

## Meeting between HMRC and Charity Tax Group (CTG) to discuss potential changes to requirements for a valid Gift Aid Declaration (GAD)

4 December 2018, at the offices of Bates Wells Braithwaite (BWB)

**In attendance:** Phil Sears (HMRC), Richard Bray (CRUK/CTG Vice-Chairman) Vinod Patel (CRUK), Jo Georgiou (British Red Cross), Tom Owen (Chester Zoo), David Warreallow (National Trust), Andy Lee (Stewardship), Barni Brand (WWF UK), Chris Lane (CTG), Bill Lewis (BWB), Susan Shi (BWB)

### Background

1. Chapter 3 of HMRC's current guidance on Gift Aid for Charities requires the GAD to contain the name and home address of the donor. As a minimum, the donor's first initial and last name are required.

*"If HMRC finds the details on a declaration are not enough to trace the donor, they may ask the charity to get more information to check the claim. If the charity fails to get this information, it's likely that the declaration will be considered invalid. We would recommend that charities ask donors at regular intervals, possibly every 2 years, to check the personal details held. Any request like this would have to be GDPR compliant."* (paragraph 3.1.9)

2. HMRC suggested they were considering amending their guidance so that donors' full names would be required in respect of valid Gift Aid declarations from April 2019. Gift Aid declarations obtained before that date would remain valid where only a donor's initial is available.
3. The Charity Tax Group made HMRC aware of concerns about this proposal and arranged a meeting with Phil Sears of HMRC on 4th December to discuss the proposals.

### HMRC's rationale behind proposed changes

4. Currently, around £1.2 billion in Gift Aid is being claimed by charities from the government each year. There is estimated to be up to £560m of unclaimed Gift Aid, but also up to £180m of Gift Aid which is estimated as being incorrectly claimed in respect of non-taxpayers.
5. In order to reduce the estimated amount of incorrectly claimed Gift Aid, HMRC would like to enhance the details it holds on donors, so that it is better able to match the details on the GAD form with its

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own tax records, to confirm whether the donor has paid sufficient tax to cover the amount of Gift Aid claimed by a charity.

6. An example of HMRC's current difficulty:

- John Smith fills out a GAD form with the name "J Smith". He also provides his address.
- His son, Joe Smith, also lives at this address. Joe is not a taxpayer, but has incorrectly completed a GAD form for several charities. He also puts "J Smith" on these forms.
- HMRC is unable to confirm whether the "J Smith" on the incorrectly completed forms relate to John or Joe, as they live at the same address.

**The details of the proposal**

7. From April 2019, it had been suggested at The Charity Tax Forum that donors who provide a Gift Aid declaration for a charity to claim Gift Aid on their donations might be required to provide at least their full first legal name as well as their last name.
8. Phil told the group that HMRC would not require the first full name to be the donor's legal name, but would only need to be the name that they are ordinarily known by for legal, administrative and other official purposes. For example, a donor whose full legal name is "Charlotte", but who is known ordinarily as "Lottie", will be able to use "Lottie" on the GAD form.
9. HMRC had considered requiring GADs to include dates of birth, or even national insurance numbers, in order to help identify donors but had decided not to pursue that.
10. Charities will not be required to revisit existing declarations, and will only be required to ensure that new GAD forms contain a donor's full first name and last name.

**The charities' perspective**

11. Attendees and representatives from various charities were invited to describe their thoughts on the proposals. Key concerns are detailed below.

***Potential loss of Gift Aid***

12. Many charities are concerned that legitimate donors would see this as a more intrusive measure and be less willing to complete the GAD form. This would lead to a reduction in the amount of Gift Aid charities would be able to claim.
13. In addition, even if donors were willing to provide these details, the additional time required to complete the details may be off-putting in some situations, and may reduce their willingness to make the Gift Aid declaration (see para 20 for the impact on a charity like Chester Zoo)
14. As a broad estimate, WWF UK claims between £5.5m to 6m in Gift Aid annually, and has estimated that if they were ever required to obtain full names in respect of all their donors, it would lose around 9% of donors (29,000 people). It seems that many charities have a similar percentage of donors (10%) where only the initial is known. Phil advised that where full details are already known, then these should be included in Gift Aid claims.
15. The attendees at the meeting were concerned that HMRC had considered the mandatory inclusion of dates of birth and /or national insurance numbers on GADs. Most people have not memorised their NINO and requesting a date of birth or NINO would be seen as intrusive and off-putting. In particular, it would be difficult for a donor to understand why a charity required their date of birth to claim Gift Aid at a time when there are general concerns over the use of their personal data. There would inevitably be a large loss of Gift Aid.

***Administrative costs for charities***

16. Many charities would need to hire additional staff and would incur extra costs, e.g. with systems changes, in order to collect the extra information.
17. Charities are likely to adopt a cautious approach, and not claim Gift Aid on donations where part of the first name on a GAD form is illegible. At the moment, they are able to make the Gift Aid claim because often the first initial is legible, even if the rest of the first name is not.
18. Charities would also need to spend money and utilise internal resources reconfiguring their IT systems to deal with the proposed changes. These changes would often not be possible to make by April 2019.

19. It may be easier to collect information on first names when donors complete the GAD when making donations online.
20. As a broad estimate, Chester Zoo estimates that at peak times of the year it would add around 14 hours of queuing time a day if they were required to obtain full names from donors who wished to make a Gift Aid declaration on their donation when buying a ticket for entry to the zoo. This would require them to engage at least two additional staff, and set up two additional payment points in order to cover the extra queuing time.

***Whether this is the best solution to address the problem HMRC has identified***

21. Charities raised the concern that having the full name may not actually reduce the level of Gift Aid which is incorrectly claimed. It would not make sense to use resources and time to make changes to the requirements for a valid Gift Aid declaration, without strong evidence that it will have the impact desired.

**Potential proposals and next steps**

22. Phil and the charity representatives discussed potential ways they could work together to reduce the level of Gift Aid which is incorrectly claimed.

***Research***

23. It was suggested that consideration should be given to carrying out research to determine whether requiring a donor to provide their full first name would reduce the level of Gift Aid which is incorrectly claimed. The research could also seek to clarify how much Gift Aid charities may lose as a result.

***Gradual implementation, not hard requirement from April 2019***

24. Phil agreed that he is seeking a gradual increase in the percentage of full names included in Gift Aid claims over time, and if the sector can help HMRC with this April 2019 is not a hard deadline. Phil also clarified that HMRC will not be introducing this as a mandatory requirement from April 2019, and that he wants to encourage charities to provide information on a donor's full first name if they have it. Charities agreed that they are very happy to take this approach and a number of large charities have already indicated that they will be able to change their processes accordingly to include full name details where they hold this information.

***Update to Chapter 3 guidance on GAD forms***

25. It was agreed that it is important to communicate this to other charities. The guidance should be updated by April 2019 to recommend that charities should obtain a full name wherever feasible and practical and input the donor's full first name in Gift Aid claims, and not merely the initial, if they have it.

**Conclusion**

26. The group agreed that the meeting had been extremely beneficial and helped to clarify both HMRC's aims and the concerns of the charities. Everyone was keen to assist HMRC in its aims, and to continue to collaborate and share ideas on how those might be best achieved.

***CTG is grateful to Susan Shi, BWB, for preparing the first draft of this note***