

A cultural shift

Zahra Kanani applauds government attempts to encourage & support charitable giving

Budget 2011 announced the introduction of the Gift Aid Small Donations Scheme (GASDS) which will enable charities and Community Amateur Sports Clubs (CASCs) to claim a top-up similar to Gift Aid without the need to obtain Gift Aid declarations. The top-up will only apply to cash donations of £20 or less and the total applicable donations will be capped at £5,000 per charity or CASC per year, except in certain circumstances where charities run certain local charitable activities or where charities or CASCs are connected with other charities or CASCs. It is intended that the measure will apply from 6 April 2013.

The new scheme will allow charities to claim Gift Aid on donations up to £5,000 each year without a Gift Aid declaration, so charities can claim 25% of £5,000, ie £1,250. The policy objective behind the new measure is aimed at enabling charities and CASCs to claim such payment on donations received in circumstances where it is difficult to collect donors' details or in cases where donors may be reluctant to give them. For example, when a charity has a bucket collection to raise funds or where a religious group passes around a bowl for members to make donations during a service, it is likely to be difficult and burdensome to collect declarations as the Gift Aid scheme requires and it is this hurdle that the GASDS seeks to overcome.

Combating fraud

The nature of the scheme, where top-up payments will be allowed on donations for which donors' details have not been collected, means that the government will need to take steps to prevent any potential fraud and abuse. To combat this and to ensure that the funding for the GASDS goes to those organisations that are the focus of the policy, charities and CASCs will have to meet certain eligibility criteria.

Eligibility criteria

The basic criteria will be the following:

- 1 A charity must have been a charity for UK tax purposes (and a CASC must have been registered with HMRC as a CASC) for at least three consecutive tax years;
- 2 The charity or CASC must have made a successful Gift Aid claim in at least three out of the previous seven tax years;
- 3 There must be no more than two consecutive tax years in which no Gift Aid claim was made; and
- 4 The charity or CASC must not have incurred a penalty in respect of a Gift Aid claim or a GASDS claim made in the tax year in which the donations are received or in the previous two years.

The second and third criteria demonstrate the likelihood that cash given would qualify for Gift Aid if a declaration could or had been made.

The purpose of the eligibility rule is to help reduce fraud by enabling HMRC to check a charity or CASCs general compliance with the Gift Aid rules over time.

Charities and CASCs will only need to keep limited records under the GASDS and so their compliance with the Gift Aid rules will help to demonstrate their compliance with the GASDS rules.

How much can you claim?

The government's recent consultation paper acknowledges that GASDS needs to be structured in such a way as to enable, as far as possible, charities undertaking similar activities to be able to access GASDS payments on donations to a comparable degree. The general rule is that each charity will be entitled to a maximum limit of £5,000 each year. However:

- The rules increase the maximum limit of a parent charity by adding to the "core" maximum limit of up to £5,000 an extra maximum limit of up to £5,000 in respect of small donations made in community premises in which the charity carries out its charitable activities. The maximum limit of up to £5,000 for each premises is limited to the amount of small donations actually collected by the group in the community building. The small donations collected by each local group must be collected in the course of its charitable activities carried out in the community building. The charitable activities will depend upon the charity's objects but must comprise activities carried out at the same community building with at least ten group members on at least six occasions each year. Staff, officers and trustees of the charity may attend but they do not count towards the quota of group members in order to meet the rule. A community building is a place of worship, village or town hall or other building which is accessible to the public or a section of the public. Premises used wholly or mainly for commercial or residential purposes are not community buildings for the purposes of the GASDS. For example, if a vicar holds a monthly service at a residential home for elderly people where a collection is held for the church (which



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is a charity) at each meeting, the donations do not qualify towards an enhanced maximum limit for the charity for two reasons: firstly, because the meetings take place in residential premises and secondly, as the building is not open to members of the public. However, collections at a church in the same parish would qualify for GASDS. In order to prevent potential abuse of the community buildings rule by charities seeking to increase their entitlement to the maximum donations limit by appearing to run several different local groups in different community buildings (where, in fact, there is just one group), HMRC will have the power to specify (in regulations) buildings that are or are not to be treated as community buildings as well as have the power to specify circumstances in which two or more buildings in the same vicinity are to be treated as a single community building. HMRC's intent here is clear but defining a "community building" may prove to be difficult. Donations made at local group activities held for non-charitable purposes, including fundraising or outside community premises are not eligible for a top-payment under the GASDS under this rule. In contrast, the small donations relating to the parent charity's "core" limit of up to £5,000 may be collected anywhere.

- Where several charities or CASCs are connected with one another (and at least one of the charities runs charitable activities in a community building), instead of each charity or CASC being entitled to the "core" maximum limit of up to £5,000 in its own right, the charities or CASCs will share equally between them just one "core" limit of up to £5,000. It is only the "core" maximum limit of up to £5,000 that will be reduced – where a connected charity runs charitable activities in a community building, the increase in the charity's maximum limit that derives from the groups carrying out those charitable activities is not affected by the fact that the charity is connected with other charities.

It is clear that from HMRC's perspective GASDS is not intended to be a replacement or substitute for Gift Aid and as a point of principle, charities and CASCs should continue to claim Gift Aid on donations wherever possible. However, the scheme raises the question why the government is so concerned about it being open to fraud and abuse. This is essentially a handout for charities and any fraud which the government anticipates may be unintentional and be caused by a lack of accuracy. It also brings into consideration how the scheme fits in with the objectives of the Big Society and aiming to increase charitable giving by donors from all "walks of life", as the amount an individual gives is completely unconnected to the benefit received by the charity as a result of the scheme. Although GASDS is an admirable incentive in principle, it remains to be seen how it will operate in practice.

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