



HM Revenue
& Customs

Simplifying the Gift Aid donor benefits rules: response to the further consultation

Summary of responses
December 2017

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1. Introduction

1.1 Gift Aid is one of the largest tax reliefs available to the charities sector helping charities to achieve their objectives and provide support to the communities they serve. The government recognises the value of Gift Aid to the charity sector and regularly considers ways to simplify and improve the rules. Recent improvements include the introduction of online filing of Gift Aid claims and a shorter, simpler Gift Aid declaration form.

1.2 Charities often acknowledge and thank their donors by giving them a token of appreciation, which the legislation refers to as a 'benefit'. The conditions that govern the value of these benefits (Gift Aid donor benefit rules) are an important element of the Gift Aid rules. It is important for donors, for charities and for the government that robust, clear rules are in place. These rules should incentivise charitable giving while at the same time ensuring that Gift Aid is only claimed on genuine donations. The current Gift Aid donor benefit rules are set out in Annex A.

1.3. Current donor benefit thresholds are a mixture of monetary and percentage limits producing cliff edges in terms of the value of benefits that can be given for donations that exceed £100. Additionally, the donor benefit rules are supported by four Extra Statutory Concessions (ESC's). A summary description of the four ESC's is provided in Annex B.

1.4 At Autumn Statement 2014 the government announced that it would review the Gift Aid donor benefit rules with the intention of simplifying them. Following a call for evidence, the government launched a consultation on 18 February 2016 setting out a range of options for simplifying the current rules. The consultation closed on 12 May 2016.

1.5 The responses to that consultation were helpful in developing specific proposals for reform which were set out in a second consultation (*Simplifying the Gift Aid donor benefits rules*) that ended on 3 February 2017. Four questions were asked in this consultation; two were about the benefits thresholds (limit on the value of a benefit that can be given to a donor without losing the Gift Aid qualifying status of the donation) and two were about the concept of a low value disregard (a benefit that can be disregarded completely when claiming Gift Aid relief on donations because it is of low value). In total 37 responses were received, mainly from charities and their representative bodies but also from some professional advisors and one individual. A list of the organisations that responded is provided in Annex C. The government is grateful to all those, including members of representative bodies, who contributed their views during the consultation process.

1.6 This document summarises the responses received to the consultation on *Simplifying the Gift Aid donor benefits rules*, and sets out the government's response and how it intends to proceed.

1.7 The underlying policy intention of these reforms remains simplification. The government hopes that the proposed reforms will make it easier to claim Gift Aid on eligible donations and so increase the overall number and value of eligible claims.

2. Options for reform

This chapter reviews responses to questions in the consultation about reforms to the relevant value test, commonly referred to as donor benefit rules, and the creation of a low value disregard for donor benefits.

Reforming the relevant value test

2.1 The relevant value test is a set of monetary thresholds that determine the value of benefits that charities may give to donors as a consequence of a donation and still claim Gift Aid on that donation. Currently:

- 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 benefits is capped at £25.
- For donations over £1,000, the value of the benefit can equate to a total of 5% of the donation, up to a maximum annual benefit value of £2,500.

2.2 Having considered the views of respondents on the options set out in the first consultation, the government was clear that the monetary threshold(s) underlying the relevant value test should be retained in some form. The further consultation set out three specific proposals for reform. The current maximum annual benefit value of £2,500 would continue to apply in all cases.

HMRC questions:

2.3 Would any, or all, of the three relevant value reforms above – three thresholds with an adjustment to the upper limit for the £25 threshold, two thresholds operating to a ‘sliced’, or cumulative, design, or a single threshold – represent a useful simplification of the current thresholds? If so, which one(s)? Please explain why.

2.4 Which of these relevant value reforms do you consider would be simplest for the charity sector overall? Please explain your reasons.

Retaining three thresholds

2.5 Less than a third of respondents favoured retaining three thresholds with an adjustment to the upper limit for the £25 threshold although a few respondents who indicated a second preference said they would favour three thresholds. Most of those preferring this option believe it would be a sensible simplification as it only involves minor changes with minimal disruption for charities in system development and claiming Gift Aid. It was also welcomed because it removes an anomaly and “*smooths out limits and increases benefits available for donations (between) £500 - £1000.*” Respondents considered this proposal would give them flexibility to offer benefits to both low and high value donors while protecting Gift Aid tax relief on lower value donations.

2.6 Equally there were respondents not in favour of this proposal. They believed that although it involved fewer changes it was not a simplification as the number of thresholds remain the same and would still keep the mix of monetary and percentage limits.

A single threshold

2.7 There was very strong opposition to this proposal with almost half of respondents against a single threshold. Many expressed the view that although a single threshold system would be simple, it would be detrimental to many charities that subsist on a large number of small donations. For these charities the higher benefit limit of 25% on donations not exceeding £100 was beneficial. One respondent felt that a single threshold was only preferable if accompanied by a low value disregard. Others commented that it is too generous for high value donations and suggested charities may be put under pressure to compete in their offer of donor benefits.

2.8 Around one fifth expressed a preference for a single threshold. All of these respondents felt this proposal was the simplest approach on the basis that it would be easy to understand and apply.

Two thresholds

2.9 This was the most popular option, preferred by many of the respondents. This was also the option favoured by most of the representative bodies as well as being the most popular for those respondents who expressed a second preference.

2.10 Respondents felt that this option was preferable to a single threshold as it simplifies the system by reducing the number of thresholds without causing a reduction in the value of benefits to donors as would be the case with a single threshold. Some respondents preferred this proposal as it avoids cliff edges and would be relatively simple to administer and explain to donors.

2.11 A few respondents felt that this option could increase complexities when understanding the value of benefits that can be given to a donor and may be complex for smaller charities to adopt. Others felt that this would not be the case with a respondent suggesting that some charities “... *tend to run schemes with set giving levels, and therefore they would simply need to check their schemes at the start of each financial year to ensure they remained within the appropriate thresholds.*”

The government's response

2.12 The responses indicated that although there is a range of views expressed on these options, the weight of opinion is significantly in favour of the two threshold option. The government has therefore decided to replace the current three tier thresholds with two thresholds. The new thresholds will be as follows:

- For donations up to £100, a donor can receive a benefit of up to 25% of the donation

- For donations above £100, the donor can receive a benefit of £25 plus additional benefit of up to 5% of the additional amount donated above £100, up to a maximum benefit value of £2,500.

2.13 Under this reform donors will be no worse off in terms of the value of benefits that charities can offer them as the new limits will be, for every eligible donation, at least as generous as the current limit. It addresses the concerns of respondents who were not in favour of a single threshold by keeping the existing 25% limit for donations under £100 and donors who give over £100 will be able to receive larger benefits. It will also do away with the current mix of monetary and percentage thresholds.

2.14 The government believes the two threshold proposal, which is widely supported in the consultation responses, gives the sector simplification without compromising the value of benefits that can be offered to donors. Most charities currently give benefits within the limits and are unlikely to be significantly affected by the proposed changes. The government recognises there will be charities who offer larger benefits on donations exceeding £100 and these will need time to make administrative adjustments to their donor benefit packages. To allow charities the time to understand and implement the new thresholds the changes will be introduced in Finance Bill 2018-2019 commencing from 6 April 2019.

2.15 A table setting out the existing and proposed two tier structure with examples is in Annex D.

A disregard for low value benefits

2.16 Given the range of views expressed in the first consultation regarding the level at which a disregard should be set the government invited further responses on this subject.

HMRC questions:

2.17 Would you consider a low value disregard a welcome simplification if the government does not move to a single threshold but instead either retains three thresholds or moves to a two threshold system? Please explain your answer.

2.18 In your opinion, what is the minimum level at which a low value disregard would be useful to charities? Please give reasons for your answer.

Responses received

2.19 A significant number of respondents were not in favour of a low value disregard for benefits. It was felt that it was not a simplification and virtually all of those who expressed a view on the level of the disregard felt that £3 was too low, with most believing it should be £5 or greater. There were also concerns that it would benefit larger charities the most with one respondent saying it would be, *“unfair in that some charities with greater negotiating and buying power will benefit more than others”*. Another concern was that it would be eroded by inflation unless protected by indexing, which would result in further complexity.

2.20 There was also confusion around whether a disregard would be calculated on cost to charity or market value basis, and some respondents were concerned that a disregard would provide tax avoidance opportunities. It was suggested that it would not be necessary to consider a low value disregard if the changes to the thresholds were simple and effective.

The government's response

2.21 While the government understands that introducing a low value disregard would benefit some charities, it seems clear that this would not be welcomed by most charities and would not be consistent with this review's aim of simplification. For these reasons the government does not intend to introduce a low value disregard for benefits.

3. Other issues

Donor benefits Extra Statutory Concessions (ESCs)

3.1 HMRC currently operates four ESCs, summarised in Annex B, that allow charities to provide benefits above and beyond the strict limits set out in the donor benefit rules. This means following a legal ruling the government is required to either withdraw or legislate these ESCs. It was clear from the responses received to the first consultation that the flexibilities offered by the four ESCs were valued. The government therefore has signalled its intention in the second consultation to legislate all four ESCs.

Valuation of donor benefits and HMRC rules

3.2 As with the first consultation several respondents referred to difficulties and complexities relating to the valuation of benefits. A number of respondents also referred to issues around Gift Aid and VAT.

3.3 As previously announced, the government will form a working group to consider HMRC's guidance and interpretation of legislation around donor benefits. Although VAT is not within the scope of this review there may be some limited scope for the working group to consider specifically whether the donor benefit rules have unintended consequences for charities with regard to their VAT liabilities.

4. Next steps

4.1 The government's plans to simplify the relevant value test and bring into legislation four ESCs concludes its review of the donor benefit rules. This follows extensive consultation with the charity sector. Replacing the current rules with a two threshold system operating on a cumulative basis allows charities to offer benefits worth up to 25% on the first £100 of a donation, plus 5% of any additional amount donated.

4.2 The government plans to introduce legislation in Finance Bill 2018-2019, with changes coming into effect from 6 April 2019. This gives a reasonable amount of time for the charity sector to understand and prepare for the new rules. Draft legislation will be published in 2018 for technical consultation followed by draft guidance on the application of the new rules.

4.3 HMRC officials are setting up a working group to consider HMRC's guidance and interpretation of legislation around donor benefits.

Annex A

Gift Aid donor benefit rules

A.1 Gift Aid is one of the largest reliefs available to the charities sector. It was first introduced in 1990 and allows charities to reclaim from HMRC the basic rate of income tax deducted from donations made by UK taxpayers. In 2016-2017 Gift Aid was worth around £1.3 billion to charities.

A.2 A fundamental principle of Gift Aid is that relief can only be claimed on money that is freely donated – a genuine gift. As Gift Aid evolved, rules were introduced allowing certain benefits to be given to donors as a ‘thank you’. Provided that these benefits fall within prescribed limits (set out below), Gift Aid can be claimed on the full amount of a donation.

A.3 The following limits determine the value of benefits that charities may give to donors and still claim Gift Aid on the full amount of a donation. This is usually known as the relevant value test. For donations

- Up to £100, the value of the benefit can equate to a total of 25% of the donation
- Between £100 and £1,000, the value of the benefit is capped at £25, and
- over £1,000, the value of the benefit can equate to a total of 5% of the donation, up to a maximum annual benefit value of £2,500

A.4 An ‘admissions disregard’ is available to certain heritage charities. If a donor 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.

A.5 The disregard explicitly excludes live performances. It also excludes admission rights to the use of sporting or other facilities of charities and Community Amateur Sports Clubs.

A.6 Further detail on the current rules can be found in the HMRC guidance, which is available at www.gov.uk/gift-aid-what-donations-charities-and-cascs-can-claim-on.

Annex B: Extra Statutory Concessions (ESCs)

HMRC currently permits some ESCs that give charities certain prescribed flexibilities to provide benefits above and beyond the strict limits set out above. These are:

- **The split payment rule** allows a charity to deduct the market value of a benefit from the total amount given to the charity and the remainder treated as a donation, provided that the charity can accurately establish the value of the benefit and that benefit is sold separately and is available to the general public. For example, if an individual donates £100 and receives a concert ticket worth £60 from the charity in return, the charity may deduct the £60 ticket cost from the donation and claim Gift Aid on the remaining £40.
- **The averaging method** allows a charity to average the cost of a benefit over a number of donors, which is beneficial to the charity if the specific benefit to an individual donor is not known. For example, if a charity hosts a dinner for 10 donors but finds it difficult to calculate the exact benefit of that dinner to each specific donor (for example, because they ate and drank different things), the charity can divide the total cost of hosting the dinner by the number of attendees and calculate a per-donor benefit on that basis.
- **The 10 year rule for a 'life time' benefit** means that a particular benefit only needs to comply with the existing benefit limits for the first 10 years in which it is received. After 10 years the benefit is assumed to have no value and therefore no longer has to be included in the donor benefit calculation. For example, zoo tickets worth £20 that are given as part of an annual membership package only need to be included in the calculation for the first ten years of receiving the benefit.
- **Literature is deemed to be of inconsequential value**, and is therefore not included within the strict limits on the value of donor benefits. Therefore, a charity may provide magazines and booklets relating to its work in addition to other benefits provided to its donors, and it would only need to account for the value of those other benefits (meaning it does not need to consider the value of the literature) when assessing its compliance with the existing donor benefit rules.

Annex C: List of respondents

D.1 This annex provides a list of those organisations that responded to the government's further consultation on the Gift Aid donor benefit rules. Only organisations that responded are listed; in addition there was one response from an individual member of the public.

D.2 Respondents represented widely differing numbers of members and/or organisations; some respondents provided details of research they had conducted among members to inform their responses. The government is grateful to all those individuals and organisations who responded.

Art Fund
Association of British Orchestras
Association of Accounting Technicians
Birmingham Hippodrome
Cancer Research UK
Cause4
Charity Finance Group*
Institute of Fundraising*
National Council for Voluntary Organisations*
Small Charities Coalition* (joint response)
Charity Law Association
Charity Tax Group
City & Cambridge Consultancy
City of Birmingham Symphony Orchestra
Crowe Clark Whitehill LLP
English National Ballet
Hallé Concerts Society
Heritage Railway Association
IND
Landmark Trust
London Philharmonic Orchestra
National Galleries of Scotland
National Theatre
Orange Tree Theatre
Park Theatre
Philharmonia Orchestra
Roman Catholic Dioceses of England & Wales
Royal Opera House Covent Garden
Royal Society for the Protection of Birds (RSPB)
RSPCA
Society of London Theatre and UK Theatre Association
Southbank Sinfonia
The Eden Project, Eden Trust
The London Library
The National Trust
The Old Vic Theatre
Tricycle Theatre

Turcan Connell
Watermill Theatre Ltd
WWF-UK

(* these organisations provided a joint response)

Annex D: Comparison of Donor Benefits - existing and planned two tier structure

Size of donation (£)	Existing relevant value test – size of donation determines level of benefit	Planned relevant value test from April 2019
100	25%	25%
100 to 1,000	£25	+ 5%
1,000 +	5%	

Total value of benefit cannot exceed £2,500.

Examples:

Size of donation (£)	Existing maximum level of benefit (£)	Maximum level of benefit from April 2019 (£)
70	17.50	17.50
100	25	25
400	25	40 (25% of 100 (25) plus 5% of 400-100(15))
1,000	25	70 (25% of 100 (25) plus 5% of 1,000-100(45))
1,500	75	95 (25% of 100 (25) plus 5% of 1,500-100 (70))