



HM Treasury



HM Revenue
& Customs

Simplifying the Gift Aid Donor Benefit Rules:

a call for evidence

July 2015



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Gift Aid Donor Benefits: current situation

1

Gift Aid

1.1 The government recognises the important role that the charities sector plays in our society, and it provides support to charities and their donors through tax reliefs worth over £5 billion per year. In any given month 74% of the UK population donate to charity.

1.2 Gift Aid is one of the largest reliefs available to the charity sector. The scheme, which was originally introduced in 1990, is intended to help fund charitable activity by ensuring that eligible donations can be made tax free. It allows charities to reclaim from HMRC the basic rate of income tax (currently 20%) deducted on money donated by a UK taxpayer.

1.3 To be eligible to Gift Aid a donation the donor is required to pay income tax or capital gains tax that is at least equal to the amount of Gift Aid that the charity will reclaim in that tax year. To allow HMRC to check that sufficient tax has been paid, donors must complete a Gift Aid declaration confirming their consent for Gift Aid to be claimed on their donation.

1.4 Box 1.A provides an illustrative example of how Gift Aid is claimed on an eligible donation by a basic rate taxpayer. It shows that a £10 donation by a basic rate taxpayer can be worth £12.50 to the charity once Gift Aid has been claimed.

Box 1.A: Illustrative example of how Gift Aid can be claimed on an eligible donation by a basic rate taxpayer

- Jonny donates £10 to Charity A and signs a declaration saying that Charity A can claim Gift Aid on his donation.
- That £10 is treated as the net amount after basic rate income tax has been deducted. As the basic rate of income tax in the UK is currently 20%, a £10 donation equates to a gross amount of £12.50 (that is, £12.50 taxed at 20% would result in tax payable of £2.50, leaving a net amount of £10.)
- Charity A therefore claims £2.50 in Gift Aid from HMRC in addition to the £10 donation.
- Charity A receives £12.50 at a cost of £10 to Jonny.

1.5 Charities can only reclaim tax paid on donations at the basic rate of income tax. Where a donor is a higher rate or additional rate taxpayer, he or she can reclaim the difference between the higher rate or additional rate and basic rate of tax on the gross value of the donation. This ensures that all charitable donations made by eligible UK taxpayers are tax free. Furthermore, it acts as an additional incentive for charitable giving among higher earners. Box 1.B provides an illustrative example of how Gift Aid can be claimed by a charity and a higher rate taxpayer on an eligible donation.

Box 1.B: Illustrative example of how Gift Aid can be claimed on an eligible donation by a higher rate taxpayer

- Kathleen, a higher rate taxpayer, donates £100 to Charity B and gives her consent for Charity B to claim Gift Aid on her donation.
- Charity B therefore claims £25 in Gift Aid from HMRC, making the gross donation £125.
- Kathleen is able to claim higher rate income tax relief (at 40%) on this gross donation of £125, less the basic rate relief that the charity has effectively been paid.
- So, Kathleen is entitled to tax relief of 40% of her £125 donation (£50), less the £25 that the charity has already reclaimed, which is £25.
- Charity B gets £125 at a cost of £75 to Kathleen.

1.6 Gift Aid can also be claimed by Community Amateur Sports Clubs (CASCs), which are not charities but receive certain tax advantages comparable to those of charities. No special factors apply in relation to CASCs, and they are not referred to separately in the remainder of this document.

1.7 The government recognises the importance of Gift Aid for the charitable sector and is looking at ways to improve and simplify processes for charities to encourage more giving. Recent steps include the introduction of online filing, as well as the government's ongoing work to simplify the Gift Aid declaration and giving through digital channels. In addition, the introduction of the Gift Aid Small Donations Scheme has enabled charities to claim Gift Aid in respect of small cash donations made without an accompanying Gift Aid declaration.

1.8 This Call for Evidence is a further contribution to this simplification objective, and to the government's commitment to maximise the amount of Gift Aid claimed on eligible donations.

The existing Donor Benefit Rules

1.9 When Gift Aid was first introduced it could only be claimed on money that was freely donated. In order to protect against exploitation and to ensure that donors did not receive benefits worth more than the cost of their donation, no benefits could be given or received in return.

1.10 As Gift Aid has evolved, however, new rules have been introduced that allow certain benefits to be given to the donors as a 'thank you'. The government understands that the benefits provided by charities include, but are not limited to, memorabilia, special rates, priority booking facilities, and invitations to social events. Providing these benefits fall within specified limits (see below), Gift Aid can be claimed on the full amount of the donation.

1.11 The following limits determine the value¹ of benefits that charities may give to donors but still claim Gift Aid on their donation:

¹ The value of a benefit is always the value to the recipient, not the cost to your charity or CASC. For most benefits, the value is simply the retail value of the item or service. If the retail value of an item or service is not known, it must be estimated based on how much an individual would be expected to pay. For example, it may be possible to consider the value of similar items or services. Where a benefit is attendance at an event that is not open to the public, the value of the benefit is the cost of the event divided by the number of guests.

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

1.12 There is also an admissions disregard in place for certain heritage charities. If an individual pays an additional 10% ('the 10% rule') on a standard admission ticket or the charity provides access to the building for the full year ('the 12 month rule'), the charity can claim Gift Aid on the full amount paid. This disregard is limited to buildings, grounds or other land, plants or animals, works of art or artefacts, and buildings of a scientific nature.

1.13 The disregard explicitly excludes live performances and implicitly excludes admission rights to charities and CASCs where the right is connected to the use of sporting or other facilities.

1.14 Although not included in the current Donor Benefit Rules, HMRC currently permits a select number of Extra Statutory Concessions, which give charities certain prescribed flexibilities to provide benefits above and beyond the strict limits set out above. These are:

- **The split payment rule:** If a charity can accurately establish the cost of a benefit (through market value), and that product is sold separately and offered to the general public, the charity can separate that cost from the donation and claim Gift Aid on the rest of the money donated.
- **The averaging method:** A charity can average the cost of a benefit over a number of individual donors.
- **The 10-year rule for a 'life time' benefit.** A life time benefit is valued for the first 10 years in which it is received. After 10 years it is assumed to have no value and therefore does not need to be accounted for in the Donor Benefit limits set out above.
- **Literature is of inconsequential value.** Literature is assigned no financial benefit.

1.15 Extra Statutory Concessions are essentially published easements not provided by statute but consistently allowed by HMRC. Illustrative examples of how they may be applied are set out in Box 1.C.

Box 1.C: Illustrative examples of how the existing Extra Statutory Concessions may be applied

The split payment rule

- Sam, a UK taxpayer, donates £100 to Charity C and gives his consent for Gift Aid to be claimed on his donation.
- In return, Sam receives a free concert ticket, which is worth £60. Concert tickets are sold separately and are available to the general public.
- Charity C can deduct the cost of the ticket from Sam's donation (£100 - £60) and claim Gift Aid on the remainder of Sam's donation (£40).

The averaging method

- Charity D hosts a fundraising dinner, at which David (a UK taxpayer) donates £100 and provides his consent for Gift Aid to be claimed on his donation.
- Charity D does not know the exact cost of the benefit David received at the fundraising dinner, in return for his donation, but it does know that there were 10 attendees and the total cost of hosting the dinner was £200.
- Using the averaging method Charity D can calculate that the cost per attendee (of which David was one) was £20 (£200 divided by 10).
- As a £20 benefit in return for a £100 donation is permissible under the current rules, *i.e.* it does not exceed 25% of the value of the donation, Charity D can claim Gift Aid on all of David's £100 donation.

The 10-year rule for a 'life time' benefit

- Sreha, a UK taxpayer, pays a £100 membership fee to Charity E. She has been a member for 25 years and, as a long-serving member, receives benefits worth £20 each year.
- Under the existing Donor Benefit Rules this £20 annual benefit to Sreha must be considered in the first 10 years in which she received it. However, this time period has now lapsed, so this benefit is no longer subject to the limits set out in the existing rules.
- Therefore, Charity E does not need to include the life time benefit in the donor benefits calculation.

Literature is of inconsequential value

- John, a UK taxpayer, donates £100 to Charity F. In return, he receives memorabilia at a cost to Charity F of £25, as well as booklets and magazines relating to the work of Charity F.
- Literature is considered to be of inconsequential value for the purposes of Donor Benefit Rules, therefore it is not considered by HMRC in the calculation of the donor benefits provided to John by Charity F in return for his £100 donation.
- HMRC considers that John received benefits (£25 of memorabilia) equivalent to 25% of his donation, which is compliant with the existing Donor Benefit Rules.

1.16 Following a legal ruling the government is required to withdraw or legislate all of these Extra Statutory Concessions. To determine whether the current Concessions should be retained and, if so, in what form, the government would like to gather specific evidence on how they are being used and the extent to which they are effective and beneficial to the sector.

1.17 Further detail on the current rules can be found in the HMRC guidance, which can be accessed at <https://www.gov.uk/gift-aid-what-donations-charities-and-cascs-can-claim-on>. The government is committed to updating and improving this guidance, notwithstanding any changes to the rules themselves.

This Call for Evidence

1.18 Many charities have difficulty understanding the current Donor Benefit Rules. It is our understanding that, in some cases, charities decide to forego claiming Gift Aid on some donations rather than seek to understand, and ensure that they are compliant with, the existing rules.

1.19 The government recognises that the current rules are complex, and is concerned that they are no longer fit for purpose. Therefore, at Autumn Statement 2014 the government announced that – as part of its commitment to encourage charitable giving and maximise the amount of Gift Aid claimed on eligible donations – it would review the current Donor Benefit Rules, with the intention of simplifying and improving them.

1.20 This Call for Evidence will inform this review. Specifically, it seeks to gather evidence that will help the government to understand exactly how the current rules are understood and applied, what barriers and problems they present for the charities sector, and how they might be improved. The Call for Evidence will be followed by a formal consultation, which will be published later this year and will set out proposals for reform.

2 Evidence sought

2.1 The government plans to publish a formal consultation document later this year setting out some detailed options for reforming the Donor Benefit Rules. In advance of that, the government wishes to use this Call for Evidence to ensure that it has the best possible understanding of the impact of the current Gift Aid Donor Benefits Rules on all interested parties. Specifically, the government would like to gather evidence on how the current rules are understood and applied, what barriers or problems they present for the charities sector, and how they might be improved.

2.2 Set out below are 25 questions on the specific points on which the government would like to gather evidence. Respondents should submit evidence in relation to as many of the questions as they wish to address. There is no obligation to respond to all questions.

2.3 When responding, it would be helpful for the government if you were to state whether your response is on behalf of a business, charity, individual or representative body. In the case of charities, it would help the government's analysis of your response if you were to provide details of the specific sector(s) in which the charity operates as well as the size and annual turnover of the organisation. In the case of representative bodies, it would be helpful if you would provide information on the number and nature of people or organisations that the body represents.

2.4 The evidence provided will be used solely for the purpose of informing this review of the donor benefit rules and future analysis of policy proposals relating to the charity sector. It will not be used to conduct compliance checks on specific organisations.

2.5 If respondents feel that there are issues that are not covered by the questions set out below but that are relevant to the government's review of Donor Benefit Rules, they are welcome to submit additional evidence in the form of a covering e-mail or letter.

Factual understanding of the current rules

2.6 The questions in this section invite evidence relating to the clarity and accessibility of the current Donor Benefit Rules.

Q1. Are you familiar with the current rules relating to donor benefits, and do you find the guidance easy to follow and easy to access?

Q2. Are there any specific aspects of the current rules that are unclear? If so, which?

General usage and rationale

2.7 The questions in this section invite evidence relating to how and why charities provide donor benefits, in the context of the current rules.

Q3. Do you provide benefits to donors? If so, what benefits do you provide? Please provide specific details.

Q4. Why do you give benefits to donors? What impact do you think donor benefits have, or specifically have had, on the donations received in return? Please provide details.

Q5. Do you offer benefits that further your charitable objectives? If so, please provide details.

Q6. What is the most common value¹ of benefits you provide to donors, and do you typically provide a range of benefits? If so, please provide the value and circumstances in which benefits are paid.

Q7. Are you able to easily determine the value of benefits that you offer to donors? If not, please provide specific details and examples.

Q8. Do you provide non-financial benefits, *i.e.* benefits that cannot easily be attributed a monetary or market value, such as priority booking facilities? If so, please provide details on the types of non-financial benefits you provide and on how you ensure that these are permitted within the context of the current donor benefit rules.

Q9. How, if at all, do the current thresholds affect the benefits you provide? Please provide specific details.

Q10. Do you feel that the current Donor Benefit Rules prevent you from providing benefits (either by type or value) that you would otherwise like to give to your donors? If so, please provide details and specific examples of the benefits you would like to be able to provide.

Q11. Have you ever decided to forego Gift Aid on donations made by donors who have received a benefit in return? If so, why? Please provide specific details and examples where possible.

Q12. Do third parties provide benefits to donors for charities? If so, please provide details.

Membership benefits

2.8 The questions in this section invite evidence relating to membership benefits.

2.9 For the purpose of this Call for Evidence a 'donor' is considered to be an individual or organisation that gives to charity on an informal and non-contractual basis. 'Membership' implies a more contractual relationship: when an individual or organisation makes a payment to become a member of a charity for a period of time they may receive additional benefits that a standard donor might not receive. Everyone who gives to charity is a donor, but not every donor to a charity is also a member.

2.10 For the purposes of the questions in this section a member is defined as someone who is given particular benefits or subscription rights for a fixed and specified period, *e.g.* one year, in return for a donation. Membership benefits, therefore, refer to the specific benefits that are provided in return for that donation².

Q13. How much is the annual membership to your charity?

Q14. Do you provide membership benefits in return for a donation? If so, please provide details.

Q15. What benefits does a member receive that general donors do not receive?

¹ The value of a benefit is always the value to the recipient, not the cost to your charity or CASC. For most benefits, the value is simply the retail value of the item or service. If the retail value of an item or service is not known, it must be estimated based on how much an individual would be expected to pay. For example, it may be possible to consider the value of similar items or services. Where a benefit is attendance at an event that is not open to the public, the value of the benefit is the cost of the event divided by the number of guests.

² According to this definition, membership benefits relate only to benefits provided in return for a gift. Benefits provided in return for payment for a service fall outside this definition.

Extra Statutory Concessions

2.11 The questions in this section invite evidence relating to the current Extra Statutory Concessions, which were outlined in Chapter 1. They seek evidence on how the current Concessions are being used, as well as their estimated value.

2.12 As mentioned in Chapter 1, following a legal ruling the government is required to withdraw or legislate all of the current Extra Statutory Concessions. Therefore, it is especially important that the government receives evidence relating to these Extra Statutory Concessions, as the government needs to determine if and how they should be formally incorporated into the Gift Aid Donor Benefit Rules.

Q16. Do you take advantage of the split payments rule? If so, how, and in what context(s)? Please provide specific details.

Q17. What is the most common value of benefits you provide to donors through the split payments rule, and do you provide a range of benefits? If so, please provide the value and circumstances in which such benefits are paid.

Q18. How do you notify a donor of the amount of Gift Aid that has been claimed on donations to which the split payments rule has been applied?

Q19. Do you take advantage of the averaging method? If so, how, and in what context(s)? Please provide specific details.

Q20. What is the most common value of the benefits you provide to donors through the averaging method, and do you provide a range of benefits? If so, please provide the value and circumstances in which benefits are paid.

Q21. What is the average³ value of the literature that you send to donors?

Q22. Do you provide lifetime benefits using the 10 year rule? If so, please provide details.

Q23. What is the most common value of benefits provided to lifetime members, and do you provide a range of benefits? If so, please provide details.

Admissions disregards

2.13 The questions in this section invite evidence relating to the operability and effectiveness of the current admissions disregard.

Q24. Is the 10% rule on standard admission tickets easy to operate and explain to donors, and is it an effective tool for incentivising donations? Please provide specific details to justify your response.

Q25. Is the 12-month rule easy to operate and explain to donors, and is it an effective tool for incentivising donations? Please provide specific details to justify your response.

Data

2.14 In order for the government to be able to perform effective cost-benefit analysis of any potential future proposals in this area, it would be highly beneficial if respondents were to provide data (if possible, at the level of the individual donor) relating to their current use of

³ The government recognises that an average may be distorted by variance in the value of different types of literature that you provide. If preferred, you are welcome to provide information setting out the range of literature you provide and its respective value. Please provide as much information as you would like, and are able to.

Donor Benefits. This can be done either by filling in the template spreadsheet that has been published alongside this Call for Evidence document (an illustrative response to which is set out in Table 2.A below), or by providing data (in whatever format most convenient) as an annex to the response to this Call for Evidence.

Table 2.A: Illustrative example of anonymised data requested as part of this Call for Evidence

Donor name	Donation value	Value of benefit provided	Cost to charity of benefit provided	Gift Aid claimed
Anonymous 1	£50	£10	£1.00	Y
Anonymous 2	£200	£40	£4.00	N
Anonymous 3	£10	£2	£0.20	N
Anonymous 4	£5	£1	£0.10	N
Anonymous 5	£15	£3	£0.30	Y
Anonymous 6	£8	£2	£0.16	N
Anonymous 7	£120	£24	£2.40	Y
Anonymous 8	£150	£30	£3.00	Y
Anonymous 9	£10	£2	£0.20	N
Anonymous 10	£40	£8	£0.80	N

2.15 The government requests that all data submitted are fully anonymised so that donors’ confidentiality is fully preserved and protected. Respondents are requested not to supply any data that could potentially identify individuals.

2.16 The government recognises that respondents may not always be able to provide anonymised data at the level of the individual donor. Where this is not possible, it would be beneficial if respondents were to provide the following information.

- The percentage of donations for which donor benefits are given;
- The average value of the donations on which donor benefits are given; and
- The retail value, and cost to the respondent, of benefit packages provided to donors (please provide as much detail as possible).

2.17 The government would like to emphasise that this Call for Evidence is not a compliance exercise; the data that respondents provide will only be used by to inform policy making and not for any other purposes.

The Call for Evidence

3 process

3.1 This Call for Evidence is being conducted in line with the Tax Consultation Framework. There are 5 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.

3.2 This Call for Evidence will be used to inform the first two stages of this process. The purpose of this Call for Evidence is to gather evidence that will help to inform the development of some proposals for reform.

How to Respond

3.3 Responses should be sent by 9 October 2015, by e-mail to:

charitypolicy.taxteam@hmrc.gsi.gov.uk

or by post to:

Donor Benefits Call for Evidence
Room G66
100 Parliament Street
London
SW1A 2BQ

Telephone enquiries should be directed to Christopher Maudsley (03000 518538) or Owen Price (03000 584845)

3.4 Respondents are invited to make clear whether they are a business, charity, individual, or representative body. In the case of representative bodies, please provide information on the number and nature of people or organisations that the body represents. In the case of charities, it would help the government's analysis of your response if you were to provide details of the specific sector(s) in which the charity operates as well as the size and annual turnover of the organisation. It would be very helpful if respondents would make clear the sector(s) in which they operate according to the classification set out in Box 3.A.

Box 3.A: Classification of charities by sector

Charity Commission Classifications

- 1.1 General Charitable Purposes
- 1.2 Education/Training
- 1.3 The Advancement of Health or Saving of Lives
- 1.4 Disability
- 1.5 The Prevention of Relief or Poverty
- 1.6 Overseas Aid/Famine Relief
- 1.7 Accommodation/Housing
- 1.8 Religious Activities
- 1.9 Arts/Culture/Heritage/Science
- 1.10 Amateur Sports
- 1.11 Animals
- 1.12 Environment/Conservation/Heritage
- 1.13 Economic/Community Development/Employment
- 1.14 Armed Forces/Emergency Service Efficiency
- 1.15 Human Rights/Religious or Racial Harmony/Equality or Diversity
- 1.16 Recreation
- 1.17 Other Charitable Purposes

3.5 Representatives of HM Treasury and HMRC would be happy to meet with interested parties during the Call for Evidence period. Please send an email to the address above to register an interest in this kind of engagement. If there is sufficient interest a general meeting will be organised in London.

Confidentiality

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

3.7 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 in your response why you regard the information you have provided as confidential. If the government receives a request for disclosure of the information it will take full account of your explanation, but the government 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.

3.8 Personal data will be processed in accordance with the DPA, and in the majority of circumstances this will mean that personal data will not be disclosed to third parties.

3.9 If you have any comments or complaints about the Call for Evidence process, please email: public.enquiries@hmtreasury.gsi.gov.uk. Please do not send responses to this Call for Evidence to this address.

HM Treasury contacts

This document can be downloaded from
www.gov.uk

If you require this information in an alternative
format or have general enquiries about
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