



## The Charity Tax Group Newsletter - January 2025

### Welcome to our January Newsletter!

We hope that you have all enjoyed a break over the festive period and that you have not been affected by storms and floods over the last couple of weeks. As the tinsel heads back into its box for another 11 months, is it perhaps time to think about lifting the lid on some of those tax related housekeeping tasks which it is so easy to overlook in the maelstrom of other work?

In CTG we are very much looking forward to another year of working with our members, the community of professional advisers who support us and with HMRC in improving the tax position for charities through better understanding on all sides of the issues and complexities in the sector. We already have a number of live issues with HMRC which we and they are actively pursuing, but please do get in touch with us and let us know if there are particular points which cause you difficulties and which you think could be resolved.

Thank you for your continued support.

Richard Bray, Chair, CTG

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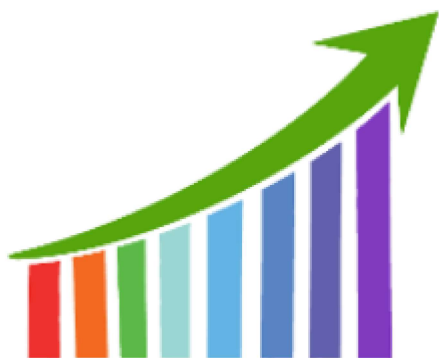
### **Is your business [non-business] in order?**

HMRC have initiated a process of writing to some smaller charities (up to £2m turnover) to raise awareness of the requirement to restrict recovery of input VAT where that VAT relates in part or in full to non-business activities.

Unfortunately, non-business is one of the trickiest areas of VAT, and consequently one that lots of people find a challenge. This is supported by evidence from HMRC that they are seeing increasing numbers of smaller charities claiming 100% of input VAT compared to their Box 7 value (purchases), which could indicate that the charities are not operating a non-business restriction. There is an alternate answer that these charities do not have any non-business activities, or that the Box 7 figure is erroneous, but this is something that HMRC want to investigate.

You can see a copy of the letter here: <https://www.tax.org.uk/hmrc-one-to-many-vat-email-sent-to-some-charities-regarding-non-business-income>.

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### **Are you invested?**

Does your charity hold any investments? If you do, you are probably missing out on reclaims of withholding taxes or WHT (think of this like the income tax deducted at source from your bank account in the olden days...). And this means that your investment returns will be less than they should be.

Although some fund managers assist with minimising the amount of WHT, in many cases charities are not getting this service. Completing the claim forms is complex, and so professional help is usually needed. Although this comes at a cost, in many cases it can be very economic so it may be worth you contacting your professional advisers to discuss this.

Alternatively, one of our members, Louise Hillman from the Medical Research Foundation, would like to explore collaborating with other charities who receive investment income and would be interested in working with their fund managers and professional advisers to minimise WHT on their investments. CTG and Louise plan to host a working group meeting in the New Year to kick this off. If you are interested in participating, then please [get in touch](mailto:expert@charitytaxgroup.org.uk).  
([expert@charitytaxgroup.org.uk](mailto:expert@charitytaxgroup.org.uk)).

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### **The benefit of a back-up plan for HMRC**

HMRC have been successful in the First Tier Tribunal against a taxpayer, Mr Harvey, who made a significant donation to a charity that he had set up, and the funds were returned to him by way of a loan.

This was a circular transaction which enabled the donor to claim higher rate tax relief and the charity to claim Gift Aid.

The judgement, [2024] UKFTT 1098 (TC), is very long, primarily because, as is often the case, there were a number of transactions to consider, and the paper trail was complex. The case was further complicated because HMRC initially sought to assess Mr Harvey under the [Tainted Charitable Donations provisions](#). HMRC subsequently changed horses and instead sought to deny Income Tax relief to Mr Harvey and seek repayment of Gift Aid claimed by the charity on the basis that the donation was not a qualifying donation under [s416 ITA2007](#). HMRC focused on two provisions in s416. The first was Condition E which requires that "...the payment is not conditional on, associated with or part of an arrangement involving, the acquisition of property by the charity from the individual or a person connected with the individual. The second was Condition F, which is the any benefits associated with the gift fall within the [donor benefit rules](#) in [s417](#) et seq.

The approach of HMRC in this case is interesting for charities because whilst if applied successfully, the Tainted Charitable Donations provisions would have resulted in a tax charge for the donor, the outcome of this case was that both the donor and the charity were subject to an assessment for Income Tax and Gift Aid respectively.

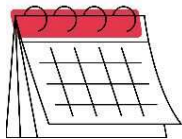
It will be interesting to see the draft Tainted Charitable Donations legislation which will come into force from April 2026. The revised legislation will lower the bar for challenging a transaction under those provisions such that HMRC will no longer have to demonstrate a 'motive' or 'main purpose' of obtaining a 'financial advantage', but instead will be able to apply an 'outcome test' which will allow them to consider a series of transactions in the round rather than a single transaction.



**Tip of the Year**

Rather than our customary tip of the month, to celebrate the New Year we have tip of the year. And whilst the Mistletoe may be well and truly faded our January tip is KIS or Keep it Simple. Focusing on the basics is the key to good tax and financial management and protecting and maximizing the assets of your charity. This includes:

- Make sure that you know who is registered with HMRC as the authorised person for Gift Aid claims and if that person moves on, then update the details as soon as possible. This is the primary reason for HMRC rejecting Gift Aid Claims.
- Make sure you file your Corporation Tax returns on time with HMRC if you receive a notice to deliver a return or have a liability to report. With the changes in Fit and Proper Persons guidance, failure to submit a return could result in loss of all charitable reliefs for your charity.
- Make sure you understand the VAT liabilities of your charity income and that you account for VAT to HMRC where required as well as claiming any charitable reliefs you are entitled to on purchases.



### Future Events

We are looking forward to our programme of events for 2025. Remember to save the dates in your diary so you don't miss out.

Our first three Expert Insight events are:

**Technology and Tax:** Future Outlook for Charities at 4pm on **Thursday 23rd January**. The presenters will be Scott Harwood and Tom Gilbert from RSM. You can book for this session [here](#)

We will explore the evolving landscape of digital tax reporting and its implications for charities. Is this new age a good or bad thing for charities? Discover what steps charities should take to prepare for the future, where to invest in technology, and how to navigate potential pitfalls. Evaluate the opportunities and challenges presented by the digital age for charitable organisations.

**Our second Expert Insight** event will be on the wider implications of the increase in **National Minimum Wage** at 4pm on **Wednesday 26th February**.

The presenter will be Siobhan Waters from BDO. Some of you will have seen Siobhan at our conference in December. In this session, Siobhan will explain what employers need to do to comply with the increases to National Living and NMW coming into force this April, and in particular the wider implications and additional risks that come with the increased rates, including whether they could frustrate some salary sacrifice arrangements implemented by many charities to benefit employees.

**And our third Expert Insight** event will cover some topical **VAT issues** around land and property at 4pm on **Wednesday 26 March 2025**. The presenter will be Karen Regan from S3 Tax and CTG's representative on the HMRC Land & Property Liaison Group.

### **Charity Member Only events**

Save the dates in your diary and look out for booking links.

Gift Aid Practical Issues Working Group on **Tuesday 28th January at 4pm.**

VAT Practical Issues Working Group on **Thursday 27th February at 4pm.**

Invitations for the January Gift Aid meeting have already been sent out, invitations for the February VAT session will be sent out by the end of January.

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