

## Charities Update

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18 July 2017

Our July 2017 charities update includes an overview of the VAT treatment of membership subscriptions and recent changes to the Gift Aid Small Donations Scheme.

### VAT TREATMENT ON MEMBERSHIP SUBSCRIPTIONS TO CHARITIES

Subscription charges are usually standard rated (i.e. subject to VAT at 20%). However, if little or nothing is received in return for the subscription fee, it may be treated as a donation and would be outside the scope of VAT.

Membership subscriptions to charities often include a principal benefit to which all other benefits are supplementary. In such cases the package of benefits would be treated as a single supply for VAT purposes with the VAT treatment of the additional benefits following that of the principal benefit.

Charities and non-profit making organisations can choose to treat packages of benefits as multiple supplies, which means that they can apportion the VAT treatment of each benefit individually.

Part of a subscription may be treated as a voluntary payment or donation if either:

- All of the substantive benefits provided are available to non-members at no charge or more cheaply than the subscription. You should ignore any nominal benefits such as simple acknowledgements of support in the form of membership badges, flags or stickers.
- Some or all of the substantive benefits are exclusive to members and you are able to demonstrate that the amount paid is higher than the amount that the subscriber would normally have to pay for similar goods or services.

Some supplies made by charities to its members can be treated as exempt from VAT if the charity's aims are in the public domain and are of a philanthropic, political, religious, patriotic, philosophical or civic nature. This is often referred to as the philanthropic exemption. Supplies made by such a charity are exempt unless they include:

- Supplies that are not referable to the aims of the organisation,
- The right of admission to any premises, events or performance for which non-members have to pay, or

- Any supplies which are not provided automatically as part of the membership benefit and for which an additional sum is charged.

For example, membership to the National Trust or English Heritage would qualify for the philanthropic exemption and the membership fees would be exempt from VAT and treated as charitable donations. It would be possible to claim Gift Aid on the membership fees as a result.

#### EXAMPLE: HALLÉ CONCERTS SOCIETY

A recent case gives an example of the above principles being applied. The case concerned the VAT treatment of the membership subscriptions for Hallé Concerts Society (a members' society that operates the Hallé Orchestra).

The Tribunal reasoned that as the members received a package of benefits in return for their subscription (such as receiving regular newsletters, the ability to purchase tickets before the general release to the public, and discounted tickets to concerts), the granting of a membership was within the scope of VAT. The Tribunal then decided that the package of benefits and rights arising from membership should be treated as a single supply for tax purposes.

However, the Tribunal then concluded that these supplies fell within the philanthropic exemption and, as a result, should be exempt from VAT.

### CHANGES TO GIFT AID SMALL DONATIONS SCHEME

#### OVERVIEW OF GIFT AID SMALL DONATIONS SCHEME (GASDS)

The GASDS allows a charity to claim a 25% top up on up to £8,000 of small cash donations of £20 or less per year. Charities are eligible to join the scheme if they have:

- Claimed Gift Aid in the same year as the GASDS claim
- Not incurred any penalty on a Gift Aid or GASDS claim form in the current or previous tax year.

In addition, no benefit must be attached to the cash gift, although the charity may give out a badge or sticker. Donations made under Gift Aid declarations and membership fees are excluded. The maximum amount of the claim is the lower of:

- 10x Gift Aid donations or £8,000 (the “matching rule”), and
- The amount of the small donations received.

## WHAT'S NEW?

The Small Charitable Donations and Childcare Payments Act came into force on 6 April 2017 and makes several changes to the GASDS, including:

- The removal of the rule requiring charities to have been registered for at least two years before accessing the GASDS.
- The removal of the requirement that charities must have made successful Gift Aid claims in at least two of the previous four years.
- Allowing small donations made by contactless payments to be covered by the GASDS.

The Act still retains the requirement of the matching rule (which states that charities must claim £1 in Gift Aid for every £10 claimed under GASDS), and the GASDS has not been amended for other forms of payment such as text donations and cheques.

The main purpose of these changes is to allow newly established charities to benefit from the GASDS.

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