

Briefing Note

Gift Aid Rules For Small Donations

Since 6th April 2013, charities in receipt of small donations have been able to claim a top-up tax relief under the Gift Aid scheme. The Small Charitable Donations Act 2012, which applies to charities and Community Amateur Sports Clubs (CASCs), allows tax relief on small cash donations of £20 or less, subject to an upper limit in any one tax year of £5,000 of small donations: a potential extra tax reclaim each year of up to £1,250. The rates would be increase with effect from April 2016 to an upper limit of £8,000 of small donations, producing a tax reclaim of £2,000. This rate refers to the rates which apply from April 2016 onwards.

Under the rules, a completed Gift Aid declaration is not required in order to obtain tax relief on small donations received. This is especially useful for charities who receive donations in collection boxes, charities in receipt of a large number of modest donations where it is not worth collecting Gift Aid details, and for churches who receive non-Gift Aided offerings from worshippers at regular services.

It is important to bear in mind that the normal rules on giving benefits to donors under the Gift Aid scheme also apply to small donations.

Eligibility

The top-up payment under the Small Donations rules is in addition to any Gift Aid which a charity might recover on other donations received. To be eligible, the following conditions have to be met:

- ❖ The charity or CASC must have been in existence and qualified as a charity/CASC for at least two full tax years.
- ❖ A successful Gift Aid reclaim must have been made in at least two of the last four tax years.
- ❖ The amount claimed under the Small Donations rules must be matched in the same tax year by a Gift Aid claim equal to 10% or more of the Small Donations claim.

There are, however, exemptions which may allow a charity to qualify under the rules where it would otherwise fail to meet the criteria as a result of a merger.

Disqualification

In addition, there are conditions which make a charity or CASC ineligible from claiming:

- ❖ Where a successful Gift Aid claim has not been made for two consecutive tax years, any successful claims in earlier years are disregarded when calculating whether the charity satisfies the requirement of having made successful claims in two of the last four tax years.
- ❖ Penalties incurred under the Gift Aid or Small Donations rules disqualify a charity from claiming under the Small Donations rules in the tax year in which the claim resulting in a penalty was made, and in the following tax year. Penalties which are suspended or cancelled are ignored (but suspended penalties which subsequently become payable will continue to result in a disqualification).

Connected parties and pooling of relief

Where two charities or CASCs are treated as connected parties, then the general rule is that the connected charities share the entitlement to a reclaim under the Small Donations rules. This means that they are only able to claim £2,000 of tax relief between them under the scheme. It is, however, possible for charities to pool their tax reliefs where there are connected parties so that one of the connected parties may benefit from the entire Small Donations claim to the exclusion of the others.

There are detailed rules governing when charities are classified as connected charities, but in general they are connected where they have the same or substantially similar activities and purposes and the organisations are connected. This will apply, broadly speaking, where a charity has control of another charity, or where the majority of the charity trustees are the same as or are related to or otherwise connected with the trustees of another charity.

Community buildings

One of the most helpful provisions contained in the Small Donations rules is a special provision which relates to community buildings. If a charity operates from one or more community buildings, it is possible for each community building to have its own Small Donations allowance of a maximum of £8,000 – which entitles each community building to receive up to £2,000 in top-up tax relief. In addition to each community building's allowance, the charity itself remains entitled to its own allowance which is calculated based on donations received outwith community buildings during the tax year, subject to the usual cap of £8,000. It is important to bear in mind that these extended provisions do not apply to CASCs. Modified provisions also apply where connected charities operate from community buildings.

To benefit from the extended provisions for community buildings, the following conditions must be met:

- ❖ The charity must carry out charitable activities for a local group of beneficiaries of the charity in the same building at least six times per annum. "Activities" refers to actual charitable activities and not simply to administration or planning meetings, or events which are primarily designed to fundraise.

- ❖ A minimum of 10 people must attend each time the charitable activities are carried out. The people attending need not be the same on each occasion, but must be within the class of people for whose benefit the activity is being carried out.
- ❖ The beneficiaries must not be charged to access the relevant building.
- ❖ Parts of a building which are used wholly or mainly for residential purposes or for the sale or supply of goods are excluded from the definition of community building. This means that nursing homes and charity shops do not qualify. Buildings or parts of buildings used wholly or mainly for commercial purposes are also excluded, except when a charity has the exclusive right to use part of the building at that time and it is being used by the charity for its charitable activities.
- ❖ Two or more buildings on the same or adjacent land and owned or leased by the same person will be counted as one community building. A school which has several buildings over the space of its campus will qualify as a single community building.

The community buildings provision is likely to be of most obvious benefit to charities which operate under an umbrella parent structure. The most widely reported example is that of parish churches where each parish church is not a charity in its own right. This would apply, for example, to each parish within a diocese of the Roman Catholic Church (since normally only the diocese is a registered charity and the parishes within it are in effect divisions of the head charity) or to some linked Church of Scotland parishes operating as a single charity from two or more church buildings. Many other parish churches are individual charities in their own right and will benefit from the full Small Donations allowance without the need to rely on the community buildings rule.

Summary

From April 2016, the Small Donations rule gives charities the potential to claim an extra £2,000 in Gift Aid on small donations of £20 or less, subject to an upper cap of £5,000 of total donations in any one year. A number of conditions have to be met to secure this extra tax relief. Connected charities may find their ability to claim is limited, but charities which operate from community buildings may enjoy extended relief, with an effective allowance afforded to each community building.

Charities should consider whether they can benefit from the rules and should explore how to go about ensuring that the conditions are met and that tax reclaims are made timeously and within the regulations set down.

Further advice

For more information on Small Donations, Gift Aid or tax efficient giving to charity more generally, contact our Charities Team at charities@turcanconnell.com or call us on 0131 228 8111.

This note is intended as a brief commentary on new Gift Aid rules for small donations. No responsibility can be accepted for any action taken in reliance of this note and specialist advice should be taken in every case. Turcan Connell would be happy to provide such advice.

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