

# Charity Tax Updates in Manchester

27 November 2017

#CTGManchester

# Charity Tax Group

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- Leading representative body for charities on tax issues
- Over 500 Charity and “Observer” members
- Lobbying and information provision role
- [www.charitytaxgroup.org.uk](http://www.charitytaxgroup.org.uk) provides access to regular newsletters and consultation & case law trackers
- Join today!

## Meeting Agenda

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- **14.05** – Gift Aid and GASDS update
- **15.00** – VAT case law update
- **15.30** – Update on other tax and policy issues
- **16.00** – Meeting finishes

# Gift Aid and GASDS update

Steve Carroll, HMRC

#CTGManchester

# Topics

- Gift Aid Overview
- Donor Education Programme
- Gift Aid Small donations Scheme (GASDS)

# Gift Aid Overview

# What is Gift Aid?

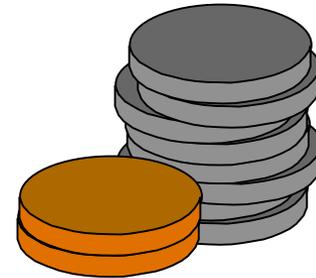
## What is Gift Aid?

*giftaid it*

Gift Aid can be claimed on donations of money made by an individual UK income taxpayer. It's an easy way to help your charity or community amateur sports club (CASC) maximise the value of donations.

Charities can claim back 25p every time an individual donates £1 to your charity or community amateur sports club (CASC).

- Donation from a UK Taxpayer    £100
- Charity can claim                      £25



## That tax can be



- Income Tax paid at 20%, 40% or 45% rate
- Tax deducted from Bank or Building Society interest at 20% rate
- Tax deducted from dividend income at 10% up to 5 April 2016
- Capital Gains Tax paid at 18% or 28%



# Gift Aid Declaration

## A Gift Aid Declaration must contain;

- Name of charity or CASC
- Name of donor
  - Ideally, we would like to see; Mr John Smith
  - We will accept; John Smith, J Smith, Mr J Smith
  - Donor's full home address with the postcode.
- Description of payment(s)
- Declaration that payments(s) are to be Gift Aided
- **Must include a declaration that confirms;**



*"I am a UK taxpayer and understand that if I pay less Income Tax and/or Capital gains tax than the amount of Gift Aid claimed on all my donations in that tax year it is my responsibility to pay any difference."*



## Retention of Declarations



### For Audit purposes;

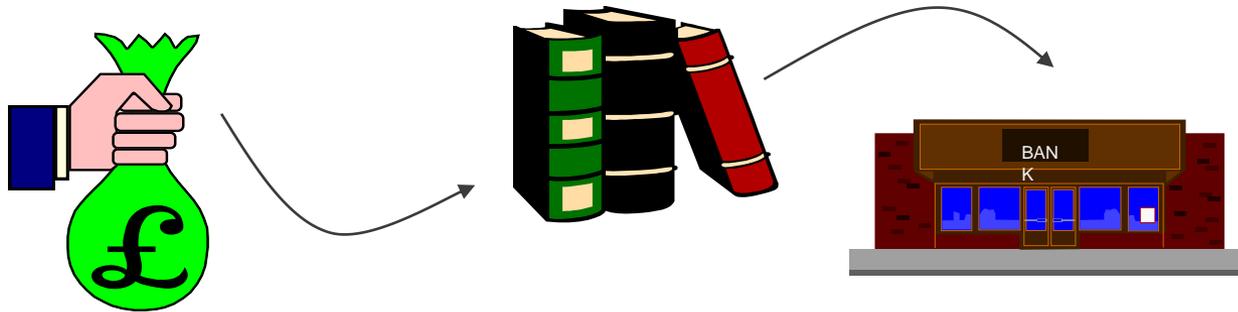
- Records should be kept for a period of 6 years (after the last donation)
- Must be available for inspection
- Can be retained as a scanned document



# Audit trail

## Audit trail from each donor;

- Through the charity's books & records and then into the charity's bank account.



## Failure to Comply with the Audit Requirements

If a charity does not retain adequate records it may be required to pay back to HMRC all of the tax they have reclaimed with interest.

It is also likely that a penalty .

Please remember also that any penalty imposed could result in the suspension of any Gift Aid Small Donations claim for two complete tax years.



# Joint Donations

- If a donation is drawn on a joint bank account and the charity has been given a Gift Aid declaration by one account-holder only, the charity can assume the donation is from the donor who has made a Gift Aid declaration - even if the cheque is signed by the other account holder.

e.g.

- Donation received from Mr and Mrs Smith's bank account.
- Charity hold a Gift Aid declaration for Mr Smith but not Mrs Smith
- Charity can assume that the donation has been made by Mr Smith
  
- If in doubt seek clarification from the donor e.g. a cheque drawn on the sole account of the other account-holder.

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## Time Limits for claiming Gift Aid

- A charity which is a Company for tax purposes must make any claim within 4 years from the end of the accounting period to which the claim relates.
- A charity which is a Trust for tax purposes must make any claim within 4 years of the end of the tax year to which the claim relates.



# Charity Variation form (ChV1)

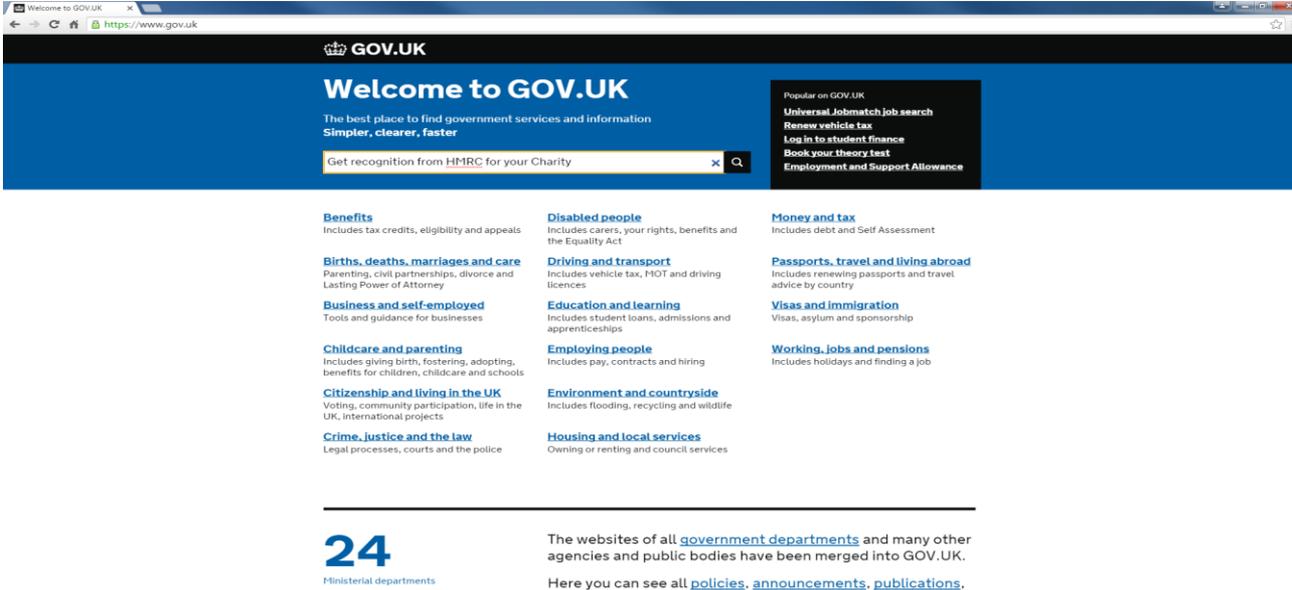
Introduced in July 2010 and must be completed  
To HMRC 30 days before a claim if;

- Name & address has changed
- Authorised official and/or the Responsible person(s) has changed
- Bank account has changed
- The Charity's Trustees or Directors have changed
- Charity has appointed a new nominee

The screenshot shows the HMRC Charities change of details form (ChV1). The form is titled "HM Revenue & Customs HMRC Charities change of details form". It includes sections for "About this form", "When to use this form", "About your organisation - current information held by HMRC", and "Contact details". The "About your organisation" section contains fields for Name of Charity, Charity reference, Telephone number, and Address. The "Contact details" section contains fields for Address, Phone number, and Email address.

# Register with HMRC Online – WWW.GOV.UK

- Go to – [WWW.GOV.UK](http://WWW.GOV.UK)
- Search for – [Get recognition from HMRC for your Charity](#)



The screenshot shows the GOV.UK homepage. At the top, there is a navigation bar with the GOV.UK logo and the text 'Welcome to GOV.UK'. Below this, a search bar contains the text 'Get recognition from HMRC for your Charity'. To the right of the search bar, there is a list of popular services: 'Universal Jobmatch job search', 'Renew vehicle tax', 'Log in to student finance', 'Book your theory test', and 'Employment and Support Allowance'. The main content area is divided into several columns, each with a category title and a brief description of the services included. The categories are: 'Benefits', 'Disabled people', 'Money and tax', 'Births, deaths, marriages and care', 'Driving and transport', 'Passports, travel and living abroad', 'Business and self-employed', 'Education and learning', 'Visas and immigration', 'Childcare and parenting', 'Employing people', 'Working, jobs and pensions', 'Citizenship and living in the UK', 'Environment and countryside', 'Crime, justice and the law', and 'Housing and local services'. At the bottom of the page, there is a large number '24' representing the number of ministerial departments, followed by text explaining that the websites of all government departments and many other agencies and public bodies have been merged into GOV.UK. A link is provided to see all policies, announcements, and publications.





HM Revenue  
& Customs

Any Gift Aid Questions?



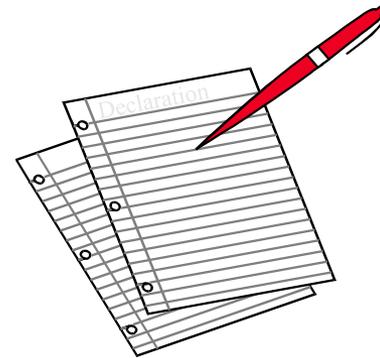
# Donor Education Programme

This has been introduced over the last two tax years and has seen changes to all of the main on-line platform providers used by individual fundraisers.



# Gift Aid declaration

- Via a Declaration by the individual confirming that;



*“I am a UK taxpayer and understand that if I pay less Income Tax and/or Capital gains tax than the amount of Gift Aid claimed on all my donations in that tax year it is my responsibility to pay any difference.”*

# Why the change?



- Checks by HMRC have found that increasing numbers of GA donations do in fact not qualify for gift aid.
- Previously HMRC have simply asked are you a UK taxpayer via the Gift Aid Declaration.
- Recent research has highlighted a high number of non-eligible donations have and in some cases still are passing through on-line platforms without any verification checks by either HMRC or the platform provider themselves.
- This had resulted in up to 1 million GBP in Gift Aid being paid out every month when none was due.

# The Gift Aid Eligibility Test

- HMRC recognised that for improvements to be made education to the donor would need to be increased .With this in mind we have worked closely with the larger on-line providers encouraging them to improve education via their fundraising packs and by introducing an on-line gift aid eligibility test.
- We have improved the Guidance on certain situations which may apply when giving on-line and this can be found at Chapter 3.44 on the detailed guidance notes.
- We accept however that there is little chance of this advice being read by an individual immediately prior to a donation being made.
- So we are working with the On-Line providers and the Charities themselves to try and improve education with the aim that Gift Aid is claimed only when it is due.

# Quiz Time !

- QUESTION 1.
- A fundraiser who is a UK tax payer money from office colleagues and pub collections over a two month period and banks all of the money in his own bank account. He then uploads the total donations part of which is his own donation by using his own debit card. When donating on-line he confirms he is a UK tax payer and completes the declaration to confirm this.

# Answer

- No gift Aid can be claimed.
- The fundraiser is simply passing on donations he has collected from various different sources.
- He only way he can claim gift aid on his own donation is if he splits that out by making a separate donation.

## Question 2.

Kate organises a 'Fun Day and exhibition match' at her local rugby club in memory of her late father. Entry is by ticket only, and other funds are raised through a raffle, tombola, fairground rides ,bouncy castle and free-will donations. £1,000 is collected from all sources and Kate then pays this to her chosen charity using her social giving account and includes the message 'In loving memory of my father, Frank'.

# Answer

- A number of failures: raffle tickets, funds from fairground rides and potential ticket sales.
- Advice should be given in any fundraiser hand-out that all of the above cannot attract gift aid.
- If the event ticket is free and a free will donation is made then this can be gift aided only if the Gift Aid Declaration is made by the person making the freewill donation. Not if he or she passes the money to a third party who then uploads the donation.
- If an individual collects the full name and address of the individuals that made the freewill donations and then passes the list to the charity along with a cheque for the donations collected then the charity themselves can claim gift aid by attaching the names and address to their own gift aid schedule when making a claim direct to HMRC.



### Question 3

At a charity fundraising event Tony bids for a partial season ticket for Everton's final 6 home games.

Tony's bid of £250 'wins' the ticket



# Answer

- Having spoken to the Head of Department and the HMRC legal team we would allow Gift Aid in this instance as there is very little chance of HMRC proving in a court of law that there would be a benefit attached to watching Everton.
- This will of course not be eligible for gift aid as it is a ticket purchased ( via a winning bid)at a charity auction.

# Donor Education

- So this is what HMRC are looking to encourage all charities to do. Improve education.
- HMRC have worked closely with all of the large on-line platform providers over the last twelve months and if you make a donation via one of those sites you will now see an additional step in the donation process.
- These are either 3 questions to be answered by the donor or they may be asked to confirm 3 statements;

I am donating my own money and the funds have not come from anyone else including family members or from an office or bucket collection

The money I am donating is not the proceeds from sales of goods or services or the sale of tickets

I have not received something in return for this donation such as an entry ticket to an event or a raffle ticket.

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Of course there can be slight variations to the on-line advice but the overall message is the same.

Only freewill donations made by the individual can attract gift aid subject to the individual being a UK tax payer.

In the past nobody has ever thought beyond the statement 'Are you a UK taxpayer'.

# Next Steps

- HMRC are in regular contact with the on-line providers sharing best practise and one on-line provider is in the process of implementing an additional validation check by asking an additional opening question 'Are you donating your own money'
- This is of high importance as data held indicates that a high percentage of the ineligible claims to gift aid are made by the fundraiser uploading funds collected via third parties to his/her own web page.



HM Revenue  
& Customs

Any Donor Education Questions?





HM Revenue  
& Customs

# Gift Aid Small Donations Scheme (GASDS)

## Small Charitable Donations Act 2012 (Gift Aid Small Donations Scheme)



- From 6 April 2013; Charities & CASCs that receive small cash donations of £20 or less will be able to apply for a Gift Aid style repayment without the need to obtain Gift Aid declarations for those donations
- GASDS is a public spending initiative (not a repayment of tax) that gives Charities & CASCs a top-up payment on donations they receive
- The total amount of small donations was capped at £5,000 maximum per tax year, giving a top-up repayment of £1,250.
- This increased to £8,000 maximum per tax year for GASDS collected from 6 April 2016 and the top-up repayment will increase to £2,000

**Charities only have 2 years from the end of a tax year to claim a top-up payment on small donations before they go out of date.**



## What is a small donation?



- A cash donation of £20 or less from an individual
- Donations must be collected and banked in the UK
- Membership Fees not covered by a Gift Aid Declaration cannot be small donations under this scheme
- Cash donations from Companies or Trusts cannot be GASDS
- No benefits can be given to an individual that makes a small donation (only gifts with negligible value such as a lapel sticker are allowed)



## Eligibility for claiming GASDS between 6<sup>th</sup> April 2013 – 5<sup>th</sup> April 2017

- The charity must have been in existence with HMRC for at least 2 full tax years before the year of claim
- Must have made successful GA claims in 2 of the previous 4 tax years **without** a gap in claims of 2 or more years
- Charity has not incurred an HMRC penalty in respect of GA or GASDS claims in the previous 2 tax years
- GASDS must be claimed within 2 years from the end of the tax year to which the claim relates

**Why do we have an eligibility criteria?** - A good Gift Aid record assures HMRC that charity has appropriate internal processes in place to operate GASDS correctly.



## Eligible small donations (continued)

- Donations made by text message or bank transfers are not eligible.
- Donations made by credit/debit card are not eligible

It isn't always obvious that a donation is £20 or less.

E.G. in a church collection an individual could donate £30 in three £10 notes without the collector realising. Donations will be eligible as long as the managers of the charity/CASC have taken reasonable steps to apply the £20 limit.



## The Gift Aid “matching rule”

The amount of GASDS top-up charities can claim also depends on the amount of Gift Aid donations that they have received and successfully claimed on in that tax year. The maximum amount of GASDS top up they can claim is 10 times the total amount of Gift Aid donations claimed on by the charity or CASC in that tax year.

To claim a top-up payment on £8,000 of small donations a Charity or CASC needs to successfully claim Gift Aid on at least £800 of eligible donations in the same tax year.

They can only match GASDS donations to Gift Aid donations received in the same tax year.



# Community buildings

## What is Community building?

A community building is a building (or part of a building) in which a charity carries out its charitable activities to groups of 10 or more beneficiaries on at least 6 occasions each tax year.

- The beneficiaries must not be charged for access to the part of the community building where the charitable activity takes place
- The charitable activity must also be open to members of the general public (or a section of the public)

The beneficiaries do not need to be the same 10 people each time



# Community Buildings

## Examples of a Community Buildings are:

- A village hall
- A town hall
- A church
- A School
- A cathedral
- A synagogue
- A mosque etc.
- A Scout hut



Charities do not need to own a building for it to qualify as a community building.

A function room of a hotel could be a community building for a support group if the group met there at least 6 times each year to deliver charitable activities to 10 or more beneficiaries, provided the room was used exclusively by the group.



# Community Buildings

A building cannot be a community building if the building (or parts of it) is used wholly or mainly for residential purposes or the sale/supply of goods unless the charity is using part of that building exclusively to carry out a charitable activity.

Two or more buildings on the same or adjacent land are treated as a single building where the same person or organisation holds a freehold or leasehold interest in the land

## Examples of buildings which are not community buildings include:

- Priest's House
- Vicarage / Manse
- A Supermarket
- Charity Shops
- Residential care homes



# Gift Aid Small Donations collected on or after 6<sup>th</sup> April 2017

On 6 April 2017 some of the rules for GASDs changed.

**Eligibility conditions:**

- An eligible Charity or Community Amateur Sports Club (CASC) can claim a top-up payment on small cash or contactless donations under the Gift Aid Small Donation Scheme (GASDS).
- They will need to understand out how much they can claim by reading HMRC's guidance. Factors that can affect the amount they can claim include:
  - The basic rate of income tax (Currently 20%)
  - The total eligible small donations they have collected
  - Any cap on the amount of small donations they can claim on
  - How much Gift Aid they have claimed on; the “matching rule”
  - If the charity or CASC is connected to another charity or CASC



## Eligibility conditions (continued):

For claims relating to the 2017/18 tax year and later Charities and CASCs **no longer need to meet the following requirements before they can make a claim for a top-up payment on eligible small donations:**

- Charity or CASC must be registered as a CASC or established as a charity for tax purposes for at least the 2 previous complete tax years
- Charity or CASC must make a successful Gift Aid claim in at least 2 of the previous 4 tax years, and there must not have been a period of 2 or more consecutive complete tax years between those tax years during which it made no successful Gift Aid claims - in practice this means a Gift Aid claim must be made in at least every other tax year



## Eligible small donations

- The top-up payment is calculated on the amount of eligible small donations your charity or CASC has collected.
- Eligible small donations are cash or contactless donations made by an individual to a charity or CASC for £20 or less. Donations must be collected in the UK and paid in to a UK bank or building society account kept by the charity.
- Gift Aid and GASDS top-up payments cannot be claimed on the same donation. E.G. GASDS should not be claimed if a charity receives a donation from an individual who has completed a valid Gift Aid declaration that covers the donation.
- “Cash” means notes or coins of any currency.
- Contactless debit or credit card payments will be an acceptable way of making a small donation. This includes mobile phone Apps or other devices.



## Community Buildings

From 6 April 2017 charities can no longer claim a top up payment on donations of up to £8,000 per charity plus an additional £8,000 of small donations collected in each community building they operate from.

New rules will apply to all donations collected on or after 6 April 2017.

If your charity has only one community building, it should make a GASDS claim on a maximum of £8,000 of eligible small donations each tax year collected anywhere in the UK.



## Community Buildings

If your Parish has 2 or more community buildings:

Parishes & PCCs that have 2 or more community buildings should claim:

- Up to £8,000 top-up payment for each community building.
- This option enables a Parish to claim a GASDS top-up payment on eligible small donations collected in the church & within the same Local Authority area as the community building they are claiming for



## Community Buildings

From 6 April 2017 charities claiming under the community building rules can now collect donations at any time, not just during charitable activities, as long as:

- The building qualifies as a community building
- The donations are collected in the same Local Authority area as a qualifying community building
- The charity claims on a maximum of £8,000 of eligible donations per community building

Charities will need to decide which option would be best for each tax year.

If a charity changes its mind part way through the tax year, then it must notify HMRC before it makes any further top-up claims.



## “Local Authority Area”

“Local authority area” means:

- In England, a district council, a county council if there is no district council, a London borough council, the Common Council of the City of London or the Council of the Isles of Scilly



## “Local Authority Area” (continued)

If a charity has collected eligible small donations in a Local Authority area where the charity has more than one community building they can choose which building to allocate the donations to.

The only exception to this is when donations are collected inside a community building, when they can only allocate these donations to the building they were collected in.

**Example** - A charity has 3 community buildings in a Local Authority area.

During the tax year the charity collected £15,000 in eligible small donations inside this Local Authority Area.

£4,000 was collected inside of one community building and therefore the charity can only allocate the £4,000 to that particular building. The remaining £11,000 was collected outside of the community buildings and can be allocated to the 3 buildings in any way the charity chooses, as long as the amount allocated to each community building does not exceed £8,000.



## Community Buildings

**Example:** A charity has 3 community buildings which are each in different Local Authority areas. This means that the charity could claim a top up on donations up to £8,000 for each building or £8,000 in total if collecting anywhere inside the UK.

During the tax year it collects:

- £3,000 in the Local Authority area of building A
- £2,000 in the Local Authority area of building B
- £9,000 in the Local Authority area of building C
- £2,500 outside of the Local Authority area. **Total = £16,500**

This charity is better off claiming under the community buildings rules because this allows them to claim a top up on:

- £3,000 in the Local Authority area of building A
- £2,000 in the Local Authority area of building B
- £8,000 in the Local Authority area of building C. **Total = £13,000**

This is £5,000 more than they could have claimed if they had chosen the single £8,000 limit for donations collected anywhere in the UK.



## Record Keeping



For contactless donations charities need to keep records that identify how much was collected on each terminal so that they can work out how much was collected in a particular Local Authority area.

They must keep a record of the denomination of all notes received (£5, £10, £20) and exclude all £50 notes

Small cash donations must be banked if the charity or CASC wants to claim a GASDS top-up. If the charity or CASC uses small cash donations to pay for minor expenses, it will only be able to claim on the net amount banked

Some charities provide fundraisers with paying in slips so that they can pay any amounts collected directly into the charity account. The counterfoil receipt which notes the breakdown of the coins and notes collected should then be given to the charity for audit purposes.



## Record Keeping (continued)

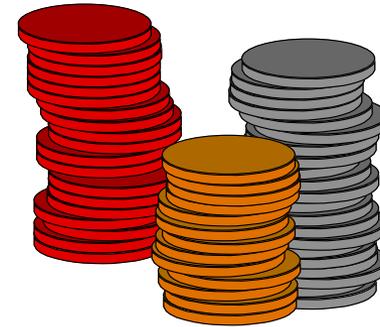
If a charity wants to claim GASDS top up payments based on amounts collected in a Local Authority Area near a community building they must also keep a record of:

- The address of the community building and a record to show that the building held at least 6 charitable activities for 10 or more beneficiaries to qualify as a community building
- The date(s) that the money was collected
- The location(s) that the money was collected - this should include full address and postcode
- Which community building the donations will be allocated to for the purposes of the GASDS claim



# Common Errors for claiming GASDS

- GASDS limit exceeded
- Charities claiming GASDS by accounting period, not tax year
- Entering GASDS on Gift Aid claim schedules
- Not eligible for GASDS
- Duplication of previously claimed Gift Aid when submitting GASDS only claim





HM Revenue  
& Customs

Any questions on GASDS?





HM Revenue  
& Customs

Thank you

Website: [WWW.GOV.UK](http://WWW.GOV.UK)

Helpline: 0300 123 1073

E-mail: [repaymentqueries.charities@hmrc.gsi.gov.uk](mailto:repaymentqueries.charities@hmrc.gsi.gov.uk)

# VAT update

## Dermot Rafferty and Abigail Lofthouse



# Agenda

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- ▶ Budget update
- ▶ The Chancellor's response to the OTS
- ▶ Brexit considerations for charities
- ▶ Pensions – New guidance from HMRC
- ▶ Case Law update

# Budget update

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- ▶ No decrease to VAT threshold as suggested by OTS – Threshold will now stay at £85,000 for the next 2 years while consultations take place.
- ▶ VAT refunds were extended to accident rescue charities
- ▶ Pensions – New guidance from HMRC
- ▶ Case Law update

# The OTS – The Chancellor's response

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The Chancellor of the Exchequer has written last week to the Office of Tax Simplification (OTS) responding to its recommendations on simplifying the VAT system, which were made in its report published on 7 November 2017:

- ▶ As stated in the budget, the Chancellor has agreed to examine the VAT threshold but to maintain it at its current level in the meantime
- ▶ Appreciation of the administrative issues faced by business and the need for clear guidance and rulings. Agreement to ensure progress is made and HMRC is to be asked to consider ways of addressing costs and uncertainty regarding the voluntary disclosure of errors

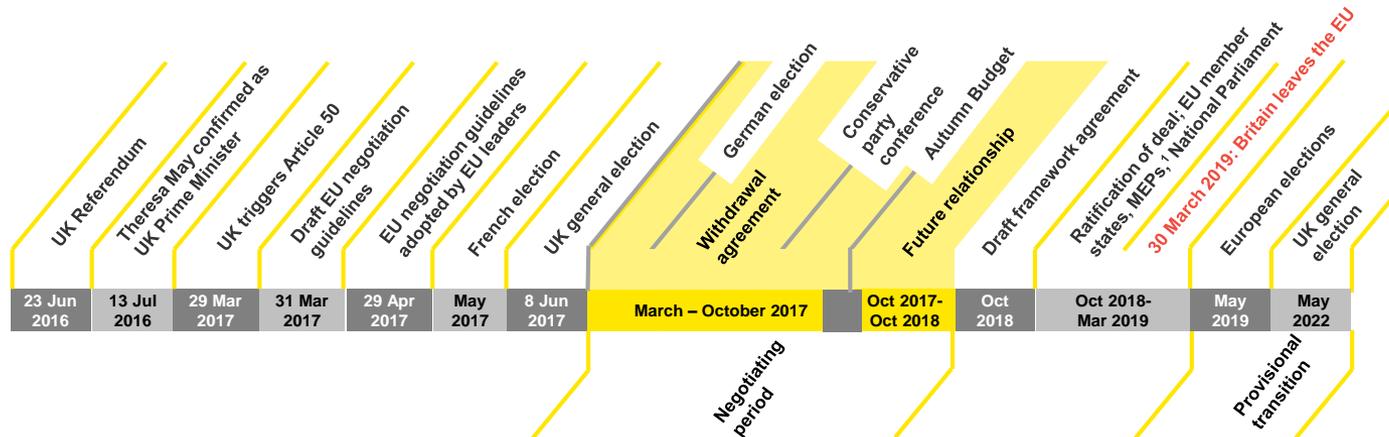
# The OTS – The Chancellor’s response

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- ▶ Agreement that the various VAT rates and exemptions are complex, but that the government’s ability to amend these is currently limited due to EU law. It is accepted that VAT rates and reliefs should be reviewed over the longer term and HMRC and HMT will engage with the OTS in this regard
- ▶ With regard to concerns raised about the current Capital Goods Scheme and Partial Exemption Regulations, the OTS is encouraged to continue to engage with HMRC and HMT in these areas
- ▶ The merits regarding the on-line handling of ‘Options to Tax’ is to be considered as part of the introduction of Making Tax Digital for VAT.

# The UK and EU have now formally entered negotiations

The UK's membership of the EU is set to end in March 2019, two years after the triggering of Article 50. This is a summary of key events in that timeline:



# The main issues in the talks

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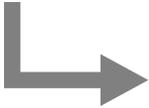
**1. People**  
How restrictive will the UK system be and will it hurt chances of a deal?
  - 

**2. Money**  
How will the existing bill be settled and will the UK agree to pay for market access?
  - 

**3. Customs & tariffs**  
Will remaining EU see a symbolic need to impose some tariffs and how liberal ROO can be negotiated?
  - 

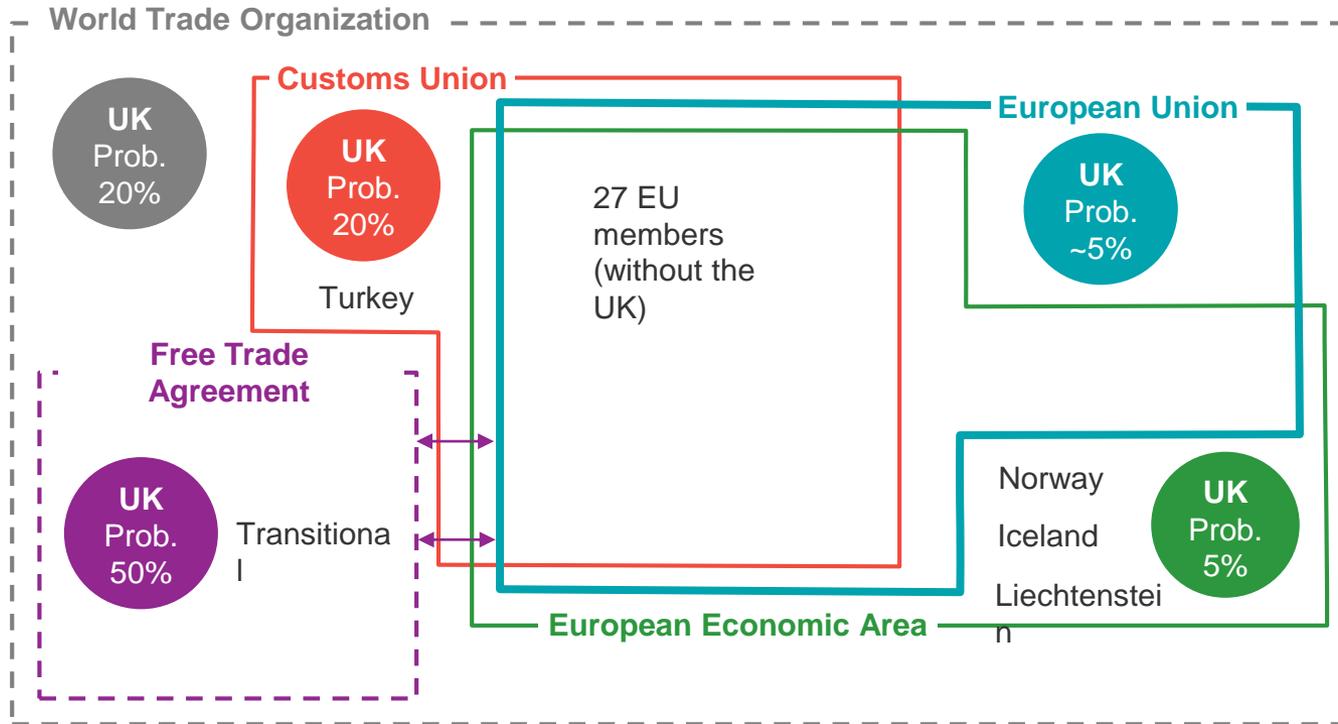
**4. Regulation**  
A 'living agreement' to determine equivalence? Will changing UK regulation impact EU market access? (i.e., data, financial services)?
  - 

**5. Licensing**  
How to replace current licensing regimes like financial services and pharmaceuticals?
  - 

**6. State aid & tax**  
Will remaining EU insist on the UK maintaining a level playing field?
-  **7. Third country interaction**  
The UK's interactions with the rest of the world, e.g., Trump, will have an influence on negotiations

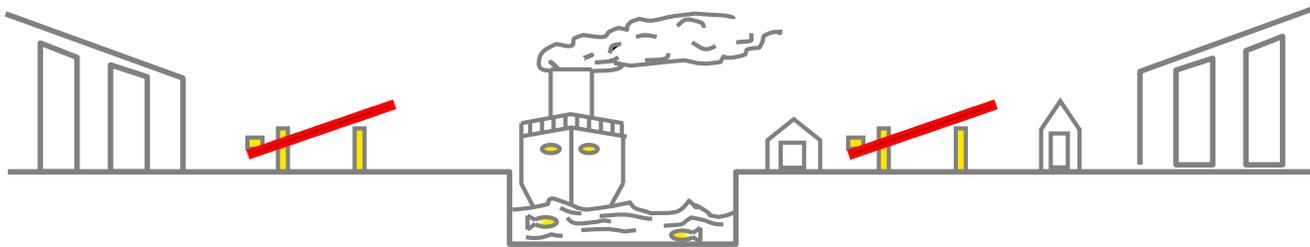
# EY Perspective

## Where we are now and potential outcomes



## Brexit and the UK Border

**A formal customs border is 95% certain**



**Will the border be ready in time?**

**Will you be ready in time?**

# Brexit – Impact on charities

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- ▶ If you move goods into/out of the UK have you thought about how that will happen post Brexit?
- ▶ Do you rely on European funding?
  - ▶ Directory of Social Change has found £258.4m of direct funding could be at risk through Brexit – likely to be more when you include indirect funding through UK agencies
  - ▶ If we leave with no transition period then funding could stop overnight in April 2019 – have you contingency plans in place?
  - ▶ Limited clarification from central government as to how these funds will be replaced
- ▶ Opportunity? – Lobby to extend the cultural exemptions? Remove some exemptions?

# Pensions – new guidance from HMRC

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- ▶ On 5 October, 2017, HMRC issued a new brief on pension fund management. The Brief announces a change in VAT treatment of pension fund management services supplied by regulated insurers.
- ▶ Historically, HMRC allowed all pension fund management services supplied by regulated insurers to be exempt from VAT. However, pension fund management services provided by non-insurers were subject to VAT. This treatment resulted from the UK's original application of the insurance exemption to all of an insurer's regulated activities.
- ▶ HMRC has now announced that pension fund management services supplied by an insurer to defined benefit schemes will be subject to VAT with effect from 1 January 2018.

# Pensions – new guidance from HMRC

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- ▶ This policy change has come at a time when another case – *United Biscuits* – has just been heard in the UK.
- ▶ In the pending *United Biscuits* litigation, the taxpayer has argued that there was a breach of fiscal neutrality given regulated insurers benefit from an exemption not afforded to others.
- ▶ It has been confirmed that the 70/30 split will not now be withdrawn but, with the potential increase in VAT being incurred do you need to look at alternate recovery methods, especially, if through your PE calculation you are only getting a fraction of that 30%

# Case law update

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## **Will Woodland:**

- ▶ A charity that created woodland and managed them as an addition to the country's woodland heritage
- ▶ Primary goal was charitable, however, had a clear intent to supply timber in 20 – 150 years
- ▶ HMRC said that they could see a direct link but not an immediate one
- ▶ Court followed Sveda, Durham Cathedral etc... and focussed on the outputs and determined that all of the VAT was recoverable.

# Case law update

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## Littlewoods:

- ▶ A long running case that was seeking to have compound interest applied to repaid overpayments of VAT
- ▶ The Supreme Court held that the Littlewoods claimants are not entitled to compound interest on refunds of overpaid VAT, where VAT was paid and collected in breach of EU law.
- ▶ It is likely that this is the end of the compound interest claim opportunity.

# Other charity tax issues

Richard Bray, Charity Tax Group (CTG)

#CTGManchester

## Other Giving issues

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- Gift Aid on text donations – audit trail
- Facebook donate
- Retail Gift Aid
- “Goneaways”
- HMRC working groups on the future of Gift Aid and Gift Aid donor benefits

## Gift Aid donor benefits

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- Announced at Autumn Budget that relevant value thresholds would be reduced to two
- 25% of donation up to £100 + 5% on amount over £100

Donation size	Current benefit limit	New benefit limit
£25.00	£6.25	£6.25
£500.00	£25.00	£45.00
£1,000.00	£25.00	£70.00
£5,000.00	£250.00	£270.00
£50,000.00	£2,500.00	£2,500.00 (capped)

- **No** reduction in benefit; and some significant gain, particularly for donations between £100 and £1,000

## Autumn Budget 2017

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- VAT registration threshold will not be decreased for next two years, but Government will consult on re-design
- New grant for accident rescue charities to cover the irrecoverable VAT cost of frontline services
- Government to consult on Community Infrastructure Levy (CIL) Review. No mention has been made of reviewing exemptions
- Use of Apprenticeship Levy funds will remain under review

## Making Tax Digital

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- New digital reporting requirements from HMRC
- Charity exemption from corporation tax reporting
- No charity exemption for VAT reporting if >VAT registration threshold
- No exemptions for trading subsidiaries
- MTD for VAT introduced in Spring 2019
- CTG involved in pilot process and discussions with HMRC

# Making Tax Digital

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- Records kept in electronic format including any adjustments made
- Each step in the accounting process after inputting source data must be digitally managed – data transfer by digital links
- Will require third party software – no HMRC/free solution
- HMRC digitally examine 9-Box VAT return data, but not underlying data. HMRC to encourage voluntary disclosure of additional material
- Later HMRC will sense-check data & query any anomalous info

## VAT reform

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- VAT system will need to adapt post-Brexit, although many things will stay the same (including case law)
- Opportunity for charity sector to push for new zero rates, while aiming to protect present rates
- EU Commission also making separate proposal for modernised system of setting VAT rates & e-books
- OTS VAT Review recommends review of VAT registration threshold, VAT rates/exemptions & administration

## Business Rates

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- **England:** Charity rates relief protected as part of Business Rates Review but discretionary rate relief under pressure. York Museums case interesting development
- **Scotland:** Barclay Review protects status of charity shops but suggests removal of relief from independent schools, ALEOs & Uni buildings let for commercial use outside term-time
- **Wales:** 2012/13 review proposed reduction in charity shop relief to 50%, but thankfully dropped
- **NI:** Proposal to reduce rate relief for charity shops to 80%

## Other issues

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- VAT guidance on grants/contracts & Sponsorship
- HMRC Trusts Register
- Corporate Criminal Offences
- Living Legacies

Questions?

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# Charity Tax Group

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