



MOORE Kingston Smith

Realising ambitions, together

Paying Gift Aid to the Parent Charity – Useful to Know Part II

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Part I was delivered on the Charity Tax Group Annual Conference on 5 December 2025

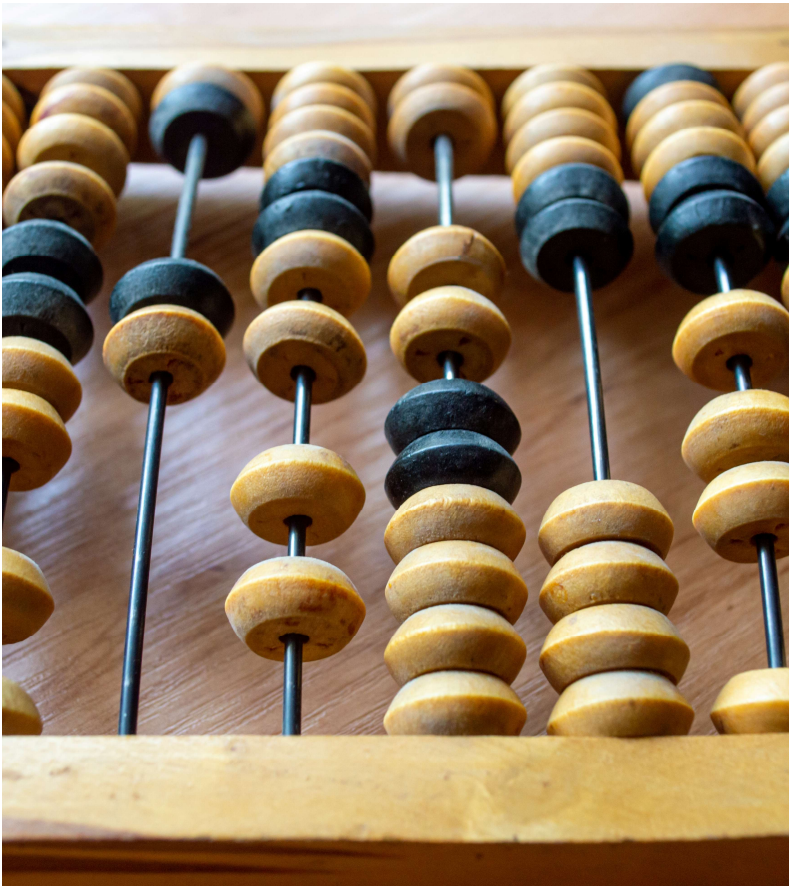
It was a short talk containing 5 useful points

Today's Part II contains additional and more points.

Disclaimer: The slides does not contain formal tax advice. Charities should seek formal tax advice when there are uncertainties.



What will we cover today?



A whistle-stop tour of Gift Aid Basics and Useful to Know Part I

Useful to Know Part II

1. A long accounting period
2. Timing and reserves
3. Prior year's underpayment
4. Overseas tax withheld
5. Company limited by guarantee
6. Gift Aid and Creative Tax Relief
7. Gift aid and group loss relief (repeat)
8. No cash to pay gift aid

Gift Aid Basics

Gift aid offsets taxable profits (not accounting profits)

Must be paid from distributable reserves

Must be paid in cash

Companies get extra 9 months to pay if wholly owned by charities


Makes a section 199 election to carry back 9 months

Companies not wholly owned by charities may also gift aid (no extra 9 months)



A Whistle-Stop Tour of Useful to Know Part I

Delivered on the Charity Tax Group Annual Conference on 5 December 2025

1. What is and how to make a Section 199 Claim
 2. What to do if paid too much gift aid
 3. Distributable reserve at the time of payment (not at year end)
 4. Acquired a new subsidiary – does it get extra 9 months immediately?
 5. Using gift aid and group loss reliefs together
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A long accounting period

- 15-month period from 1 January 2024 to 31 March 2025
- 2 accounting periods (AP) for tax return purposes:
 - AP1 – first 12 months: 1 January to 31 December 2024
 - AP2 – next 3 months: 1 January to 31 March 2025
- 2 gift aid payment deadlines:
 - AP1 - 30 September 2025
 - AP2 - 31 December 2025

Please pay on time!

Missing the deadline(s) means paying tax!



Timing and reserves

Gift aid must be paid out of reserves
at the time of payment

If £1million is paid when reserve is
£100,000, only £100,000 qualifies as
gift aid.

The reserve will be low at the start of
the year and will increase in the year.

Some charities have the practice of
transferring funds from subsidiaries to
the charity as and when.

Some charities have a banking
arrangement where subsidiaries'
surplus cash is 'swept' into the
charity's savings account every night.

**Please check reserves at the time
of payment.**

Timing and reserves: share capital reduction

A company may undertake a share capital reduction subject to seeking legal advice

- To reduce its share capital
- To increase its reserves

Do this before paying gift aid.

Gift aid payment required is £300,000

| £000 | Before | Reduction | After |
|---------------|--------|-----------|-------|
| Share capital | 600 | (200) | 400 |
| Reserve | 100 | 200 | 300 |

Prior year's underpayment

Scenario:

December 2024 tax return taxable profits
£500,000

Gift aid £500,000 paid by September
2025

An error in the 2024 tax return was
identified in 2026

2024 taxable profits £600,000

Can one pay £100,000 more gift aid in
2026 as a correction?

No. Need to pay tax on £100,000 for
2024.



Pay more if there is uncertainty.

Excess payment is not wasted.

Tax withheld overseas (double tax relief)

Scenario:

Subsidiary has £200,000 taxable profits.

It has £40,000 overseas income and £10,000 tax withheld overseas under the double tax treaty.

If it pays gift aid of £200,000, it has NIL tax to pay.

The £10,000 overseas tax cannot be recovered.

How about paying gift aid £160,000?
(check the covenant if any)

| A simplistic example | GBP |
|----------------------|-------------------|
| Trading profits | £200,000 |
| Less gift aid | <u>(£160,000)</u> |
| Taxable profits | £40,000 |
| Tax rate 25%* | |
| Corporation tax | £10,000 |
| Double tax relief | <u>(£10,000)</u> |
| Tax payable | NIL |

*ignore marginal relief

Tax withheld overseas (foreign tax deduction)

Alternative:

Allow the £10,000 foreign tax paid as a deduction

| | GBP |
|------------------|-------------------|
| Trading profits | £200,000 |
| Less foreign tax | (10,000) |
| Less gift aid | <u>(£190,000)</u> |
| Taxable profits | £NIL |

The subsidiary pays more gift aid and leaves less reserves in itself

Suitable if there is a covenant between the charity and the subsidiary to gift aid all taxable profits.

Company limited by guarantee

It has no 'shares'.

How could it be 'wholly owned' by a charity, thus get the extra 9 months to pay gift aid?

Section 200 Corporation Tax Act 2010

It is 'wholly owned' by a charity if every beneficiary of the company is a charity or a company wholly owned by a charity.

A beneficiary

- is entitled to participate in the company's profits OR
- will be entitled to share the net assets on winding up

Helpful to document these in the company's articles

Gift aid and creative tax relief claims

A single subsidiary undertaking –

- A. both trading activities (café, shop etc) and
- B. Creative tax trades (theatres, museums, orchestras)

Kept separate 😊

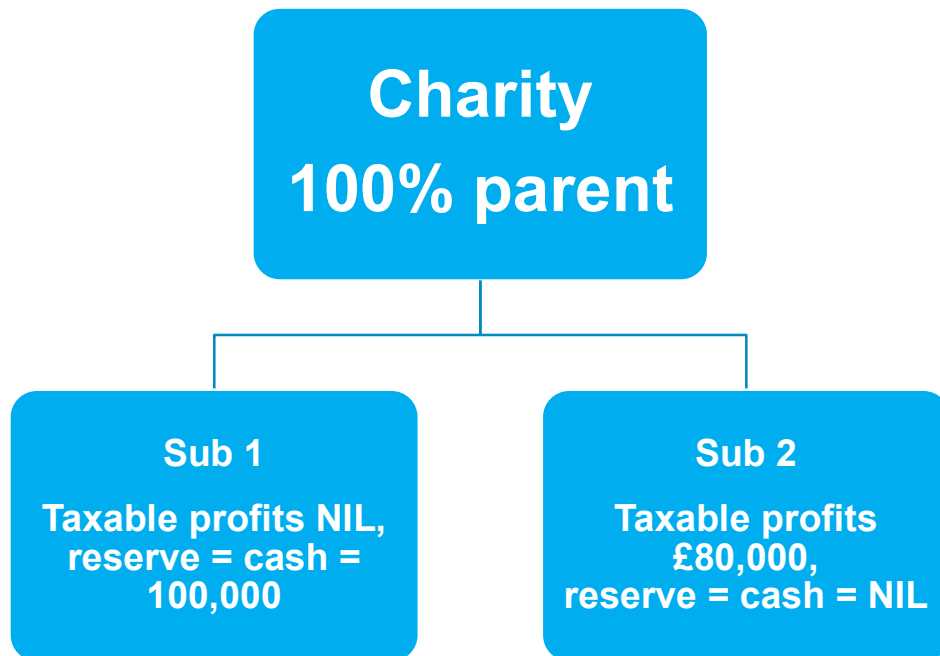
| | Café | Theatre |
|---------------|----------------------------|--------------------------|
| Profit (loss) | 100,000 | (100,000) |
| Action | Gift aid to parent charity | Surrender for tax refund |

Keep A's profits separate from B's losses.

If mixed up - 😞

| | Café | Theatre |
|------------------------|---------------------------------------|------------------------------------|
| Profit (loss) | 100,000 | (100,000) |
| Profit and loss offset | NIL profit No need to pay gift aid | NIL loss No loss for tax refund |

Gift aid and group loss relief



Normally no gift aid and Sub 2 pays tax of £20,000 on £80,000 profit

Using gift aid and group loss relief together

- Sub 1 may gift aid £80,000 to the Charity and surrender the £80,000 to Sub 1 as group loss relief
- Sub 2 claims £80,000 group loss to offset its taxable profits
- No companies pay tax

No cash to pay gift aid: Circular arrangements

Important:

We are not promoting circular arrangements.

We are presenting them here merely for discussion.

We would encourage all charities to seek formal tax advice if considering such arrangements

We would expect all charities to make a claim to HMRC before entering into such arrangements.

No cash to pay gift aid: what is a circular arrangement?

The subsidiary has no cash to pay gift aid.

Could the charity

1. Inject cash to the subsidiary as a loan or share subscription;
2. Then the subsidiary pays gift aid to the charity?

This is a circular arrangement.

HMRC has challenged multiple times.
Harvey v HMRC [2024] UKFTT 1098

- Gift aid clawed back
- No tax relief for the donor

Chapter 3 Gift aid 3.13.4

tax law is designed to stop tax relief being obtained from circular arrangements.

No cash to pay gift aid (HMRC guidance)

Can one write to HMRC?

If a charity enters into this arrangement with a subsidiary, it lends a loan or makes an investment.

This requires a claim to HMRC under s514 and s511 Corporation Tax Act 2010.

Annex iii 5.4

Approved charitable investment and loans

Company X gift aids all profits to its parent charity Y

Y makes a loan to X for working capital

Risk of the loan not being an approved charitable investment

No cash to pay gift aid (What to do?)

Check reserves first

Other alternatives – such as using group loss relief

If considering the charity injecting cash

Receive formal tax advice

Charity makes a claim to HMRC to treat it as an approved charitable loan or investment under section 514 or 511 Corporation Tax Act 2010.

Be prepared HMRC might consider them not approved charitable as per the example.

Do the above before injecting cash and before the gift aid payment deadline

Summary

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Useful to Know Part II

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