

Giving to charity by business

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Introduction

This Help Sheet sets out the tax reliefs available to encourage businesses to give to charity. The sheet explains the different rules that might apply depending on whether your business is a company, a sole trader or a partnership.

It sets out the position from April 2003 and covers the following topics.

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Gifts of money

Businesses can get tax relief when they give money, whether as a one-off or a regular payment, under the Gift Aid scheme. There is no longer a separate tax relief for payments to charity under a deed of covenant. There is no limit to the amount that the business can give, but the way you get tax relief will depend upon whether the business is a company, a sole trader or a partnership.

How does a company get relief?

If your company decides to give money to charity, it simply makes the payment through Gift Aid and deducts the amount as a 'charge' when working out its profits for corporation tax purposes. You make the full payment to the charity. You do not need to deduct any tax from the payment and the charity does not claim back any tax on the gift. You no longer have to provide a Gift Aid certificate to the charity or provide a new form of declaration. If your company has no corporation tax liability in an accounting period, there are special rules regarding how any loss created by the donation can be used. You should contact the HMRC office that deals with your company's corporation tax affairs if you need further information on this point.

If you are a close company, generally one under the control of five people or less, there is a limit on the benefit which the company, or a person connected with the company, can receive from the charity in return for the payment. (There is an explanation of connected persons in our leaflet CGT1 'Capital gains tax. An Introduction'.)

How do sole traders get relief?

From April 2003, you can treat Gift Aid payments made between the end of the tax year and the date you send us your Self Assessment return as if they were made in the tax year the return is for. To do this, you must send us your Self Assessment return in time to reach us by the filing date.

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How do partnerships get relief?

We treat any gift by a partnership as made by the individual partners. We will treat you and your partners as each giving an equal share of the gift, unless you tell us that the partnership has decided to split the gift in a different way. We will treat your gift as paid out of your taxed income and the charity will reclaim the basic rate tax on it from us. If you are a higher rate taxpayer, you can get relief on the difference between the basic rate and the higher rate of tax on the gross amount of your share of the gift.

Unless one partner has power, under the partnership agreement or some other document, to make a Gift Aid declaration on behalf of the partnership, each partner will need to make a Gift Aid declaration in favour of the charity. This can be done on one declaration, providing the name and address of each partner is shown. In Scotland, where partnerships have a legal personality, a partner may make a Gift Aid declaration on behalf of the partnership simply showing the partnership's name and address.

What evidence do I need of payment to the charity?

If required, you will need to provide us with reasonable evidence of all the payments you have made to charities in the year in the same way as for other items in your Self Assessment tax return. For instance, a cancelled cheque, an entry in a bank or credit card statement, or an acknowledgement from the charity.

What are the limits on benefits I can receive in respect of my gift?

The following table sets out the maximum benefits an individual, partner or close company donor is allowed to receive in any tax year in respect of gifts to any one charity. Your business can make gifts to as many charities as you choose, but the total benefits received must not exceed £250 from each charity.

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Gifts of land, buildings, shares and securities

Businesses can get tax relief for gifts to charity of any qualifying investments. These include certain shares, securities and land and buildings. This is in addition to the relief you can claim for them when calculating capital gains.

How does the tax relief apply?

You can claim the relief if you give, or sell at less than market value, a 'qualifying investment' to a UK charity. However, a company cannot get relief for a gift of its own shares.

What land, buildings, shares and securities qualify?

The following categories qualify.

- Shares and securities listed or dealt in on the UK Stock Exchange, including the Alternative Investment Market.
- Shares and securities listed or dealt in on recognised foreign stock exchanges.
- Units in an authorised unit trust.
- Shares in a UK open-ended investment company.
- Holdings in certain foreign collective investment schemes.
- A qualifying interest in land. A qualifying interest in land is the whole of a person's beneficial interest in freehold or leasehold land in the UK.

If in doubt, we can tell you whether the gift or sale will qualify for relief.

How do I calculate the amount of relief?

The amount of relief you can claim is

- the market value of the net benefit to the charity * at the time you give or sell them the qualifying investment, **plus**
- any incidental costs (for example, brokers' fees or legal fees), less
- any disposal proceeds or other money, or the value of other benefits you or a person connected with you (such as, a relative or connected company), receive in consequence of you giving or selling the qualifying investment to charity.

* The value of the net benefit to the charity is normally the market value of the qualifying investment. However, if the charity is, or becomes, subject to an obligation to any person such that:-

- it is reasonable to suppose that the disposal of the qualifying investment would not have been made in the absence of the obligation; **or**
- the obligation is connected to the charity receiving the qualifying investment or a related investment,

the market value of the qualifying investment is reduced by the aggregate of the related liabilities of the charity resulting from the exercising of the obligation.

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Are there any forms that need to be completed?

No. Evidence of the gift of shares or securities having been made to the charity may be in the form of a copy of the stock transfer form or a letter from the charity acknowledging receipt of the gift.

For gifts of real property, you will need a certificate from the charity that must contain all of the following information.

- A description of the qualifying interest in land, which is the subject of the disposal.
- The date of the disposal.
- A statement that the charity has acquired the qualifying interest in land.

How do I claim the relief?

Companies should deduct the relief as a charge on income for the accounting period in which they make the gift. The amount should be entered on your Corporation Tax Self Assessment return as a charge.

If you are a partner or sole trader, you should deduct the relief when you calculate your income for the tax year in which you make the gift of shares, securities or real property. You should enter the amount on your Self Assessment return. A tax year runs from 6 April one year to 5 April the next.

What date should I take as the date of disposal for the purpose of establishing the market value of the shares, securities or interest in land?

The date on which the qualifying investments are transferred to the charity. In the case of shares and securities, this is likely to be the date that you sign and hand over the stock transfer document. For gifts of land you should take the date on which you disposed of your beneficial interest in the land.

Normally this will be the date on which you transferred the property to the charity. However, if the disposal was made under a contract, perhaps a sale at below market value, you should take the date on which the contract was made.

If the contract was conditional then the date of disposal will be the date on which all the conditions were satisfied. If the gift was made by a declaration of trust you should take that date. If you have granted a lease to a charity you should take the date you granted the lease. There is further information to help you identify the market value at that date in our Help Sheet 'Giving land, buildings, shares and securities to charity'.

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Gifts of equipment or trading stock to charity

If your business gives to a charity

- an item manufactured or sold in the course of your trade, or
- machinery or plant used in the course of your trade

then the business can get relief. To qualify, the business must be a trading company, a sole trader, or a trading partnership.

How do I get the relief?

When you give away an article manufactured or sold in the course of your trade, the normal treatment is to include the market value of the gift as a trading receipt when calculating your profits for tax purposes. Where such articles are given to a charity, nothing is included as a trading receipt. In that way, you get relief for the cost of the article in calculating the taxable profits of the trade.

In the case of machinery or plant used in the course of your trade, treat it as having been disposed of at nil value for capital allowances purposes (rather than at market value, as would otherwise be the case). The total capital allowances given to you in respect of the article will be equal to its cost.

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Secondment of employees to charity

Trading or investment companies, sole traders, or trading partnerships that provide assistance to charities by seconding employees to them on a temporary basis can claim relief for the employment costs that they continue to incur.

How do I get relief?

Any costs incurred by your business in connection with the employment of a person on secondment to a charity (including salary payments) should be treated as a business expense when calculating your chargeable profits for tax purposes.

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Sponsorship payments

Trading companies, sole traders or trading partnerships sponsoring a charitable activity can claim relief for sponsorship payments, provided the payments are made wholly and exclusively for the purposes of your trade and are not of a capital nature. (Capital expenditure is expenditure incurred for the purpose of acquiring, improving or extending an asset held for use in the business.)

What sort of payments might qualify?

A payment made to get publicity for your name or product, which represents a reasonable return for the amount paid. Whether a payment qualifies for relief will depend on the facts. If you are in doubt, contact your HMRC Office.

How do I get relief?

You deduct the sponsorship payments in calculating your trading profits for tax purposes.

What happens if sponsorship payments do not meet the conditions for relief?

No relief is available unless all the conditions are met. For example, if you make a sponsorship payment to a charitable activity, which results in your business acquiring an asset from the charity (for instance, office equipment or vehicles), you cannot deduct the payment when calculating the trading profits of the business for tax purposes.

Similarly, if you make a payment that is partly for commercial reasons and partly for charitable reasons, you cannot deduct it in calculating the trading profits of the business for tax purposes. However, you might be able to get relief for such payments as Gift Aid donations. If you are in doubt about how we will treat a particular payment for tax purposes, ask your HMRC Office before making it.

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Where can I find more Information?

This help sheet was compiled by advice given by Her Majesties Department for Revenue and Customs.

More information is available from their website: <http://www.hmrc.gov.uk>