
EXTENDING UK CHARITY TAX RELIEFS TO CERTAIN ORGANISATIONS IN EUROPE

Who is likely to be affected?

1. Those likely to be affected by this measure are:
 - trustees, directors and managers of UK charities and UK Community Amateur Sports Clubs (CASCs);
 - managers of organisations equivalent to a UK charity or CASC in the EU or in Norway or Iceland;
 - UK resident donors and non-UK resident donors with UK source income who give to UK charities and similar organisations in the EU and in Norway and Iceland; and
 - non-UK resident individuals with UK source income who make Gift Aid donations.

General description of the measure

2. Legislation will be introduced in Finance Bill 2010 to extend UK charitable tax reliefs to certain organisations equivalent to UK charities and CASCs in the EU and in the European Economic Area (EEA) countries of Norway and Iceland, following a judgment in the European Court of Justice (ECJ) in January 2009.
3. A number of changes to the law and processes are being introduced at the same time. These will:
 - align the definition of a charity across all charity tax reliefs and charity exemptions administered by HM Revenue & Customs (HMRC);
 - limit the scope for fraudulent claims to charitable tax reliefs;
 - remove inconsistencies in the current rules; and
 - ensure that HMRC can maintain a cost efficient service to charities.

Operative date

4. The new rules will mostly have effect later in 2010-11, subject to a commencement order, with the following exceptions:
 - restrictions on the payment of charitable funds outside the UK which will have effect on and after 24 March 2010;
 - changing the nature of payroll giving income such that it will need to be

- put to charitable purposes to qualify for exemption, to have effect on and after 24 March 2010;
- the new definition of a charity will apply to donations by individuals to charities under Gift Aid on or after 6 April 2010; and
 - the rules aligning the treatment of UK resident and non-UK resident taxpayer donors who make donations under Gift Aid without sufficient tax to cover the repayment to the charity will have effect on and after 6 April 2010.
5. Claims to tax relief in respect of donations to organisations equivalent to UK charities in the EU, Norway or Iceland after the date of the ECJ judgment on 27 January 2009 and before 1 April 2010 will be considered on a case by case basis.
6. New procedures for dealing with Gift Aid repayment claims will be introduced later in 2010 following discussions with charities on the proposals.

Current law and proposed revisions

7. There are a number of definitions of a “charity”, “charitable company” and a “charitable trust” throughout the legislation on tax reliefs and exemptions for charities. The definition of a “charity” relies in most cases upon case law and the measure explicitly incorporates the case law definition of a charity under the law of England and Wales into the new definition of an organisation eligible for UK charity tax reliefs.
8. A new definition of an organisation eligible for charity tax reliefs and exemptions will be introduced, applicable to all UK charitable tax reliefs and exemptions administered by HMRC. An eligible organisation must be:
- set up for charitable purposes only, within the meaning of the Charities Acts 2003 and 2006;
 - located in a Member State of the EU or other territory specified in regulations by HMRC (Iceland and Norway will be specified as soon as possible after Finance Bill 2010 receives Royal Assent);
 - regulated by any body in their home country with an equivalent function to the Charity Commission or any similar regulator, as required by the law of the home country; and
 - supervised by “managers” (trustees, directors and other persons with a management function) who are “fit and proper” persons.
9. CASCs, and their non-UK equivalents, will also be required to meet the location condition above and their “managers” must also meet the “fit and proper” persons test.
10. Additional changes to the regime for charitable tax reliefs and exemptions will be introduced to ensure existing provisions work for both UK and non-UK organisations, namely:
- organisations will be required to apply donations received under Payroll Giving for charitable purposes, if the donations are to remain tax-exempt; and

- the rules requiring UK charities that make payments to bodies outside the UK to take reasonable steps to ensure the monies are used for genuine charitable purposes will be strengthened.
11. A number of other changes to legislation will also be introduced to ensure they work effectively within the new regime, namely:
- the rules on recovering tax overpaid to charities under Gift Aid where an individual has not paid enough tax to cover the donation will be amended to apply the same treatment to UK resident and non-UK resident donors;
 - the practice of HMRC making repayments of tax under Gift Aid to charitable companies before the end of the tax year on a concessionary basis will be put on a statutory basis.
12. In order to maintain current service levels to UK charities whilst dealing with additional demand from organisations outside the UK, HMRC will introduce new procedures for making repayments of tax to charities under Gift Aid. The new procedures will include:
- restrictions on the number of in-year repayments that may be claimed, and the amount of each claim (currently a charity may make an unlimited number of claims); and
 - new forms for making a claim.
- HMRC will be consulting informally with charities on the detail of these proposals over the next few months.

Further advice

13. Detailed questions and answers have been published today on the HMRC website.
14. If, after looking at these, you have any further questions about this change, please contact the Charities Policy Tax Team on 020 7147 2098 (email: charitypolicy.taxteam@hmrc.gsi.gov.uk). Information about Budget measures is available on the HM Revenue & Customs website at www.hmrc.gov.uk