

Office of Tax Simplification Third Party Data Reporting Review

Response to the Call for Evidence from the Charity Tax Group – 9 April 2021

Introduction

1. The Charity Tax Group (CTG) has over 800 members of all sizes representing all types of charitable activity. It was set up in 1982 to make representations to Government on charity taxation and it has since become the leading voice for the sector on this issue. CTG is an active participant in HMRC's Charity Tax Forum and has actively engaged with the Office of Tax Simplification (OTS) since its formation in 2010.
2. CTG welcomes the opportunity to respond to this consultation and for the opportunity to meet OTS officials during the consultation process. Our response primarily focuses on issues relating to Gift Aid. CTG is not a charity itself but our response is based on our general knowledge of the position of many charities, the intermediaries they work with and donors. The response has been developed in conjunction with the sector-wide Future of Gift Aid working group, led by CTG, which includes charities, banks, payment providers and intermediaries including SwiftAid and JustGiving, as well as HMRC.

Overview and key principles

3. CTG welcomes efforts to review how technology and the use of third party data reporting can be used to improve and simplify the tax system. The OTS is correct to note that many people who are eligible to claim higher rate relief for Gift Aid on charitable donations do not currently do so. Third parties reporting this information to HMRC for use in online returns or the online tax account would be a positive development and consistent with wider project work we are leading on the future of Gift Aid. This project is in the vanguard of exploring how technology can take the use of third party data and use it to settle tax liabilities. Background information has been provided to officials, but a more detailed overview can be found [here](#) and on request.
4. An increasing number of Gift Aid claims are being made by third party intermediaries and this is helping to reduce complexity and maximise eligible claims. Intermediaries, such as JustGiving, have shown a welcome willingness to work with charities, providing a reliable and cost-effective service which enables a large volume of donation and Gift Aid information to be aggregated. Charities value this service. However, in practice, the vast majority of UK charities are small organisations¹ with no

¹ There are approximately 200,000 charities registered with principal charity regulators in the UK. Of these only approximately 6,000 have an income of £1m or more each year. In addition, it is estimated that there are at least 190,000 other charities in England and Wales that are not required to be registered, either because they are too small or because of specific legislation excepting or exempting them from registration. Approximately 70,000 charities a year claim Gift Aid with over 50,000 claiming less than £5,000 a year, requiring no specialist third party software or professional advice.

The voice of charities on Tax

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While all efforts are made by the Charity Tax Group to give assistance to its members, it is not qualified to give technical advice on fiscal matters and cannot therefore be liable in any way for any such advice given.

paid staff and ill-equipped to comply with complex regular digital tax reporting, particularly where there is no immediate benefit to them.

5. There needs to be a roadmap which recognises the potentially long lead time required to (a) update both HMRC and charity/intermediary systems and (b) to properly utilise the opportunities provided by new technology and payment methods. There is unlikely to be a one-size-fits-all solution for charities and intermediaries. This is an important consideration for future proposals. A cost/benefit assessment needs to be considered. In our view, it would make sense to progressively harness the benefits of technology through a phased approach to change.
6. For the increased use of third party data to be as successful as it could be, there will need to be significant investment in HMRC systems and practices, as well as changes to charity/third party systems.
7. Although Gift Aid remains fit for purpose in its current form, we consider that the legislation that underpins it needs to be revisited to ensure it is as effective as possible in the digital age (and meets HMRC aspirations in this area for the settling of personal tax liabilities). It is unrealistic to think that legislation that has changed little for 20 years can cope with the new opportunities that digital technology provides.
8. Possible legislative changes that could be considered include:
 - a. **Franking a Gift Aid payment with tax paid in a prior year:** To determine that a person is a taxpayer in 'real time' presents challenges, particularly at the start of a tax year. It would be a much simpler process if there was an ability to frank a Gift Aid payment with tax paid in a prior tax year. This seems to be the intent of the current legislation but is currently over complicated by the 'old ways' of settling tax liabilities.
 - b. **Simplification and streamlining of reporting of information to donors:** There are currently *ad hoc* ways that some year-end reporting of Gift Aid payments to donors is required via the Gift Aid intermediary legislation and the retail Gift Aid HMRC guidance (for which there is no current legislation). Technological developments could mean that Gift Aid transactions might need to be notified to a donor twice, so the whole area of reporting to donors needs to be thought through and simplified.
 - c. **Simplifying higher rate relief claims:** A donor may sign a Gift Aid Declaration that enables Gift Aid to be claimed on donations made within a four year period. For the donor to obtain higher rate tax relief prior year tax years need to be reopened, so it might be beneficial to allow that relief in the year when the gifts become eligible for Gift Aid to be claimed and are likely to be reported to HMRC.
 - d. **The ability for the charity to cover the donor's tax liability where a non-eligible donor had inadvertently made a Gift Aid declaration.** We accept that this would not be appropriate in all circumstances, but where a donor is not a taxpayer they may well not be able to afford to pay the tax on the donation. If the donation could be treated retrospectively as not having been made under Gift Aid the charity could simply reduce its subsequent tax reclaim from HMRC accordingly. Perhaps this could be limited to claims below a *de minimis* amount of tax per donation or per taxpayer.

These proposals would amount to small changes that would allow the original policy objectives for Gift Aid to be met effectively within a digital framework and maximise the chance of tax liabilities being met correctly.

9. In the longer-term consideration could be given to making a Gift Aid an “opt out” rather than an “opt in” system. This is on the understanding that a donor has a right to tax relief on charity donations that are made for the public benefit. Previously such a system would not work as it could not be verified that a charity supporter was a taxpayer. New technology now means that this is possible. Recent HMRC user research suggests that this is something that many donors would be in favour of. We can provide you with more information about this research if that would be helpful.
10. We encourage fresh thinking about how new technology can help realise original HMRC policy intentions.

Responses to questions in the call for evidence

11. We have responded to the questions most relevant to our members below, considering questions from the perspective of both donors and charities.

4. What would you consider to be the main benefits of third parties providing such data to HMRC on your behalf?

In the case of Gift Aid, it will enable taxpayers to obtain higher rate relief where it is currently impractical to do so as the manual effort tends to outweigh the fiscal benefit. Overall, the compliance burden would be reduced. In the broader sense, third party data could help to both reduce the tax gap (donors who have claimed Gift Aid without the tax to cover) and potentially increase awareness of Gift Aid among donors who give to charity but do not claim Gift Aid, which in turn could increase giving to the charity sector. This does however rely on the establishment of a mechanism that would enable the third party data to be matched to individual taxpayers’ tax return information.

5. What, if any, are your main concerns about third parties providing data to HMRC on your behalf?

It is important that third parties ensure that the provision of data is compliant with GDPR rules and there are robust processes in place to ensure the accuracy of data and correct attribution to individual taxpayers. It is also unclear how regularly this information would be submitted and whether it would provide a reliable picture of tax status (and for example eligibility for Gift Aid) at the time it was checked.

6. Is there any information currently held by HMRC or other government departments that it would be useful to have shown in your online tax account or prepopulated in a tax return?

Ideally, a figure for Gift Aid payments shown in a personal tax account should be capable of being broken down by charity. This would make it easier for donors to check this figure. However, given that the donation amounts involved are often small, the value of providing this information could be outweighed by the associated work and cost of reporting this information. This information will be easier to provide where it is already collated by intermediaries and in an online format. However, as not all donations are processed digitally it would not always be a complete record unless all charities were required to provide details of every transaction – which is not likely to be feasible – at least in the short to medium term .

9. If third parties were to provide data to HMRC on your behalf, what would you want HMRC to do with it to make life easier for you, for example, reflecting it in an online tax account?

Reporting Gift Aided donations to HMRC and matching those donations to a donor's personal tax account should enable Gift Aid higher rate relief to be granted much more easily, especially on smaller sums. This will be a significant benefit for many taxpayers for whom obtaining this relief is considered to be impractical at the moment. Providing information to facilitate this process may also encourage more taxpayers to engage with their Personal Tax Account.

10. To facilitate a third party providing HMRC with data in an effective way, you may need to provide them with identification information (National Insurance number). How would you expect to provide this information for example, by letter, phone or an online form? Are there some types of third parties that you would be more comfortable providing this extra information to and what are your reasons for this?

In view of the opportunities provided by advances in technology with the resulting ability to share information and data, the times that a taxpayer needs to be involved in this process can hopefully be much reduced. It would also be useful to be able to provide a range of identifiers and not rely on National Insurance numbers alone, as this is not information that taxpayers always have readily available or would be willing to share with a third party. Once a third party has successfully matched a taxpayer to their HMRC record, other unique identifiers can then be used to associate that taxpayer to a taxable event—for example, the payment card, payment account reference (PAR), mobile number, email or bank account.

It would be helpful if HMRC could define a set of rules around the concept of tax account data proxies (ie allowable data points that can be used individually or in combination by any actor in the Gift Aid network to correlate to a tax profile). These could include a combination of name, surname, email address, PAR (payment account reference), postcode, house identifier as a starting point and then extend to others in future as support is extended to (open) banking etc. A process would be needed to assist charities to keep such identifiers up to date (for example, when someone moves home) or the donor changes their email address or mobile phone number.

11. What do you think would be the most effective way for you to be able to query the accuracy of the data provided to HMRC by third parties? Are there particular taxpayer safeguards you think should be considered to maintain trust?

We would like to see a simple process for taxpayers to query the data. Practical issues relating to matching data could stem from delays in claiming Gift Aid by charities (given the length of eligible claiming periods) and mismatches in claims due to cleansing data etc. In our experience there is a lack of consistency in, for example, HMRC practice of what is a valid address for Gift Aid purposes. This is largely because there is very little published HMRC guidance in this area. If progress is to be made in settling tax liabilities as envisaged by this call for evidence, we consider it essential that HMRC should provide help with establishing standard rules for data cleansing that can be applied consistently by charities. It would therefore be very helpful, if not essential, for HMRC to issue formalised guidelines on data types, acceptable ways of collecting and validating them as this would simplify implementation and put all parties on the same footing. It will be important to consider how easy any requirements will be for small charities to meet and what the options might be for them to work with intermediaries in submitting this information.

12. Do you have any comments on steps HMRC could take to build and maintain trust in the way it handles and uses customer data from third parties?

We hope to move to a system where Gift Aid is only claimed when the taxpayer has paid sufficient tax to meet the tax claimed by the charity and where Gift Aid is claimed on all eligible donations. In dealing with situations where donors have not paid sufficient tax (which does occur at present) care will be needed to ensure that the public's confidence in the Gift Aid system is not undermined. It would be important that HMRC set up systems so they could notify donors who are reaching/have exceeded their yearly allowance in as close to real-time as practical as the Gift Aid is claimed, to help avoid incorrect claims.

14. Does your business provide its customers with tax related data to help them fulfil their tax obligations, and how is this provided? Do you currently have a method for individuals to query the information provided if they believe it is inaccurate?

End of tax year letters are required to be sent to many donors who make use of the Retail Gift Aid scheme. This creates a lot of additional work reflecting the complexity of the retail Gift Aid system. The level of donations can be very small and to prevent information overload *de minimis* levels might need to apply. Intermediaries may provide information on a voluntary basis, but this will only be possible where donors are logged in and not interacting as a "guest" (which happens in the majority of occasions), although sometimes information is shared across platforms which means that it is not always necessary to collect information directly as a result. It could create a major problem if every charity had to report the information to its donors given the large number of small charities and small donations. Where submission of data is required the process for providing this information should be as simple as possible and easy to integrate with charity CRM (Customer Relationship Management) systems. Linking it into the Gift Aid claiming process may make sense.

15. Does your business already provide data on a regular basis to HMRC or to another government department? How is this done and what format does it take? Are there any particular positives or negatives with the current method of data provision? If you ever need to correct the customer information you hold, how do you update an earlier submission to HMRC or other government department?

Charities submitting Gift Aid claims to HMRC must provide the name of the donor and the donor address, including a postcode. The address that a charity holds and submits with the claim may not always be the donor's current address, depending on whether the charity has been notified of any moves.

The Gift Aid claims do not necessarily include just donations for that tax year leading to a common mismatch between when a donor claims the tax relief relating to their payments and when the charity claims the Gift Aid. There are also times when a charity needs to reverse its claim for Gift Aid. This operates under a system where such credits are combined in the submission and so HMRC systems will not know the identity of the individuals this relates to. Our understanding is that HMRC rarely match the donor data submitted with Gift Aid claims to a personal tax record.

Real-time/true API submissions come with the advantage of shifting from a "batch" to a line-by-line approach. This potentially means that Gift Aid claims relating to individual donations can be acknowledged/rejected by HMRC in real-time as opposed to the present situation where a line from a "batched" Gift Aid claim is not paid out but the charity has no way of knowing what individual that relates to.

It is also worth bearing in mind that HMRC currently allows ‘aggregation’ of Gift Aid data. This means that lower value donations can be ‘lumped together’ for data transmission purposes resulting in the identity of the donors not being visible to HMRC. This practice would need to change and would result in system changes for some charities.

17. What do you consider would be the main difficulties of the introduction of data reporting to HMRC? Are there any types of business or charity which would have particular difficulties or disproportionate costs in reporting customer data to HMRC?

As outlined above it will be difficult to get every charity to report customer data to HMRC given the size of the sector. This will cause particular problems for small charities that are often dependent on the help of volunteers. There are also likely to be issues with HMRC matching donors to their tax records.

18. How long would it take to adapt your systems in order to be able to effectively report to HMRC? What additional administrative costs would there be for your type of business? Is there anything HMRC could do to support delivery?

We envisage that significant system changes will be necessary. As a result, we consider that there will need to be a relatively long implementation period. How long this might be is difficult to tell without knowing what HMRC requirements will be. For smaller charities, that often do not use standard accounting packages, the increased administration burden could be significant. For these charities that burden would be reduced if they used a third party intermediary to prepare their Gift Aid claims.

19. Do you currently usually hold customers National Insurance numbers?

Charities do not usually hold this information and it is not required on a Gift Aid Declaration. Donors and fundraisers have generally been opposed the use of National Insurance numbers as a primary identifier for Gift Aid on the basis that few people have this information readily to hand.

20. If your type of business were required to collect additional data from your customers in order to facilitate reporting, how easy or difficult would this be, and what would be the timescales involved?

There would need to be a demonstrable purpose to request further information and we appreciate that sharing data requires the trust of a charity supporter. As referred to in other parts of this response we see technological developments enabling broader sharing of information minimising the times that similar information needs to be requested from a charity supporter.

Donors do not usually have access to their National Insurance Number, for example when visiting a museum. Moreover, a donor would normally need to provide the information every time they made a donation to a different charity (as they do now). One could envisage an app or a “charity card” as an interim solution to this. This would require investment to support this to enable the charity to access the information. It could speed up the entry process to a visitor attraction and make donors more likely to claim Gift Aid.

With the opportunities that new technology provides to share information there can be a number of key identifiers for an individual and these often will need to be shared once and not multiple times. Minimising the involvement of the donor in such ways improves accuracy and the user experience. Much of the technology to make this possible is already in place.

21. How often would it best fit with the way your business systems operate to provide HMRC with the relevant data (for example, in real time, monthly, quarterly, annually)?

There is not likely to be a one-size fits all solution. Real time reporting may be optimal for some platforms. But this would require changes to charity accounting systems to accommodate the new reporting requirements. This could not happen overnight and HMRC systems would need to change too. More regular reporting and the resulting Gift Aid payment to charities should help charities improve their cashflow.

24. Are you aware of opportunities offered by emerging technology that could support the provision of third party data to HMRC?

A primary aim of the Future of Gift Aid project is to harness emerging technologies and payment methods to maximise eligible Gift Aid claims. Key to this will be reaching a sufficient scale of charity and donor involvement. Project partners are working to develop a 'Gift Aid network' where authorised actors collect and share Gift Aid/taxpayer data according to guidelines defined by HMRC. Key to this is developing a direct link to a personal tax account.

26. Is there any data that it could be useful for HMRC to be able to share with your business in order to aid tax compliance among your customers?

The Future of Gift Aid project is already working to establish that it is feasible to establish that a charity supporter is a taxpayer before Gift Aid is claimed. This involves establishing that it is possible to interrogate HMRC's systems. This work is well advanced.

27. Are there any international issues specific to your type of business that need to be considered?

The position of donors based overseas but that are UK taxpayers needs to be considered. They are eligible for Gift Aid, but this is often misunderstood and there is uncertainty about the associated data and validation requirements to process these claims.

28. If reporting of data were to be introduced, would you consider this to be better as a phased approach (for example larger businesses and charities first) or across an entire industry in one go? What are the challenges that would arise with either of these approaches?

There is a preference for a phased approach within the charity sector. Intermediaries and larger charities would be able to meet new demands sooner. Some very small charities might be limited in their ability to comply with new demands. This problem might be reduced by the greater use of intermediaries acting on behalf of these charities. Retaining flexibility and choice for charities will be important where this proves to be possible.