

Stewardship Briefing Note
changes to Gift Aid declarations
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Urgent changes to take effect from 1 January 2013

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1 Introduction

Reclaiming Gift Aid is an important income stream for most UK registered churches and charities and an essential part of getting that claim right is the declaration form that must be completed by each donor and must be retained by the charity for inspection if required.

HMRC issued new guidance in early 2012, which revises the model wording for Gift Aid declarations and applies to all declarations signed after 31 December 2012. This brief paper summarises the changes to HMRC's guidance, and sets out what churches and charities should now be doing.

2 Key changes

The guidance issued by HMRC focuses on two elements of the Gift Aid declaration:

1. It goes into more detail on what it means for a donor to have paid 'sufficient tax' for Gift Aid purposes, emphasising that it is only income tax and capital gains tax (not any other taxes) that count for this purpose.
2. It also stresses that, to sign the Gift Aid declaration, the amount of tax paid by the giver must cover not only the Gift Aid on donations to the receiving charity, but also on all other Gift Aid donations made in the same tax year to other charities and CASCs (Community Amateur Sports Clubs).

The impact is that HMRC want all Gift Aid declarations completed *after* 31 December 2012 to make these statements. They do not require previously completed declarations to be replaced, but if a new declaration is completed replacing an older one, then it should be in the new format.

We would comment that the underlying legislation under which Gift Aid is claimed has not changed. It is only the way that HMRC wish it to be administered that has altered. We comment more on this below (see 'what happens if the new wording is not used?')

3 Gift Aid declarations

There are two types of declaration - written declarations that may be either on paper or via some electronic means and oral declarations. Although the procedures are different in each case, the information required is the same. In either case, there must be a *positive decision* made by the donor to agree to Gift Aid on their donations; this cannot be assumed on the part of the recipient or inferred by default.

4 Information that must be included in a declaration

Whatever type of declaration your donors give, the following information must be included:

- The name of the charity.
- The name of the donor. Last name in full and first name or initials.
- The donor's home address. As a minimum, the house name or number and the postcode.



- Whether the declaration is for this gift alone, or whether it covers past and future donations as well.
- A statement or a verbal confirmation that Gift Aid is to apply.
- Confirmation that the donor has been given an explanation that they must pay sufficient tax to cover the amount that will be claimed back by your charity and other charities that they may donate to (see below).

There is a one-page checklist provided by HMRC on their website listing the required information which can be accessed by following this link www.hmrc.gov.uk/charities/checklist.pdf.

5 Explain that donors need to have paid enough UK tax for their donation to qualify for Gift Aid

As set out above, this is one of the important changes introduced by the HMRC guidance for Gift Aid declarations. It must now be explained to donors that they have to pay sufficient UK Income Tax and/or Capital Gains Tax for the year of donation as you, *and* any other charities that they donate to, will reclaim on their donations. Simple statements confirming that a donor is a UK tax payer will *no longer suffice*.

The revised wording sets out that; the donor must have paid enough UK income or Capital Gains Tax to cover all of their charitable donations and that other taxes, such as Council Tax and VAT, do not qualify.

If a Gift Aid declaration is being completed online, such an explanation must be clearly visible when the donor is completing the form and the website should be constructed so that the donor has to read the explanation and also confirm that they have done so.

Confirmation of oral declarations (see below) must also include this explanation.

This revised wording is required by HMRC on any declaration made after 31 December 2012 and the failure to provide it will make the declaration *unsafe*. HMRC have stated that, should the new wordings not be used, they may not repay the Gift Aid unless they can be assured on certain points (see 'what happens if the new wording is not used?')

6 Written declarations

There is no set prescribed format for Gift Aid declarations made in writing. HMRC does, however, provide model forms available at www.hmrc.gov.uk/charities/gift_aid/declarations.htm – (see also appendix 2a and 2b). Making use of these forms will ensure that each declaration is complete and adheres to all HMRC's regulations.

Unless you have strong reasons to design your own declaration forms, we would recommend that you use those provided by the HMRC, perhaps adding your own church or charity logo as desired.

So long as all the necessary details are included, an electronic declaration made on your charity's website can be accepted as a written form of declaration.

7 Oral declarations

Oral declarations are a perfectly acceptable, although perhaps not ideal, means of Gift Aid declaration. Oral declarations must include all the same information as written declarations and, if voice recordings are not maintained, must be confirmed by the charity to the donor in writing. The confirmation must include all elements of the information set out above and, in addition, include notification to the donor that they can cancel their declaration within 30 days of the date of your letter.

Although acceptable, this is less than ideal as it adds another level of administrative burden to the charity. An oral declaration is not effective until the confirmation is sent to the donor, and any reclaimed tax must be repaid to HMRC in the event that the donor does, in fact, cancel the declaration within the 30 days stipulated.

8 What happens if the new wording is not used?

As we outlined earlier, the underlying legislation governing Gift Aid declarations has not changed. HMRC are concerned that not all donors correctly understand the need for them to have paid sufficient tax of the right kind in order to make a declaration. It is in a bid to reduce error rates that HMRC have asked for charities to make these changes.

If a charity uses the revised model wordings, HMRC are unlikely to challenge the validity of declarations made. However, if an alternative wording is used, there are three potential outcomes:

1. The wording does not meet the minimum requirements laid out in the Gift Aid declaration regulations (i.e. the law). In this case, the declarations are invalid and the charity will be required to repay any Gift Aid tax reclaimed as a result of them.
2. The wording meets the minimum requirements, but HMRC consider that donors did not fully understand what they were doing (for example, the charity says "just sign here and we can get 25% more from the Government", or, a donor thinks "I pay tax, therefore I can sign it" without considering if they pay enough *income* tax). In this circumstance, if there are isolated donors who get it wrong, HMRC are likely to pursue the donor for the repayment of tax (but, on donor relationship grounds, they may invite the charity to pay it in the first instance). However, if there is a systemic problem with many donors incorrectly signing declarations, HMRC may pursue only the charity on the grounds that they have not properly explained the tax obligations to the donor.

We understand that the main problems of this nature rest with Gift Aid declarations signed in charity shops or at visitor attractions, where volunteer staff do not fully understand the Gift Aid Scheme, or have not been adequately trained. Therefore, we think that the risk to churches and Christian charities is more limited. That said, no charity can afford to be complacent and, unless there are reasons not to so, the revised wording should be followed. Where there is any departure, the charity should consider its position carefully and, if appropriate, take professional advice.

3. The wording meets the minimum legal requirements and it is factually clear that donors understand the requirement that they have paid sufficient income tax or capital gains tax to cover all of the Gift Aid donations that they make in any particular tax year.



We are aware that some HMRC staff have incorrectly implied that failure to use the new wording of the declaration will render it invalid. This is not correct. Reference should be made to the three potential outcomes of using alternative wording, as set out above. HMRC will be taking steps to make sure that their charities audit and helpline staff are giving the correct messages to charities.

9 Conclusion

Overall, our recommendation is to adopt the new wording of Gift Aid declarations wherever possible, as this gives the charity the best certainty over the Gift Aid claims it then makes.

Early January may be a good time for church members to review their giving commitment to the church afresh and, in advance of this, for your church to review its Gift Aid procedures and records ensuring that:

- All declarations contain the minimum required information.
- Consideration is given to using the HMRC's model declaration form if these are not already used (see appendix 2a and 2b).
- All declarations signed after 31 December 2012 include the relevant wording regarding the payment of sufficient UK tax (see above).
- Websites including Gift Aid declarations are properly constructed.
- Auditable records are properly stored and retained for the appropriate timescale.

Remember that if a problem arises with the church's Gift Aid claims such that a claim or claims are not met in the usual time frame or are suspended whilst HMRC makes enquiries, this alone could have a serious impact on the church's cash flow. The message, therefore, is make sure that your Gift Aid records will at all times stand up to scrutiny.

Appendix 1

1 Other relevant matters

1.1 *Enduring declarations*

An enduring donation is one that covers the current and all future donations. In such cases, the charity must make it clear to the donor that if they make a donation in a future year in which they do not pay sufficient UK income and capital gains tax to cover it, they must inform the charity, so that no Gift Aid claim is submitted. This is a one-off requirement for the charity; the onus thereafter rests with the donor to inform the charity if insufficient UK tax has been paid to reclaim tax on future gifts.

A donor can cancel an enduring declaration at any time.

1.2 *Joint declarations*

Spouses or people living at the same address can make a joint declaration (in effect two or more declarations on the same form). The details of each donor must be included and joint donations will be split equally between the donors, unless otherwise instructed. It is not required that all donors sign the form. Where requested, one signature will suffice.

1.3 *Sponsored events*

To save time, the charity can use a single form as a Gift Aid declaration and a sponsorship form. HMRC provides a model Gift Aid sponsored event form on its website. Should you choose to design your own such form, details of what needs to be included can be found at www.hmrc.gov.uk/charities/gift_aid/declarations.htm. Please note that sponsors should not put their work address or other 'care of' address when Gift Aiding their sponsorship gift.

2 Administrative considerations

2.1 *Storage*

Your charity must store records so that you can clearly show that each donor included in your repayment has made a valid declaration. If you prefer to keep written declarations electronically, these can be scanned and retained in this format. Transcribing the details from an original form onto a separate list or database is not acceptable.

Without auditable declarations, HMRC can refuse to make a claim, or require reclaimed tax to be repaid. It is, therefore, important that record keeping is accurate and up-to-date.

2.2 *Maintaining declarations*

For charities constituted as charitable companies, records must be retained for at least 6 years after the end of the accounting period to which they relate. If constituted as a trust, records should be kept for 6 years after the tax year to which they relate. Enduring declarations must be retained indefinitely.

Note: For record retention purposes, a 6 year time limit applies rather than the 4 years allowed for claiming Gift Aid.



Appendix 2a:

HMRC proposed wording for a Gift Aid declaration: for a single donation

Name of charity or Community Amateur Sports Club:	
Please treat the enclosed gift of £ _____ as a Gift Aid donation.	
I confirm I have paid or will pay an amount of Income Tax and/or Capital Gains Tax for the current tax year (6 April to 5 April) that is at least equal to the amount of tax that all the charities and Community Amateur Sports Clubs (CASCs) that I donate to will reclaim on my gifts for the current tax year. I understand that other taxes such as VAT and Council Tax do not qualify. I understand the charity will reclaim 25p of tax on every £1 that I have given.	
DONOR DETAILS:	
Title:	First name or initial(s):
Surname:	
Full home address:	
	Postcode:
Date:	
Signature:	
Please notify the charity or CASC if you:	
<ul style="list-style-type: none">• Want to cancel this declaration• Change your name or home address• No longer pay sufficient tax on your income and/or capital gains.	
If you pay Income Tax at the higher or additional rate and want to receive the additional tax relief due to you, you must include all your Gift Aid donations on your Self Assessment tax return or ask HM Revenue and Customs to adjust your tax code.	

Appendix 2b:

HMRC proposed wording for a Gift Aid declaration: for past, present and future donations

Name of charity or Community Amateur Sports Club:	
Please treat as Gift Aid donations all qualifying gifts of money made (tick all boxes you wish to apply):	
<input type="checkbox"/>	Today
<input type="checkbox"/>	In the past 4 years
<input type="checkbox"/>	In the future
<p>I confirm I have paid or will pay an amount of Income Tax and/or Capital Gains Tax for each tax year (6 April to 5 April) that is at least equal to the amount of tax that all the charities or Community Amateur Sports Clubs (CASCs) that I donate to will reclaim on my gifts for that tax year. I understand that other taxes such as VAT and Council Tax do not qualify. I understand the charity will reclaim 28p of tax on every £1 that I gave up to 5 April 2008 and will reclaim 25p of tax on every £1 that I give on or after 6 April 2008.</p>	
DONOR DETAILS:	
Title:	First name or initial(s):
Surname:	
Full home address:	
	Postcode:
Date:	
Signature:	
Please notify the charity or CASC if you:	
<ul style="list-style-type: none"> • Want to cancel this declaration • Change your name or home address • No longer pay sufficient tax on your income and/or capital gains. 	
<p>If you pay Income Tax at the higher or additional rate and want to receive the additional tax relief due to you, you must include all your Gift Aid donations on your Self Assessment tax return or ask HM Revenue and Customs to adjust your tax code.</p>	