



The Gift Aid Small Donations Scheme

Consultation document

Publication date: 27 March 2012

Closing date for comments: 25 May 2012

Subject of this consultation:	The Chancellor announced at Budget 2011 that a new Gift Aid Small Donations Scheme (GASDS) would be introduced in 2013. Qualifying charities and Community Amateur Sports Clubs (CASCs) will be able to claim a top-up payment equivalent to Gift Aid on small cash donations. An overview of the new scheme can be found at Chapter 2 of the consultation document.
Scope of this consultation:	This is a technical consultation on the policy design of the GASDS.
Who should read this:	This consultation invites comments from all charities and CASCs that make claims under Gift Aid and receive small donations of cash, particularly smaller charities, and their agents, advisers, nominees and representative bodies.
Duration:	The consultation will run for 9 weeks from 27 March. The closing date for responses is 25 May 2012.
Lead official:	Nick Jones, HM Revenue and Customs
How to respond or enquire about this consultation:	Responses should be sent by e-mail to charitypolicy.taxteam@hmrc.gsi.gov.uk or by post to: Consultation on the Gift Aid Small Donations Scheme Room G67, 100 Parliament St, London, SW1A 2BQ.
Additional ways to be involved:	The consultation team would welcome contact from bodies interested in meeting to discuss specific issues raised in the consultation. Please e-mail or write to the team at the address above to register an interest in attending such a meeting.
After the consultation:	The responses received will feed into the legislation, where appropriate.
Getting to this stage:	This is the first public consultation on the Gift Aid Small Donations Scheme since the Budget announcement on 23 March 2011.
Previous engagement:	HMRC and HMT officials have engaged with charity representatives of the HMRC Charity Tax Forum and are engaging with the devolved administrations in Scotland, Wales and Northern Ireland in scoping and developing the policy.

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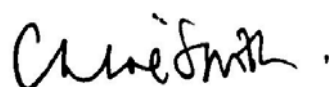
Foreword

The Government is committed to encouraging charitable giving and building a more socially conscious society. This is part of our vision for the Big Society. Key to this is our aim of building a stronger culture of giving, so that more people donate time, money, their assets, knowledge and skills to support good causes.

At the Budget 2011, the Chancellor of the Exchequer set out a series of substantial reforms to support this cultural shift. These reforms are aimed at encouraging giving by donors from all walks of life, from the largest donors to those who give money through charity bucket donations. Last summer we consulted on the details for much of this package of reforms, which represent the most radical and generous reforms to charitable giving for more than twenty years.

The package of measures, including a simplification of the Gift Aid regime, a reduction in inheritance tax for those who leave 10 per cent or more of their estate to charity, and tax incentives to encourage the donation of pre-eminent works of art and historical objects, aims to help to raise the profile of philanthropy and make it the norm to give whatever you can.

This consultation document is focused on the proposal the Chancellor announced to enable charities and Community Amateur Sports Clubs to claim a top-up payment equivalent to Gift Aid on up to £5,000 of small donations they collect each year. I hope you will read the proposals set out in this consultation paper with interest, and work with us to ensure that this measure is a success.



Chloe Smith MP

Economic Secretary to the Treasury

1. Introduction

1.1 The Government wants to encourage charitable giving and build a more socially conscious society. At Budget 2011 the Government announced a package of measures to support philanthropy, encourage charitable giving and reduce the administrative burdens on charities. These measures support the Government's wider vision of building a Big Society, as set out in the Giving White Paper, published on 23 May 2010: <http://www.cabinetoffice.gov.uk/resource-library/giving-white-paper>.

1.2 The Budget 2011 measures encourage philanthropic and charitable giving:

- from April 2011 the upper limit on benefits that charities may provide to Gift Aid donors was increased from £500 to £2,500 to enable charities to better recognise the contributions of their largest donors;
- for deaths occurring from 6 April 2012, a reduced rate of inheritance tax (IHT) to 36% will apply where 10% or more of a deceased's net estate (after deducting IHT exemptions, reliefs and the nil-rate band) is left to charity; and
- a scheme to provide a tax reduction to people who, during their lifetime, donate pre-eminent objects to the nation, will be introduced in 2012-13.

More details of the full 2011 Budget package can be found at: <http://www.hm-treasury.gov.uk/2011budget.htm>.

1.3 Budget 2011 also announced the introduction of a new Gift Aid Small Donations Scheme (GASDS) – the subject of this consultation. It is intended that the new scheme will be introduced for donations made from 6 April 2013, and will allow charities to claim a top-up equivalent to Gift Aid on up to £5,000 of small donations of money made without a Gift Aid declaration.

Policy objective

1.4 The aim of the new Gift Aid Small Donations Scheme is to allow charities and Community Amateur Sports Clubs (CASCs) to claim a Gift Aid style payment on donations received in circumstances where it is difficult to collect donors' details, or 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 a plate around for its members to make donations during a service, it may be difficult or disproportionately burdensome to collect a declaration as the Gift Aid system requires. This scheme seeks to overcome this.

Policy Design considerations

1.5 Dropping the link between the donor and the top-up payment on the donation means that payments made under the GASDS will not be repayments of tax. The GASDS, unlike Gift Aid, will not be a tax relief but will instead be funded through public expenditure. This means the scheme cannot be legislated through the tax code already in place, but must be legislated for separately, outside the annual Finance Bill process.

1.6 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 fraud and abuse. The fewer records required to make a claim under the GASDS compared to Gift Aid could make the scheme more vulnerable to fraud. To combat this, and to help make sure 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 conditions. For example, qualifying organisations will need to have a good compliance record of at least three years of making Gift Aid claims before becoming eligible for the GASDS, and will need to maintain a good compliance record while claiming under the GASDS. The Government is also considering whether there should be a link between the volume of donations on which GASDS is claimed and the volume of donations on which Gift Aid is claimed, to protect against fraud. This document refers to this link as "matching". If no matching requirement is put in place, other arrangements will need to be made to prevent fraud.

1.7 The need to keep the cost of the GASDS within reasonable limits, and the maximum of £5,000 donations on which organisations can claim GASDS (equating to a maximum GASDS payment of £1,250 each) also has design implications.

1.8 The Government is keen to ensure that, as far as possible, charities carrying out similar activities will be able to have the same access to GASDS top-up payments. This is a design challenge given charities are often structured quite differently for historic reasons. For example, some charities that carry out charitable activities in local communities operate through local groups that are registered charities in their own right. If the Government simply allocated a £5,000 maximum limit for donations to each recognised charity, these groups would receive a greater number of allocations than other charities that may have a more centralised structure with local groups or branches that form part of the same charity. The proposals outlined in Chapter 5 of this document are intended to tackle this design issue, and to give – as far as possible – charities undertaking comparable activities similar access to GASDS top-up payments.

1.9 The Government wants to prevent organisations that are a single charity or CASC from fragmenting into smaller organisations in order to access more GASDS payments. This would run counter to the policy aim of the GASDS and would unacceptably increase the cost of the scheme. Therefore rules will be put in place to limit the payments that may be made under the scheme to charities that are connected to other charities or CASCs.

Scope of the consultation

1.10 The Government has announced that there should be a £5,000 limit on donations eligible for a top-up payment under the GASDS, that the scheme will only apply to small donations of £20 (Budget 2012 announced the previous limit of £10 was being increased to £20) or less, and that organisations must have a good track record of claiming Gift Aid for at least three tax years before becoming entitled to receive a top-up payment under the GASDS. These conditions and certain other aspects of the scheme are not open to consultation:

- the scheme will apply to donations collected in the UK;
- there will be a maximum limit on small donations eligible for a top-up payment under the GASDS of £5,000, subject to provisions to increase the limit for certain charities with local community groups;
- charities should not have an incentive to fragment into more, smaller, charities in order to obtain further allocations of the £5,000 limit on donations;
- there will be additional measures to limit abuse of the scheme. One possible measure is 'matching' whereby a claim in respect of small donation income under the GASDS must to some degree be matched by a claim under Gift Aid in respect of other donation income received in the same year. However the Government is interested in suggestions for alternative approaches to limit abuse.

1.11 While these design issues are fixed, the way in which they are delivered and definitional terms are open to consultation. The Government would welcome comments in relation to where the balance between fairness and complexity of the scheme should lie as well as any other suggestions on how the GASDS should work.

Question 1: Where should the balance lie between fairness and complexity of the scheme and do you have any other suggestions on how the GASDS should work?

2. Overview of Gift Aid and the Gift Aid Small Donations Scheme

2.1 As explained in the introduction, the GASDS is not a tax relief. However, the amounts payable to charities and CASCs under the GASDS will be the same as if the donation had been made under Gift Aid. Qualifying organisations will use the same procedure to make a claim under GASDS, as they do under Gift Aid. The administrative framework that applies to making a Gift Aid claim will apply to claims made under the GASDS. In practice many smaller organisations will not be aware of the technical differences between Gift Aid and the GASDS.

2.2 Before explaining how the new scheme will work it may be helpful to give a brief overview of how Gift Aid works.

Overview of Gift Aid

2.3 Gift Aid is a tax relief. It allows individual taxpayers to give a sum of money to a charity or CASC, which is treated as being paid to the charity net of basic rate income tax.

2.4 So a gift of £10.00 is treated as if it is a gift of £12.50 (the “grossed-up” donation) which the charity or CASC receives net of £2.50 tax. The charity or CASC can then claim repayment of the £2.50 basic rate tax from HMRC.

2.5 Donors who are liable at the current higher or additional rates of income tax can themselves claim an additional 20% or 30% tax relief (the difference between the higher rate, of 40%, or the additional rate, of 50%, and the basic rate of 20%) on the grossed up donation.

2.6 In order for a donation to qualify for Gift Aid the donor must make a declaration to the charity or CASC confirming that they have, or will have, paid tax of at least the amount of Gift Aid tax relief that the organisation will claim on their donation. This link between the tax paid by the donor and the tax reclaimed by the organisation is an essential part of the Gift Aid process and, without it, tax relief under Gift Aid would not be available on these donations.

2.7 Where donors have paid less tax than the amount claimed by the charity or CASC on their donations, HM Revenue & Customs (HMRC) can recover the difference from the donor.

2.8 HMRC administers Gift Aid claims using the provisions relating to claims to tax reliefs, as well as certain provisions specific to Gift Aid claims. The provisions include powers for HMRC to enquire into claims and impose penalties on organisations that make incorrect claims.

2.9 In order to claim a repayment of tax under Gift Aid, the charity or CASC (or its nominee or agent) must make a claim to HMRC using form R68i. The form must

include a schedule listing the names of the donors and the donations received in relation to which the claim is made. HMRC checks the claim and either makes the repayment or opens an enquiry into the claim.

2.10 More information on Gift Aid can be found at:

http://www.hmrc.gov.uk/charities/gift_aid/reclaim.htm

Overview of the Gift Aid Small Donations Scheme

2.11 The GASDS will allow most qualifying charities and CASCs to claim a top-up payment equivalent to Gift Aid on up to £5,000 of small cash donations collected in the UK each year, without needing to obtain a Gift Aid declaration from the donor. A small donation is £20 or less. It is intended that top-up payments will be available on small donations collected from 6 April 2013.

2.12 Many characteristics of the Gift Aid scheme will apply to the GASDS.

- The amount payable in respect of a donation will be computed in the same way as for a repayment under Gift Aid. So, for example, the top-up payment on £5,000 of small donations will be £1,250.
- The donations for which a top-up payment is claimed under the GASDS must be used for charitable purposes (for charities) or qualifying purposes (for CASCs).
- Charities and CASCs will make claims under the GASDS in the same way as for Gift Aid. A new online claims system is being introduced for making Gift Aid claims and GASDS claims.
- HMRC will administer claims in the same way as for Gift Aid claims, including similar powers to enquire into GASDS claims.

2.13 The GASDS will differ from Gift Aid in a number of ways.

- There will be no documented link between the donor and the payment on which the GASDS top-up payment is made. Donors will not need to give any personal information to the charity or CASC.
- Charities and CASCs must meet certain conditions in order to become eligible to make claims under the GASDS, including having a good, recent, track record of making Gift Aid claims. These conditions are explained in more detail in Chapter 3 of this consultation document.
- Claims will be based on the tax year from 6 April for charitable companies and CASCs as well as for charitable trusts. Gift Aid claims are made in relation to the accounting period of a charitable company or trust. Harmonising the rules for all charities and CASCs will simplify the GASDS legislation.
- Claims under the GASDS must be made within one year of the end of the tax year in which the small donations are collected. Gift Aid claims may be made within four years of the tax year or accounting period in which the donations are received; this enables charities and CASCs to deal with late claims by donors who may

make a claim to Gift Aid within four years after the end of the tax year in which the donation is made. There is no reason for an extended claim period for the GASDS because there is no interaction with donors' tax affairs, and charities and CASCs should follow best practice in relation to cash handling and make timely claims. A short claim period also reduces administrative costs for HMRC and assists Government accounting for the costs of the scheme, which will be paid for through public spending.

- The amount of claims that can be made under the GASDS will be limited to a maximum of £5,000 of small donations for all CASCs and most charities. There will be special rules reducing the maximum limit for some CASCs and charities. In addition, in certain circumstances special rules increase the limit for some charities. These rules are explained in more detail in Chapter 5.
- Charities and CASCs must continue to make Gift Aid claims if they wish to make a claim under the GASDS. There will be additional measures to prevent abuse of the scheme. One model is a requirement that the amount of small donations on which a top-up payment is claimed under the GASDS is linked to the amount of donations on which Gift Aid is claimed for the same year. The concept of this 'matching' is explained in more detail in Chapter 5 of this consultation document but the Government is interested in other ideas and suggestions for an alternative approach.
- Qualifying donations under the GASDS must be pure gifts; unlike Gift Aid, where charities may provide certain benefits to donors and claim Gift Aid on some membership subscriptions, no benefits may be provided to the donor in respect of a small donation on which a GASDS top-up payment is claimed, although charities and CASCs will be able to provide a small token of negligible value to recognise the donation, such as a lapel sticker.
- GASDS claims must be made by, or on behalf of, charities or CASCs. Some local groups of charities make Gift Aid claims on the donations they receive, however all GASDS claims must be made through their parent charity.
- Charities and CASCs must bank the small donations in a bank branch physically located in the UK. This will give HMRC greater certainty that the donations in respect of which a claim is made were actually collected in the UK and will help guard against potential fraud.
- Higher rate and additional rate taxpayers will not be able to claim tax relief on their donations because the GASDS is not a tax relief.

2.14 The GASDS is not a tax relief and therefore the scheme cannot be legislated through the usual Finance Bill cycle. Instead, the scheme must be legislated separately, including all the provisions needed to administer claims that, for Gift Aid, are found in the Tax Acts.

2.15 The Government will bring forward legislation relating to the GASDS as soon the parliamentary timetable allows.

2.16 The administrative machinery will be legislated through regulations. Draft regulations will be published for consultation shortly after the Bill is introduced to Parliament.

2.17 HMRC will consult on draft guidance on the GASDS later in 2012.

3: Who will be eligible for top-up payments under the GASDS?

3.1 The aim of GASDS is to enable charities and CASCs to claim a Gift Aid style payment where circumstances make collecting the donor details necessary for Gift Aid difficult. Unfortunately, removing the connection with donors could open up opportunities for fraud and abuse of the scheme. A balance needs to be struck between ensuring charities and CASCs can use the new scheme to get a top-up payment on donations where this was previously difficult, and taking steps to ensure only legitimate organisations are beneficiaries of the scheme

3.2 The basic rule will be that:

- 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; and
- the charity or CASC must have made a successful Gift Aid claim in at least three out of the previous seven tax years; and
- there must be no more than two consecutive tax years in which no Gift Aid claim was made; and
- 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 2 previous years.

3.3 A “successful Gift Aid” claim is a claim made by the charity or CASC which has resulted in the organisation being entitled to a Gift Aid repayment.

3.4 Any penalty incurred in respect of a Gift Aid claim or a GASDS claim will disqualify the organisation from entitlement to a top-up payment for the tax year when the incorrect claim was made and the following two tax years.

3.5 A penalty will be defined as a penalty under Schedule 24 to Finance Act (FA) 2007 for Gift Aid claims or a penalty under the GASDS regulations in respect of claims to top-up payments. An organisation incurs a penalty under Schedule 24 if it submits to HMRC documents that are inaccurate as a result of failing to take reasonable care (referred to in the legislation as “careless”) or worse. Innocent errors are not subject to a penalty.

3.6 It is intended that the GASDS penalty provisions will mirror the provisions available under Schedule 24 FA 2007 to administer Gift Aid claims.

3.7 The purpose of the eligibility rule is to help reduce fraud by enabling HMRC to check a charity or CASC’s general compliance with the Gift Aid rules over time. Charities and CASCs will need to keep only limited records under the GASDS and so their compliance with the Gift Aid rules will help to serve as a proxy to demonstrate their compliance with the GASDS rules.

3.8 The Gift Aid claims will not need to be made in respect of donations collected in each tax year. A Gift Aid claim may be made in a tax year in relation to donations collected in an earlier tax year. The important point for the purposes of eligibility is that there are at least three Gift Aid claims made in different tax years for HMRC to review and check the organisation's compliance over time.

Example 1

Charity A is a long established charity and has made successful Gift Aid claims in each of the tax years 2010-11, 2011-12 and 2012-13. Charity A will be eligible to make a claim under the GASDS on small donations collected from 6 April 2013 (the tax year 2013-14).

Example 2

CASC B has made successful Gift Aid claims in each of the tax years 2010-11, 2011-12 and 2014-15. CASC B will be eligible to make a claim under the GASDS on small donations collected from 6 April 2015 (the tax year 2015-16).

Example 3

Charity C has made successful Gift Aid claims in each of the tax years 2010-11, 2011-12 and 2015-16. There have been three consecutive years, 2012-13 to 2014-15 in which charity C has not made a Gift Aid claim. Therefore charity C is not eligible to make a GASDS claim until it has made at least two more successful Gift Aid claims in the years 2016-17 onwards, so long as the gap between making a claim is no more than two years.

Example 4

Charity D has made Gift Aid claims in each of the tax years 2010-11 to 2016-17. With three years of Gift Aid claims made in the previous three years, charity D made a claim, and received a top up payment, under GASDS in respect of small donations collected in 2013-14. However HMRC subsequently found that a Gift Aid claim made in 2013-14 was incorrect and the charity incurred a penalty because the charity had not taken reasonable care in completing the claim form. The consequences were:

- Charity D was required to repay the GASDS top-up payment for 2013-14 (including interest, depending on the date when the charity made the repayment) and;
- Charity D was barred from making a further GASDS claim for the tax year for which the incorrect claim gave rise to the penalty, and the following two tax years. In effect it was excluded from the GASDS for three complete tax years, starting with the tax year in which the incorrect claim was made, 2013-14 to 2015-16. The charity would next be eligible to make a claim under GASDS in respect of small donations received in 2016-17.

3.9 A charity that changes its legal form, for example from a charitable trust to a charitable company, will be able to apply to HMRC to certify that the new charity may be treated as though it were its predecessor for the purposes of the GASDS. For example the new charity may use the original charity's record in making Gift Aid

claims in order to demonstrate its eligibility to make GASDS claims. This means that, where the application is accepted, the new organisation would not need to wait for three complete tax years before satisfying the eligibility criteria and can rely on any good compliance history attributable to the old organisation.

4: What is a small donation?

4.1 A small donation is a donation of cash of £20 or less by an individual to a charity or CASC and that meets a number of conditions.

4.2 The money must be collected in the UK and must be physically banked in the UK. This rule gives greater certainty that the donations in respect of which a claim is made were actually collected in the UK and will help guard against potential fraud. This requirement also ensures that the cash is dealt with in accordance with best practice on cash handling by charities.

4.3 The money must be a gift. No benefits may be associated with the gift except where they are of a negligible value, such as a lapel sticker to acknowledge the making of the gift. Membership subscriptions are not gifts and cannot qualify as small donations under the scheme.

4.4 To qualify as a small donation the gift must not be eligible to tax relief. So, for example, a gift made under a Gift Aid declaration or under the payroll giving scheme will not be a small donation.

4.5 Small donations must be used only for charitable purposes (for charities) or qualifying purposes (under section 661(3) of the Corporation Tax Act 2010 for CASCs).

4.6 If small donations on which a claim is made are used for non-charitable, or non-qualifying, purposes then the amounts are treated as though they are not small donations and any top-up payment that has been made in respect of those donations must be repaid. This approach, to deny a claim for a top-up payment where the underlying donations are not used for charitable or qualifying purposes, is in line with the Gift Aid rules where donations applied for non-charitable, or non-qualifying, purposes do not qualify for tax relief.

5. How much can a charity or CASC claim under the GASDS?

5.1 The charitable sector is diverse, with organisations having over the years made different decisions over how to structure themselves. Some charities have a highly centralised structure, with one charity undertaking all activities. Others however have structured themselves into federations of smaller charities all working together towards one charitable objective. 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. Simply allowing each separate charity to receive one maximum allowance of up to £5,000 donation income on which GASDS can be claimed will not achieve this.

5.2 The proposals set out in this chapter aim to overcome these disparities, and to avoid as far as possible results that could be unfair.

5.3 All CASCs, and most charities, that meet the qualifying conditions set out in Chapter 3 will be able to claim a top-up payment under the GASDS on up to £5,000 of small donations each year, subject to special rules that may vary this amount.

5.4 Eligible organisations must receive, and make a claim in respect of, small donations received in the tax year and must also make a successful Gift Aid claim in respect of donations received in the same tax year.

5.5 As explained at paragraph 2.12, the amount payable in respect of a donation will be computed in the same way as for a repayment under Gift Aid. The formula for the amount of the top-up payment is:

$$\text{Amount of small donations} \times \frac{(\text{basic rate of income tax})}{(100 - \text{basic rate of income tax})}$$

So, for example, the top-up payment on £5,000 of small donations will be £1,250.

5.6 There will be a maximum limit of £5,000 on small donations which may be increased for some charities or reduced for some charities and CASCs.

5.7 The general rule is that each charity will be entitled to a maximum limit of £5,000 each year. However:

- if a charity runs charitable activities at meetings in a local community building then the maximum limit is increased from up to £5,000 (non-building) donation income by up to a further £5,000 in respect of the small donations collected in a community building by the charity carrying out charitable activities (see paragraphs 5.10 to 5.21);
- if a charity or CASC is connected with another charity or CASC then the basic limit of up to £5,000 is shared between them (see paragraphs 5.22 to 5.26).

5.8 There will also be additional measures to counter abuse of the scheme. One option is a matching rule that would apply to all charities and CASCs. Such a rule would link the amount of small donations on which a GASDS top-up payment may be claimed to the amount of donations collected in the same year on which Gift Aid is claimed.

5.9 This Chapter explains the details of the rules in paragraphs 5.7 and 5.8.

Charities running charitable activities in community buildings

5.10 As mentioned in paragraph 5.1, if the £5,000 maximum limit were to apply to all charities then some charities would be eligible to more top-up payments than other charities carrying out very similar activities. The Government is keen to make sure that, as far as possible, charities carrying out similar activities will be able to have the same access to GASDS top-up payments. So, for example, a charity that happens to be structured in such a way that local groups operating under its name are all part of the same charity should get the same access to GASDS top-up payments at the local level as a charity whose local groups are set up as separate charities in their own right, but under the same management and control as the main charity. It would be unfair if the two “parent” charities were entitled to different amounts of GASDS top-up payments purely because of the way they have structured themselves for historical reasons.

5.11 One option might be to permit centralised charities in this position to fragment and set up new charities at the local level. However that would impose a disproportionate administrative burden on charities to qualify for a scheme that is itself intended to help reduce administrative burdens. Therefore, in order to apply the maximum limit fairly, the GASDS includes special rules for charities that run charitable activities for local groups of beneficiaries.

5.12 While it is relatively simple to understand the concept of a local group of a charity carrying out charitable activities under its own local identity, defining that concept in statutory terms is more challenging. Defining the group purely by reference to its beneficiaries leads to opportunities to create artificial groupings in order to maximise the amount that could be claimed under the GASDS. Instead, it is proposed to adopt a definition of a group by reference to the buildings in which groups carry out their charitable activities.

The basic rule

5.13 The rules increase the maximum limit of the 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.

5.14 The small donations collected by each local group must be collected in the course of its charitable activities carried out in the community building. Donations made at local group activities held for non-charitable purposes, including fund raising,

or outside the community premises are not eligible for a top-up payment under the GASDS under this rule.

5.15 By contrast, the small donations relating to the parent charity's "core" limit of up to £5,000 may be collected anywhere, for example through local street collections or in collection boxes or at fund raising events.

Example 5

A medical charity whose charitable objectives include the relief of people suffering from a particular condition runs 50 local self-help groups for sufferers of that condition. Each local group meets the qualifying conditions for running charitable activities in a community building and small donations are sometimes made in the course of the meetings. Any amounts paid towards, say, the rental of the premises or refreshments are excluded because they are not gifts but payments for services or for which a benefit is received by the sufferer.

The charity's maximum donations limit is increased from up to £5,000 by up to a further £5,000 for each group using a community building, that is up to a maximum of £255,000 of small donations.

Note that the maximum limit in relation to each group using a community building is restricted to the amount actually collected in small donations in the community building. So if in 40 community buildings the groups each collect £6,000 in small donations in a year and in 10 community buildings groups each collect £1,000 in small donations in the same year then the maximum limit of the charity will be up to £5,000 (the "core" amount) plus £200,000 (40 x £5,000) plus £10,000 (10 x £1,000), that is, a total of £215,000.

Example 6

A local medical charity holds a regular self-help group meeting for sufferers of a medical condition at its premises (a community building). There are no other local groups. The charity's maximum limit is increased from up to £5,000 to up to a further £5,000 for the small donations collected at the self-help group meetings. So if the self-help group collects £5,000 from activities outside its meetings, and £200 in small donations at its meetings, the charity's maximum limit for the year is £5,200.

Example 7

A national medical research charity operates 1,000 charity shops throughout the UK, but no charitable activity is undertaken at these shops, other than the sale of goods to raise money for the charity's medical research. There are no local groups that meet the qualifying conditions for running charitable activities in a community building. In this instance, the charity's maximum limit is £5,000 for the small donations collected from anywhere in the UK, for example from street collections or from collecting boxes in the charity shops.

Meaning of “running charitable activities in a community building”

5.16 In order to qualify for the increased maximum limit the charity must run charitable activities in one or more local community buildings. The charitable activities will depend upon the charity’s charitable objectives but must comprise activities carried out at the same community building with at least 10 group members on at least six occasions each year. Staff, officers and trustees of the charity may attend the charitable activities but they do not count towards the quota of group members in order to meet the rule. In effect, because the activities must be charitable activities, the people must be beneficiaries of the charity. The people participating in the activities do not need to be the same people on each occasion. The purpose of these conditions is to define the characteristics that would apply to a local group of a charity that had its own local identity and was recognised publicly as a discrete group of the charity.

5.17 Charitable activities are those carried out by the charity under its charitable objectives within the meaning given by section 2(1) of the Charities Act 2011, and exclude activities that are carried out primarily for the purpose of fund raising.

5.18 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.

Example 8

A charity supporting the elderly holds a monthly meeting for elderly people in the local Village Hall. The meeting is open to anyone over the age of 60. Any donations collected in the course of such meetings may qualify towards an enhanced maximum limit for the parent charity.

Note that membership subscriptions are not small donations for the purposes of the GASDS.

Example 9

A vicar holds a monthly service at a residential home for elderly people. A collection is held for the church (a charity) at each meeting.

The donations do not qualify towards an enhanced maximum limit for the charity because the meetings take place in residential premises; also the building is not open to members of the public.

5.19 Sometimes one or more different groups may use the same community building. Provided the parent charities of the groups are not connected, the parent charity of each group will be eligible to an increased maximum limit in respect of the small donations collected by its local group.

Example 10

A local playgroup, a subsidiary of a charity supporting the education of toddlers, meets in a village hall each week. A local group of a charity supporting elderly people holds monthly meetings for elderly people in the same hall. Both groups receive small donations in the course of undertaking their charitable activities in the village hall. The playgroup charity and the charity for the elderly are entirely separate.

The parent charity of each group will be eligible to an increased maximum limit in respect of the small donations collected by its local group.

Example 11

A church charity runs a playgroup and a club for elderly people. Both groups meet in the church hall and both groups receive small donations in the course of the activities. The two groups are part of the same charity using the same community building and so the parent charity is eligible for an increased maximum limit of up to £5,000 in respect of small donations received by both groups. Where the church receives £5,000 or more of small donations from sources outside collections in the church hall, and £5,000 or more of small donations in the church hall, the church charity can claim a maximum of £10,000 under GASDS. £5,000 is its “core” maximum limit, which is increased by up to £5,000, being the small donations received in the community building used by the charity.

5.20 Some local groups may have access to more than one community building owned by the same person and situated on the same, or adjoining, land for example a church adjacent to a church hall. In such cases the buildings will be treated as one building.

5.21 HMRC will have the power to specify in regulations buildings that are or are not to be treated as a community building for the purposes of the GASDS. HMRC will also 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. The purpose of these powers is 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; and
- provide flexibility in future if it appears that the definition of a community building is too wide, or too narrow, to deliver the policy intention in certain circumstances.

Question 2: Under what circumstances do you think HMRC should exercise its powers to make regulations in connection with community buildings?

Connected charities or CASCs

5.22 The “core” maximum limit of a charity or CASC may be reduced for a tax year if it is connected with one or more other charities or CASCs at any time during the tax year. It is proposed to base the definition of a connected charity or CASC on the definition used for tainted charity donations in Chapter 8 of Part 13 of the Income Tax Act 2007 and Part 21C of the Corporation Tax Act 2009:

“ a “connected charity” in relation to another charity means a charity which is connected with that other charity in a matter relating to the structure, administration or control of either charity.”

The definition is wide reaching, by taking into account a connection between charities and CASCs in terms of structure, administration or control and is intended to restrict the maximum donations limit of a charity that is fragmented for administrative purposes and to deter an organisation from artificially fragmenting into a number of charities or CASCs, in order to increase its entitlement to a top-up payment.

Question 3: Are there circumstances where the proposed meaning of “connected” would result in charities or CASCs that are, in fact, wholly independent of one another being connected for the purposes of the GASDS? What are these circumstances?

Question 4: What are the criteria that indicate a charity or CASC is being run as a wholly independent entity and what alternative definition of “connected” might be used to avoid hard cases while at the same time deterring abuse of the GASDS?

5.23 The rules on connected charities and CASCs depend on whether any of the connected charities runs charitable activities in community buildings.

One or more connected charities runs charitable activities in a community building

5.24 Where several charities or CASCs are connected with one another, and at least one of the charities runs charitable activities in a community building then, 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. So, for example four connected charities will share the “core” limit of up to £5,000 between them. Each of those charities that do not run charitable activities in a community building will therefore have a maximum limit of £1,250. If the non-community building income of the four connected charities is £2,000, each of those charities that do not run charitable activities in a community building will have a maximum limit of £500.

5.25 Note that 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.

Example 12

Four charities, A, B, C and D, are connected with one another. Charities A, B and C do not carry on charitable activities in a community building. Charity D carries on charitable activities in four distinct community buildings, each of which collects small donations of over £5,000 in the course of those activities each year. Charity D also receives non-building small donations income of £5,000.

If the charities were not connected the maximum limit of charities A, B and C would be up to £5,000 each and that of charity D would be £25,000 (£5,000 plus 4 x £5,000).

However because the four charities are connected, they can only claim up to one quarter each of the main £5,000 maximum limit. The additional amounts of £5,000 arising to charity D from its local groups' small donations are unaffected. The maximum limits are therefore:

- Charities A, B and C: $£5,000/4 =$ up to £1,250 each; and
- Charity D: $£5,000/4 =$ £1,250 plus 4 x £5,000 = £21,250.

Example 13

A church charity operates from a cathedral. There are 100 parish churches associated with the cathedral but each parish church operates as a charity in its own right. The cathedral, and each parish church, each collects over £5,000 in small donations during church services each year. In addition, the parent charity and each of the parish churches collect between them more than £5,000 in small donations from street collections.

All the parish church charities are controlled by the cathedral-based charity. The connected charity rule therefore applies. The community building rule applies to the cathedral and each parish church. Therefore, each charity can claim a top-up payment on £5,000 of small donations collected in church services. The connected charity rule prevents each charity from claiming the full "core" £5,000 entitlement to GASDS. Instead, one entitlement of £5,000 is shared between them in respect of street collections. Each charity can therefore claim a top up payment on £5,049.50 of donation income (£5,000 from small donations made at church services and £49.50 (£5,000/ 101) in respect of street collections).

As a group of charities, top-up payments under GASDS can be claimed on a maximum of £510,000 of small donations i.e. £5,000 per church, £5,000 for the cathedral plus one core entitlement of £5,000

5.26 Example 14 shows how the entitlement of a charity that is structured differently from the charities in example 13 has a similar entitlement to top-up payments under the GASDS.

Example 14

A church charity operating from a cathedral has 100 parish churches. The parish churches operate as local groups of the cathedral charity and not as separate charities. The cathedral and each parish church each collects over £5,000 in small donations during church services during the year. In addition, the church charity and each of the parish churches collect between them a further £10,000 in small donations from street collections.

The community building rule applies to the cathedral and each parish church. The church charity's maximum donation limit is increased from up to £5,000, by a further £5,000 for each community building that it operates from. That is up to a maximum of a further £505,000 of small donations collected during services (100 parish churches plus the cathedral). A total of £510,000 small donations qualify under the GASDS.

None of the connected charities runs activities in a community building

5.27 Where none of the connected charities or CASCs is entitled to an increased maximum limit the rules allocate up to £5,000 to the connected charities or CASCs as a single group. The small donations received by each of the connected charities or CASCs are pooled and a lead charity or CASC will make the top-up claim on up to £5,000 of small donations on behalf of the pooled donations. The lead charity or CASC is the first of the connected charities or CASCs to make a top-up claim. It will be up to the connected charities or CASCs to decide how the top-up payment is then allocated amongst them.

Question 5: Do you think it will be administratively easier to allocate the £5,000 maximum limit to one lead organisation or should the rule split the allocation between all the connected organisations, as for connected organisations where one or more charity is running charitable activities in a community building?

Question 6: Do you have any other ideas on how a rule to ensure charities or CASCs that fragment, in order to gain more GASDS top-up payments, might be framed? What would be the administrative consequences for the organisations?

Countering abuse

5.28 The rules outlined above provide the maximum limit for a charity for a tax year. However to counter abuse of the scheme further measures are necessary. One possible model for a way forward is set out below but the Government is interested in ideas and suggestions for alternatives.

Matching the maximum limit with Gift Aid claims

5.29 Under this model the amount of the top-up payment that may be claimed would be restricted further, both for charities and CASCs, depending on the amount of donations received in the same year on which the organisation has claimed Gift Aid.

5.30 The amount of small donations for which a GASDS claim may be made could be linked to the amount of donations received in the same tax year on which Gift Aid claims are made. So in order for a charity to make a GASDS claim in respect of £5,000 of small donations, the charity would need to have claimed a proportionate amount of repayments of tax under Gift Aid for the same tax year.

5.31 The main purpose of a matching rule would be to help deter fraud. The continuing requirement to make Gift Aid claims would make it harder for people to defraud the scheme.

5.32 In addition, and as a point of principle, organisations should continue to claim Gift Aid on donations wherever possible. The GASDS is not intended to be a substitute for Gift Aid. Instead it provides for Gift Aid type payments on donations where it is difficult, or too burdensome, to obtain Gift Aid declarations. Wherever possible donors should be encouraged to make use of Gift Aid but this is not always practical where the amounts collected are small or the donations are collected somewhere where obtaining a declaration is difficult – such as a street collection.

5.33 Gift Aid has advantages because:

- knowing the names and addresses of donors enables an organisation to build a continuing relationship with the donor to increase support over succeeding years; and
- claiming Gift Aid on donations leaves more capacity for the organisation to claim a top-up payment on GASDS on spontaneous and anonymous donations. It will not be possible to claim a top-up payment under GASDS and make a claim under Gift Aid in respect of the same donation.

5.34 If a matching rule were introduced, the small donations collected by charities running charitable activities in a community building could be matched to donations on which the charity claims Gift Aid; they would not need to be matched to Gift Aid donations arising from the local group.

5.35 The small donations collected by a group of connected charities, none of which is running charitable activities in a community building, could be matched to any Gift Aid claims made by any or all of the connected charities.

5.36 This consultation document seeks views on the introduction of matching, and proposes it be on a £1 for £1 basis – so if a charity or CASC has claimed Gift Aid on £3,000 of donations in the year it would be able to claim GASDS on £3,000 as well – assuming it receives sufficient donations. Setting the match at £1 for £1 would make it simple to understand and operate. Views are welcome on whether matching should be introduced and if so, whether the match should be set at a different level and what impact that would have on complexity and compliance. If matching is not introduced, alternative suggestions to counter abuse of the scheme are sought.

Question 7: Should a requirement to match GASDS claims with Gift Aid claims be introduced and if not, what alternative method for countering abuse of the scheme is suggested?

Question 8: If a matching requirement is introduced, do you think the £1 to £1 matching proposed would cause difficulties for any charities/ CASCs? Would the additional complexity and extra cost of a different match, such as £1 GASDS donation to 50p Gift Aid donation be warranted? Are there any other ways of deterring fraud or other suggestions for how the matching should work?

Question 9: Do you have any other comments or suggestions on how the GASDS should work?

6. Impact Assessment

6.1 A draft impact assessment of the GASDS is set out below. The Government welcomes comments on whether the approach suggested for the design of the GASDS has any specific equality impacts that can be identified and considered. Examples of areas where there are likely to be specific inequalities would be helpful. Comments will help to inform the final Equalities Impact Assessment.

Who is likely to be affected?

This measure applies to all charities and Community Amateur Sports Clubs (CASCs) that claim, or may claim, Gift Aid repayments from HM Revenue & Customs (HMRC).

General description of the measure

Budget 2011 announced the introduction of the Gift Aid Small Donations Scheme (GASDS) scheme to give a Gift Aid style repayment to charities and CASCs without the need for them to maintain all the records required for Gift Aid to apply. The objective of the GASDS is to enable charities and CASCS to collect a payment equivalent to Gift Aid on donations where it is difficult or burdensome to collect donors' details, for example at bucket collections or religious services.

What are the policy objectives and the intended effects?

This measure supports the Government's objectives to encourage charitable giving. The scheme is aimed at helping charities and CASCs collecting cash donations in situations where it is difficult to get the necessary donor details in order to claim Gift Aid. It will enable charities and CASCs to claim a top-up similar to Gift Aid without the need to obtain Gift Aid declarations. The amount of small donations on which the top-up can be claimed will be capped at £5,000 per charity or CASC per year and will only be available to charities and CASCs that have a three year track record of successfully claiming Gift Aid.

Background to the measure

This measure was announced at Budget 2011, including the announcement of a consultation on the details of the scheme.

Detailed proposal

This is a new scheme which will be introduced by new legislation, rather than by amending existing legislation. It will enable charities and 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 under. 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 will only be available to charities and CASCs that have a three year track record of successfully claiming Gift Aid. The top-up will be calculated in the same way as Gift Aid repayments.

Operative date

It is intended that this measure will apply from 6 April 2013.

Question 10: Does the approach taken in the design of the GASDS create any specific equality issues - are certain groups that have protected characteristics specifically disadvantaged?¹

Question 11: How many charities that do not currently claim Gift Aid do you think will claim under the new scheme?

Question 12: How many charities with local groups that do not currently claim Gift Aid do you think will claim under the new scheme?

Question 13: How long do you think it will take these parent charities and local groups to start claiming?

¹ Protected characteristics are as follows: age; disability; gender reassignment; marriage and civil partnership; pregnancy and maternity; race; religion or belief; sex and sexual orientation.

7. Summary of Consultation Questions

Question 1: Where should the balance lie between fairness and complexity of the scheme and do you have any other suggestions on how the GASDS should work?

Question 2: Under what circumstances do you think HMRC should exercise its powers to make regulations in connection with community buildings?

Question 3: Are there circumstances where the proposed meaning of “connected” would result in charities or CASCs that are, in fact, wholly independent of one another being connected for the purposes of the GASDS? What are these circumstances?

Question 4: What are the criteria that indicate a charity or CASC is being run as a wholly independent entity and what alternative definition of “connected” might be used to avoid hard cases while at the same time deterring abuse of the GASDS?

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Question 8: Do you think the £1 to £1 matching proposed would cause difficulties for any charities/ CASCs? Would the additional complexity and extra cost of a different match, such as £1 GASDS donation to 50p Gift Aid donation be warranted? Are there any other suggestions for how the matching should work?

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Question 13: How long do you think it will take these parent charities and local groups to start claiming?

8. The Consultation Process

This consultation is being conducted in line with the Tax Consultation Framework. There are 5 stages to tax policy development:

- Stage 1 Setting out objectives and identifying options.
- Stage 2 Determining the best option and developing a framework for implementation including detailed policy design.
- Stage 3 Drafting legislation to effect the proposed change.
- Stage 4 Implementing and monitoring the change.
- Stage 5 Reviewing and evaluating the change.

This consultation is taking place during stage 2 to inform stage 3 of the process. The purpose of the consultation is to seek views on the underlying policy, in order to confirm, as far as possible, that it will achieve the intended policy effect without unintended effects.

How to respond

A summary of the questions in this consultation is included at chapter 7.

Responses should be sent by 25 May, by e-mail to charitypolicy.taxteam@hmrc.gsi.gov.uk

or by post to:

Consultation on the Gift Aid Small Donations Scheme
Room G67,
100 Parliament St,
London, SW1A 2BQ.

Or by fax to 020 7147 2742

Telephone enquiries 020 7147 3994 (from a text phone prefix this number with 18001)

Paper copies of this document or copies in Welsh and alternative formats (large print, audio and Braille) may be obtained free of charge from the above address. This document can also be accessed from the HMRC Internet site at <http://www.hmrc.gov.uk/consultations/index.htm>. All responses will be acknowledged, but it will not be possible to give substantive replies to individual representations.

When responding please say if you are a charity, CASC, business, individual or representative body. In the case of representative bodies please provide information on the number and nature of people you represent.

Confidentiality

Information provided in response to this consultation, including personal information, may be published or disclosed in accordance with the access to information regimes. These are primarily the Freedom of Information Act 2000 (FOIA), the Data Protection Act 1998 (DPA) and the Environmental Information Regulations 2004.

If you want the information that you provide to be treated as confidential, please be aware that, under the FOIA, there is a statutory Code of Practice with which public authorities must comply and which deals with, amongst other things, obligations of confidence. In view of this it would be helpful if you could explain to us why you regard the information you have provided as confidential. If we receive a request for disclosure of the information we will take full account of your explanation, but we cannot give an assurance that confidentiality can be maintained in all circumstances. An automatic confidentiality disclaimer generated by your IT system will not, of itself, be regarded as binding on HM Revenue and Customs (HMRC).

HMRC will process your personal data in accordance with the DPA and in the majority of circumstances this will mean that your personal data will not be disclosed to third parties.

The Consultation Code of Practice

This consultation is being run in accordance with the Code of Practice although it has been necessary for it to run for 9 weeks rather than the recommended 12 weeks. This consultation is being run for this shorter period in order to meet parliamentary timetables. To ensure that people are able to contribute as fully as possible to this consultation HMRC is offering to hold meetings of groups of interested people. A copy of the Code of Practice criteria and a contact for any comments on the consultation process can be found in Annex A.

Annex A: The Code of Practice on Consultation

About the consultation process

This consultation is being conducted in accordance with the Code of Practice on Consultation.

The consultation criteria

1. When to consult - Formal consultation should take place at a stage when there is scope to influence the policy outcome.
2. Duration of consultation exercises - Consultations should normally last for at least 12 weeks with consideration given to longer timescales where feasible and sensible.
3. Clarity of scope and impact - Consultation documents should be clear about the consultation process, what is being proposed, the scope to influence and the expected costs and benefits of the proposals.
4. Accessibility of consultation exercise - Consultation exercises should be designed to be accessible to, and clearly targeted at, those people the exercise is intended to reach.
5. The burden of consultation - Keeping the burden of consultation to a minimum is essential if consultations are to be effective and if consultees' buy-in to the process is to be obtained.
6. Responsiveness of consultation exercises - Consultation responses should be analysed carefully and clear feedback should be provided to participants following the consultation.
7. Capacity to consult - Officials running consultations should seek guidance in how to run an effective consultation exercise and share what they have learned from the experience.

If you feel that this consultation does not satisfy these criteria, or if you have any complaints or comments about the process, please contact:

Amy Burgess, Consultation Coordinator, Budget & Finance Bill Co-ordination Group, HM Revenue & Customs, 100 Parliament Street, London, SW1A 2BQ

e-mail: hmrc-consultation.co-ordinator@hmrc.gsi.gov.uk