**Gift Aid – Principles**

Gift Aid is a means for donors to give to charity with tax relief on the donation.

<table>
<thead>
<tr>
<th>THE CONCEPT</th>
<th>TWO SYSTEMS:</th>
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<tbody>
<tr>
<td>• Applies to monetary gifts only (not gifts of other assets)</td>
<td>- Corporate gift aid (gifts by companies)</td>
</tr>
<tr>
<td>- But a donor can invite a charity to sell goods on their behalf and then donate the proceeds under gift aid (e.g. charity shops, charity auctions)</td>
<td>\textit{Gift is made gross} (no tax deducted by donor company, no tax reclaimed by the charity)</td>
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<td>• Most be a genuine gift where donor gets no more than minor benefits</td>
<td>- Individual gift aid (gifts by individuals)</td>
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<td>- So cannot be generally be used for purchase of goods, tickets for events etc</td>
<td>\textit{Gift is made net of tax} (charity reclaims the donor’s basic rate tax)</td>
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<td>- Must not lead to significant benefits for connected persons (e.g. charity sponsored events that lead to a valuable experience for a close relative)</td>
<td>Additional relief if donor is a higher rate taxpayer</td>
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**RECENT/FORTHCOMING CHANGES**

- Changes to rules on Donor Benefits
- Changes to Wording of Gift Aid Declarations
- Proposed Cap on Tax Relief for Major Donors
- Proposed Gift Aid Small Donations Scheme
Gift Aid and Donor Benefits

• Gift aid applies to genuine donations - donor cannot get significant benefits

• However small benefits are allowed up to following limits (increased from 6 April 2011):

<table>
<thead>
<tr>
<th>AMOUNT OF DONATION (NET)</th>
<th>MAX VALUE OF BENEFITS</th>
</tr>
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<tbody>
<tr>
<td>£0 to £100</td>
<td>25% of donation</td>
</tr>
<tr>
<td>£100 to £1,000</td>
<td>£25</td>
</tr>
<tr>
<td>£1,000 to £50,000</td>
<td>5% of donation</td>
</tr>
<tr>
<td>£50,000+</td>
<td>£2,500 (previous limit was £500 on gifts £10,000+)</td>
</tr>
</tbody>
</table>

If several gifts made to one charity in a tax year, work on total value of all gifts.

• However, admission to properties, museums, galleries, nature reserves etc is not classed as a benefit if:
  - the donor pays at least 10% more than normal admission or admission is a pass valid for at least a year
  - and the donor simply has the right to view what is there (so this cannot be used for ticketed performances or admissions which include food & drink, souvenirs unless below the donor benefit limits)

• If the benefit is more than the limit above it may be possible to split the payment:

EXAMPLE: Gala dinner: "£100/ticket"
  Cost of catering, wine etc is £40/head. Benefit is too much, so cannot be gift aided.

INSTEAD: Gala dinner: "Suggested contribution £100, minimum £40"
  £40 is a payment for services - no gift aid. £60 donation can be gift aided if genuinely optional
New Wording of Gift Aid Declarations

- From April 2012, HMRC have "tightened up" minimum acceptable wording for gift aid declarations

- Must make clear that the donor has paid sufficient to tax:
  - to cover all their donations to charities and CASCs that tax year (25p for each £1 given)
  - only income tax and capital gains tax can be gift-aided: not Council Tax, VAT etc

- Old wording can be used for existing declarations - but only until 31 Dec 2012 for new declarations

  - New wording required for all declarations after 31 Dec 2012

HMRC RECOMMENDED WORDING (ONE-OFF GIFTS):

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

HMRC RECOMMENDED WORDING (PAST & FUTURE GIFTS):

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

If the donor pays more than basic rate tax (20%) - i.e. if subject to 40% or 50% rate:

- **The charity reclaims the basic rate**
- **The donor gets the higher rate relief direct through their tax return** (as a reduction in tax bill if self-employed or as a tax refund or adjustment of their tax code if employed)

**EXAMPLE: DR A EARN$ £50,000 (So in 40% tax band)**

- Donates £100/month (net amount given to charity) = £1200/year
- Charity reclaims £300 tax at basic rate so gross value of gift to the charity is £1500
- Donor is entitled to total tax relief of 40% on a £1500 gift = £600 of which:
  - £300 is refunded to the charity
  - £300 is refunded to the donor (or taken off tax bill before it’s paid)
  - *So it only cost Dr A £900 to make the gifts (£1200 less £300 higher rate refund)*

**EXAMPLE: DAME B HAS £500K INCOME FROM VARIOUS SOURCES (So in 50% tax band)**

- Donates one-off £100,000 gross to charity:
- Writes £80,000 cheque, charity reclaims £20,000 basic rate tax = £100K gross
- Donor is entitled to total tax relief of 50% on a £100,000 gift = £50,000 of which:
  - £20,000 is refunded to the charity
  - £30,000 is refunded to the donor (or taken off her tax bill before it’s paid)
  - *So it only costs Dame B £50,000 to make the gift (£80,000 cheque less £30,000 refund)*

**Note: From 2012/13 anyone earning more than £42,475 is subject to higher rate tax** (unless they have other reliefs)
Gift Aid and Higher Rate Tax Proposed Change from 6 April 2013

In his 2012 Budget George Osborne proposed a new limit on charitable gifts eligible for tax relief:

- £50,000 or
- 25% of the donor’s taxable income if larger

Limit applies to gross value of gift

- So for those with income up to £200,000, max gift aid donation is £40,000 net = £50,000 gross

Widespread concern:

- Could lead to big reduction in major gifts
- Affects small charities applying to grant-making trusts, not just those with major donors
- Seems to go against the Government’s giving agenda
- Concern that giving to charity seen as a means of tax avoidance rather than an act of philanthropy
- Campaign by NCVO www.givitbackgeorge.org

EXAMPLE - AT PRESENT 2012/13:

- Mrs C has £1M taxable income and wants to give it all to charity [Assume she has no capital gains]
- Writes £800K cheque to charity
- Charity reclaims £200K - so £1M total
- Mrs C pays £200K tax as reclaimed by the charity but no other income tax

EXAMPLE - FROM 2013/14 IF POLICY UNCHANGED:

- Mrs C has £1M taxable income and would like to give all of it to charity - or as much as possible.
- She cannot get tax relief on gifts of more than 25% of income (£250K) - anything more must come out of her taxed income
- Largest possible cheque is £542K
- Charity reclaims £135K - so £677K total
- Mrs C has to pay £459K tax (over 45% of her income) of which only £135K goes to charity: the other £324K goes to HM Govt

Result: The charity gets around a third less income - and this is for a donor willing to sacrifice all income. In practice, v few will give away more than 25% of income so loss to charities could be massive.
Gift Aid Small Donations Scheme

- From April 2013 charities will be able to claim gift aid type tax refund on up to £5000 of ad hoc donations with no need for gift aid declarations
- Designed to help charities collecting modest amounts in cash where not practical to ask for gift aid declarations

### THE BASIC PRINCIPLES

- If a charity collects the full £5000 it will get £1250 back (maximum)
- This is actually public spending not tax relief - new legislation needed - confirmed in Queen’s Speech May 2012
- Donors do not have to be taxpayers
- Donations up to £20 allowed
- Must be evidence of donations physically banked in a UK bank account.
- If a charity has activities in **multiple community buildings** the £5000 can be claimed in relation to each building for cash given in that building - but must be collected in the course of "normal charitable activities" (e.g. church services, medical self-help group meetings) - not at fundraising events

### HOWEVER:

- The charity must have been claiming gift aid successfully for at least three of the last seven tax years with no gap of more than two years. Must continue normal gift aid claims.
  - So it cannot be used by new charities or those with no taxpaying donors to apply gift aid
- Government is suggesting a "matching" approach so that a charity cannot claim more under the Gift Aid Small Donations Scheme than under normal gift aid. For consultation.
- No donor benefits at all (apart from lapel stickers etc) - normal gift aid benefit rules *do not* apply
  - So it cannot be used for donations for refreshments etc
- For charities with multiple buildings no averaging is allowed: £5000 limit applies separately to each
  So detailed record-keeping needed
Inheritance Tax and Charitable Giving

**Background**

Legacies to charities are free of Inheritance Tax (IHT)

- Long established principle to support charitable giving
- No limits to amounts of charitable bequests

**Existing rule (pre-April 2012)**

(1) MISS D DIES LEAVING AN ESTATE OF £500,000 TO HER RELATIVES AND FRIENDS
   - This is over the inheritance tax threshold of £325,000
   - So if there are no gifts to charity, IHT is due at 40% on the excess:
     40% x £175,000 = £70,000 IHT payable
   - So her beneficiaries get £430,000.

(2) MISS D DIES LEAVING AN ESTATE OF £500,000: £300,000 TO RELATIVES AND £200,000 TO CHARITY
   - No IHT is due on the charitable bequest
   - The non-charitable part of her estate (£300K) is below the IHT threshold of £325,000
   - So NO IHT is payable
   - So her relatives get £300K and the charities get £200K with no IHT deducted
   - In total her beneficiaries get the full £500,000

**Note: In the case of someone who was married or in a civil partnership:**

- IHT threshold is *doubled* to £650,000 on second death if the nil IHT band was unused on the first death:
- IHT relief on charitable gifts still applies if estate is over £650K
Inheritance Tax and Charitable Giving: New Concession

For deaths from 6 April 2012, rate of IHT is reduced from 40% to 36% if the estate includes at least 10% of charitable bequests.

• MISS D - EXAMPLES (1) AND (2) ARE UNAFFECTED

(3) MISS D Dies leaving an estate of £500,000: £450,000 to relatives and £50,000 to charity
- No IHT is charged on £325,000 nil rate band
- No IHT is charged on £50,000 charitable bequest
- IHT is payable on the remaining £125,000 of the estate, but only at 36% (instead of 40%)
  - 36% x £125,000 = £45,000 IHT payable
- So her relatives get £450,000 - £45,000 IHT = £405,000. Charity gets £50,000 (no IHT).
- In total her beneficiaries get £455,000

Effect of the new rule:
- Designed to encourage bequests to charity from those who would not otherwise include charities in their wills
- Seeks to encourage "norm" of leaving at least 10% left to charity

However:

- The new rules offers no incentive for estates below the IHT threshold (and for many married couples, only estates over £650,000 will incur IHT anyway)
- There is no incentive for those leaving really big legacies to charities which wipe out all the IHT anyway
- So it only helps those with fairly large estates who leave at least 10% to charity but not so much that the IHT is wiped out!
- The tax saving of 36% IHT rather than 40% IHT is a benefit to the non-charitable beneficiaries (not the charity)
- Some concern that it may encourage bequests of only 10% to charity when testators might otherwise have given more
- So it is a relief to help the relatives of the wealthy who leave something (but not too much) to charity!
OTHER TAXATION ISSUES

1  Trading – overview
2  Thresholds
3  Primary purpose, ancilliary, fundraising
4  Exemptions
5  TAX IS APPLICABLE TO CHARITIES!!!!!