study by the public in, for example, a reading room;
 - (c) Title to the object may not be transferred or disposed of whether by sale or otherwise, without the prior consent of the relevant Minister. The object may not be transferred to another institution except for short periods of exhibition (appropriate to the nature and condition of the object), preservation or restoration without the prior consent of the relevant Minister; and
 - (d) If the eligible institution to which the object has been transferred is unable to fulfil any or all of the conditions, it shall notify the Panel immediately and may be required to surrender the object to the relevant Minister, who will seek advice from the Panel as to a new eligible institution to which the object can be transferred.

43. The Arts Council will liaise with the owner of the object and the eligible institution to which it is to be transferred either permanently or temporarily, pending a decision on permanent transfer, regarding the collection and transportation of the object. The donor will be responsible for arranging any insurance and transport and bearing any costs.
44. The object will remain the responsibility of the donor until legal title has passed and the object has been received in acceptable condition by the agreed eligible institution.

Calculating the tax reduction

45. Following the formal acceptance of a donation by the relevant Minister and confirmation of receipt of the object in an acceptable condition by the agreed eligible institution, the Arts Council will confirm in writing to HMRC:
 - (a) The name of the donor;
 - (b) details of the object or objects (including the agreed value of the object);
 - (c) the Agreed Tax Schedule and in the case of individuals only, details of the order in which the individual would like the tax reduction to be offset against their relevant liabilities (income tax or capital gains tax);
 - (d) its belief that the requirements of the CGS have all been met
 - (e) that the title of the object has been transferred pursuant to the CGS; and
 - (f) that receipt of the object in acceptable condition has been confirmed by the recipient eligible institution.
46. The tax reduction will be available against only the income tax and capital gains tax liabilities of individual donors or against the corporation tax liability (including liabilities on chargeable gains) of corporate donors.
47. The tax reduction will, provided all the relevant conditions have been met, be offset against the donor's tax liabilities relating to the tax year in which the application to donate is registered by the Arts Council (see the "offer registration date" at paragraphs 16 and 17). Individual donors may agree with the Panel a schedule of tax reductions (the Agreed Tax Schedule) which allows the donor to spread the tax reduction across up to five tax years beginning with the tax year starting 6 April in which the offer registration date in respect of the gift occurs. The figures allocated in the Agreed Tax Schedule to each relevant tax year may be different amounts for each year but must not, in total, exceed the total tax reduction figure for the application in question. Alternatively, individual donors can choose to apply the tax reduction to a single year being either the tax year in which the application is registered or one of the subsequent four tax years. No revision of the Agreed Tax Schedule will be permitted, even where the donor's tax liability is found to be lower or higher than anticipated for a particular tax year. If the donor's tax liability turns out to be lower than expected, then the element of tax reduction for that year which goes unused will be lost.
48. Should an individual who made a donation die at any time during that five year period without benefitting from the full amount of the applicable tax reduction, the amount of the unused reduction will be lost and their estate will not be able to claim any part of it to offset against any liability.

49. Where an offer of a gift is accepted under the Scheme, resulting in an amount of the tax liability being treated as having been satisfied (as set out in the Scheme) then no late payment interest or late payment penalties will be payable on that amount from the date of registration. However, if a qualifying gift was not made for any reason (for example, because the offer was rejected or withdrawn by the donor), then the donor would be required to pay to HMRC both the tax due and any late payment interest due up to and including the date of payment. If the tax and interest remains unpaid within 30 days the donor will be subject to late payment penalties.
50. Where a tax reduction has been applied but the qualifying gift is later set aside or declared void, for example it was discovered that the donor was not the legal owner or the item was not authentic, the tax reduction applied will have to be repaid together with any late payment interest and late payment penalties in respect of it.
51. Individual donors will be able to specify whether they want the tax reduction to be set against income tax or capital gains tax first. This preference will apply to all years in the Agreed Tax Schedule. Any balance remaining will be set against any outstanding liability under the other head of duty. For example, if an individual has a tax reduction available of £200,000 with an income tax liability of £100,000 and a capital gains tax liability of £300,000 the donor may specify the tax reduction to be set first against income tax and then against capital gains tax. In that case the whole of the income tax liability will be extinguished, leaving a balance of £100,000 to be set against the capital gains tax liability of £300,000. Alternatively the donor may opt to set the tax reduction against the capital gains tax liability, leaving £100,000 capital gains tax and £100,000 income tax to pay.
52. The offer registration date will be treated as the date of disposal of the object for capital gains tax purposes and for corporation tax on chargeable gains if the gift is accepted.

Devolved nations

53. When recommending the acceptance of an object under the CGS, the Panel will determine who is the relevant Minister to consider the recommendation that the object is pre-eminent and that its valuation and allocation are acceptable. This will depend upon the location of the object on the date of registration (i.e. whether it is located in England, Wales, Northern Ireland or Scotland) and whether the applicant has expressed any wish about where the object is to be displayed (i.e. whether there is a wish that it be transferred to an eligible institution in England, Wales, Northern Ireland or Scotland) in accordance with paragraph 23 of Schedule 14 to the Finance Act 2012.
54. Where an object is of interest only to England, the Secretary of State for Culture, Media and Sport will consider the Panel's recommendation on pre-eminence and, having regard to the annual limit, make a decision as to whether the gift should be accepted. Where an object is of interest to one or more nation, i.e. England, Scotland, Wales or Northern Ireland, the process for determining which Minister should agree to the recommendation that the object is pre-eminent is as follows:
 - (a) where the object is located in a devolved nation and either the applicant wishes it to be displayed in that devolved nation or has not made any wish at all, the object will have a "purely" devolved interest: in these cases, the decision will be taken by the relevant Minister, being the Scottish Ministers, the Welsh Ministers or the Northern Ireland Department for Culture, Arts and Leisure, as appropriate;
 - (b) where an object does not have a "purely" Scottish, Welsh or Northern Irish interest because it is located in England but there is a wish that it be displayed in a devolved nation, or it is located in a devolved nation but there is a wish that it be displayed in England: in these cases, the decisions regarding pre-eminence, valuation and allocation

will be taken by the Scottish Ministers, the Welsh Ministers or the Northern Ireland Department for Culture, Arts and Leisure, as appropriate, and the Secretary of State concurrently; and

- (c) where an object has more than one devolved interest because, for example, it is located in Wales but there is a wish that it be displayed in Northern Ireland or it is located in Scotland but there is a wish that it be displayed in Wales,, the decision will be taken by the Secretary of State who will consult with the relevant Ministers (being the Scottish Ministers, the Welsh Ministers or the Northern Ireland Department for Culture, Arts and Leisure, as appropriate).

55. Where the applicant has expressed a wish as to where the object, if accepted, should be allocated, the decision on allocation will be taken at the same time and by the same relevant Minister who determines whether the object is pre-eminent.

56. As mentioned in paragraph 39 above, following agreement by the relevant Minister, the Arts Council will only write to the applicant accepting the offer once it has received the approval of the Secretary of State for Culture, Media and Sport who will ensure that acceptance will not breach the annual limit for the CGS and AIL schemes.

Time limit for negotiations

57. Applicants should note that where negotiations have not been concluded within two years of the offer registration date the Panel will review the application. Negotiations are “concluded” when either a qualifying gift is made pursuant to the offer, or the offer is withdrawn or rejected (para 9 and 18 of Schedule 14). Where the Panel considers that there is no reasonable prospect of negotiations being concluded within a reasonable time, subject to an absolute limit of three years, the application will be rejected. If negotiations have not been concluded within three years of the offer registration date the Panel will reject the application. If any tax had been suspended by HMRC the applicant will be required to pay the outstanding tax and the interest accrued.

58. If the applicant still wishes to gift the object for the benefit of the public or the nation they will need to submit a new application and the process will start again. The applicant will not be able to use the tax reduction against tax accrued in the years that the previous offer was being negotiated.

Publication and Confidentiality

59. On completion of the gift and delivery to an eligible institution, an announcement will be made by the Arts Council, or by the relevant body in Scotland, Wales or Northern Ireland, depending on which Minister has accepted the object. The announcement will provide details of the gifted object and the amount of the tax reduction applied. Images of the object provided by the applicant to the Panel for the purposes of assessment of the gift will be used for publicity purposes.

60. Where for any reason an application is not successful or is withdrawn no announcement will be made.

61. The rules of customer confidentiality apply throughout and accordingly the name of the donor will remain confidential unless the donor gives specific written consent for their right of confidentiality to be waived. For the avoidance of doubt, this consent will be separate to the consent given to HMRC, DCMS and the Panel to exchange taxpayer information between themselves for the purposes of an application under the Scheme.

How to apply

62. Applicants should complete an application form and submit an electronic copy and a signed hard copy together with the supporting material outlined in paragraph 19 to the Arts Council at the following addresses:

catherine.higgs@artscouncil.org.uk

Cultural Gifts Scheme

Acquisitions, Exports, Loans and Collections Unit
Arts Council England
21 Bloomsbury Street
LONDON WC1B 3HF

Other contacts

63. The following contacts will be able to provide further advice on the CGS:

Arts Council (Manager of the CGS)

Catherine Higgs
Cultural Gifts Scheme Manager
Arts Council England
Tel: 020 7268 9567
Email: catherine.higgs@artscouncil.org.uk

HM Revenue and Customs

Tony Zagara
Specialist Personal Tax, Assets and Residence Policy
HM Revenue and Customs
Tel: 03000 585265
Email: antonio.zagara@hmrc.gsi.gov.uk

Department for Culture, Media and Sport

Keith Nichol
Head of Philanthropy and Fundraising
Department for Culture, Media and Sport
Tel: 020 7211 6216
Email: keith.nichol@culture.gsi.gov.uk

Cultural Gifts Scheme

Application Pack

Please complete the forms in this pack if you wish to apply to donate an object under the Cultural Gift Scheme (CGS). Only individuals and companies are eligible to apply under the CGS.

Please ensure that you have fully completed the relevant forms as described and attached below:

1. The DCMS Application Form

This is the main application form and you must complete it if you wish to donate a pre-eminent object under the CGS. You must complete all boxes and enclose all supporting documentation with the application as stated at the bottom of the form.

2. An Interim Tax Schedule

You must complete and submit the Interim Tax Schedule with your application whether you are an individual or a company.

If you are an individual the tax reduction may be spread across up to five tax years, beginning with the year in which the offer is registered. If you will be doing this you must specify the amount of the tax reduction you want to be used for each tax year. You may also specify the order in which, if your application is accepted, you would want the liability to be offset against the relevant taxes. Alternatively, individual donors can choose to apply the tax reduction to a single year being either the tax year in which the application is registered or one of the subsequent four tax years.

DCMS and Arts Council England (“Arts Council”) will use this information to help plan the budget for the CGS. HMRC will also use this information in considering whether to agree to a request to suspend tax. If you wish to suspend collection of tax which you expect to be offset by a tax reduction under the CGS then you must inform HMRC separately – see section 3 below.

Finalised figures for each tax year will be agreed if your donation is accepted. Once agreed these figures cannot be amended.

Once you have completed the relevant forms please send them with the supporting material to:

Cultural Gifts Scheme Manager
Acquisitions, Exports, Loans and Collections Unit
Arts Council England
21 Bloomsbury Street
LONDON WC1B 3HF

3. A request to suspend tax (the Suspension Request)

If you would like HMRC to consider suspending a tax liability in anticipation of your donation being accepted under the CGS then you will need to apply separately to HMRC to have the tax suspended.

Individuals should complete the Suspension Request Form below. This form applies only to income tax and capital gains tax liabilities owed in the year the gift was registered and the following four tax years, and only up to the provisional amounts agreed by Arts Council in the Interim Tax Schedule.

Companies wishing to apply to have their tax liabilities suspended should write separately to HMRC. Please do not use the Suspension Request Form.

Your request to suspend tax must be sent to HMRC no later than 45 days before your tax liability is due. The Suspension Request Form must be signed by the donor (not an agent, accountant or other representative).

Agreeing a request to suspend tax is at the discretion of HMRC and will be considered on a case by case basis.

Cultural Gifts Scheme

Application Form

Owner details (individual or company)

Name	
Address	
Tel contacts	
Email	
Company Number (if applicant is a Company)	

If you are acting for the owner of the object please provide your details and the capacity in which you are acting	
--	--

The Object

Details of the object, for example, artist or designer, title, medium, dimensions, date created

Provenance details, exhibition history and principal associated literature

--

Can you confirm that there are no third party claims against the object?

--

Can you confirm, to the best of your knowledge, that no claims are likely to exist?

--

When was the object acquired?

--

Can you supply proof of the original acquisition of the object (i.e bill of sale, letter, early photographic or documentary evidence or early publication in a reputable source etc)? If so, please supply a copy of the evidence available.

--

If it was acquired after 1933, are you able to supply proof of the ownership history between 1933 and 1945? If so, please supply a copy of the evidence available.

--

If the object was obtained abroad, was it brought to the UK before 1970?

--

If the object was obtained from abroad after 1970, do you have an export licence from the country of origin? If so, please supply a copy of the licence.

--

What is the current fair market value at which the object is offered? Please provide a copy of any professional valuation or details of who has provided the valuation, together with evidence of auctions, sales or other information in support of the valuation.

Where can the object be inspected and who should be contacted to arrange inspection? Please provide both telephone and email contact details. Please also include a current condition report on the object.

Please explain why you consider the object to be pre-eminent against the definition described in paragraph 27 of the Guidance.

Is there an eligible institution to which you would wish to see the object transferred? If so, please explain why. As explained in the Guidance, this is purely optional and cannot be guaranteed. If you have already been in contact with the eligible institution in relation to the object please provide the contact's name and details and a copy of the correspondence.

Tax Details

Please provide your tax office details and your National Insurance Number for individuals or company reference number

Has the object been previously conditionally exempted from capital taxation or estate duty? If so please give details of the chargeable occasion by reference to which the exemption was granted, the rate of tax applicable and the tax reference where known (by providing details of previous exemptions you are giving authority to the Arts Council to seek confirmation from HMRC of the information provided)

Other supporting documents required

Please include with this application form the following:

- At least three good quality colour photographs and a high resolution jpeg of the object (which you should email to catherine.higgs@artscouncil.org.uk). Where an application relates to intangible objects, e.g. video installations or other electronic records, any printed images relating to the objects should be provided, where available;

- All applicable supporting documentation and/or material as mentioned on the application form.
- A current condition report on the object.

Declaration

In submitting this application, I confirm that I (or the company I represent) have/has full and unencumbered title to the object, with unrestricted right to transfer title free from all third party rights, interests or claims (including, where appropriate, copyright claims).

For the sole purpose of administering the Cultural Gifts Scheme, I consent to:

(a) the Department for Culture, Media & Sport, the devolved administrations, the Arts Council, the Acceptance in Lieu Panel, and HM Revenue & Customs exchanging information about my offer; and

(b) HM Revenue & Customs, the Department for Culture, Media & Sport and the Arts Council exchanging relevant information in relation to [my tax liabilities for the tax year] [the company's tax liabilities for the accounting period] in which my offer is registered and any subsequent years or accounting periods, where appropriate.

Signature

Name

Position held in Company (if applicant is a Company)

Date

Thank you for offering to make a gift for the benefit of the public or the nation under the Cultural Gifts Scheme

Interim Tax Reduction Schedule

Personal Details

Name & Address of Donor

Contact telephone number

Estimated (by donor) value

Potential tax reduction (30% for individuals; 20% for companies)

Tax schedule details

Please specify in which tax years and in what amounts you would like the tax reduction to be offset against your tax liabilities as set out below. Companies should enter the whole tax reduction amount in the tax year in which the offer is registered.

Year 1 (in which the offer is registered) 20__ / __	£ _____
Year 2 20__ / __	£ _____
Year 3 20__ / __	£ _____
Year 4 20__ / __	£ _____
Year 5 20__ / __	£ _____

(for individuals only)

Which tax do you wish the reduction to be applied to first (please tick the relevant box below). After the reduction has been applied to your first choice, if there is any remaining amount available it will automatically be applied to the other tax. If you have no preference HMRC will offset income tax first followed by capital gains tax where applicable :

Income Tax:	<input type="checkbox"/>
Capital Gains Tax:	<input type="checkbox"/>

Signature

Name

Position held in Company (if applicant is a Company)

Date

Suspension Request Form

(Please read paragraph 3 of the application pack cover note on when to submit this request)

Personal Details

1. Name & Address of Donor

--

2. Contact telephone number

--

3. National Insurance Number

--

4. ACE CGS reference number

--

Tax suspension details

5. Please specify the tax year and the amount of tax you would like suspended (if you make payments on account please go to box 6 & 7)

	Amount to suspend*	Total Liability Due
Year 20__ / __	£ _____	£ _____

*This cannot exceed the provisional amount agreed in the Interim Tax Schedule with Arts Council England ("Arts Council") for the relevant tax year

6. In what order of priority do you want the suspension applied? (Based on your priority order, HMRC will suspend up to the allowed amount on your first choice. If there is any remaining amount available, HMRC will suspend up to the allowed amount on your second choice)

Income Tax:

Capital Gains Tax:

7. If you make payments on account against your tax liability, please set out the amounts that you are requesting to be suspended for the relevant dates.

	Amount to suspend*	Total Liability Due
31 st January 20 __ __	£ _____	£ _____
31 st July 20 __ __	£ _____	£ _____
31 st January 20 __ __	£ _____	£ _____

*This cannot exceed the provisional amount agreed in the Interim Tax Schedule with Arts Council for the relevant tax year

Declaration

I confirm that I fully understand and accept the following:

- that there is no guarantee that this Suspension Request will be accepted;
- that the total tax liability amount that I have requested for suspension by HMRC does not exceed the provisional amount agreed with Arts Council in the Interim Tax Schedule;
- HMRC will only suspend amounts up to the agreed provisional amount on the Interim Tax Schedule. Tax over and above that agreed amount must be paid on time as normal;
- where tax is suspended interest will still accrue on the suspended amount; only where successful donation has been made will the tax reduction be backdated to the tax liability payment date or the date the object was formally registered whichever is the later;
- that where the final tax reduction agreed in the Agreed Tax Schedule with Arts Council is less than the tax suspended, I will be liable to pay the outstanding tax liability with interest immediately. After 30 days late payment penalties will begin apply;
- that HMRC can remove the tax suspension at any time. If this occurs, I will be liable to pay the outstanding tax liability with interest immediately. After 30 days late payment penalties will begin apply;
- I am aware that if negotiations have not concluded within three years of the date of registration and all the conditions of the Scheme have been met the offer will be rejected by the Panel. Any further negotiations will cease and I will be liable to pay the outstanding tax liability with interest immediately. After 30 days late payments penalties will begin to apply.

Sign

Print Name

Date

Once completed please return to:

HM Revenue and Customs
 Cultural Gifts Scheme
 Heritage Team

Department for Culture, Media and Sport

Ferrers House
PO Box 38
Castle Meadow Rd
Nottingham
NG13 8SB