

## Budget Report - Charity Highlights

25 MARCH 2008

Alison Paines

PARTNER | UK

**CATEGORY:**

ARTICLE

### Gift Aid

The Budget and the accompanying Government response to the recent Gift Aid consultation contained a number of provisions relating to the Gift Aid scheme:

Under the Gift Aid scheme, charities are able to claim the basic rate income tax that a donor has paid on a donation. Currently, basic rate income tax is 22% so a charity can claim an additional 28p for each pound donated under the scheme.

From April 6, basic rate income tax will be reduced to 20%. The announcement of this change in the 2007 Budget caused concern to charities as the amount of Gift Aid that a charity could reclaim would be reduced to 25p for each pound donated. The Chancellor has responded to this concern by maintaining the current rate of Gift Aid (under a transitional relief scheme) until April 2011 so charities will continue to be able to reclaim 28p for every pound donated. The Government estimates that this provision will be worth about £300m to the sector.

A number of changes to record keeping and the auditing of claims were announced:

- Charities claiming less than £2,500 Gift Aid each year (a category that includes two-thirds of claimants) will not be penalised for errors in record keeping if their error rate is below 4%.
- Charities will be allowed to repair errors at audit before the error rate is extrapolated across the Gift Aid claim.
- Charities will be allowed to aggregate donations under £10 (up to a total of £500) – a Gift Aid declaration will still be required for each donation but the donations need not be listed individually on the claim form.
  - o By the summer HMRC is to develop a framework allowing charities to destroy enduring Gift Aid declarations after 6 years provided a database record is retained.
- Discussions will take place during the summer on the option of allowing large charities that engage independent auditors to review their Gift Aid claims to self-certify their claims.

In addition to substantive changes to the Gift Aid Scheme, the Government has introduced other measures to encourage charities to claim Gift Aid. HMRC guidance has been redesigned and a new Gift Aid website for donors and charities has been launched at <http://www.direct.gov.uk/giftaid>. A Gift Aid toolkit containing all of the tools and guidance needed to run a successful Gift Aid scheme will be made available to 5,000 new charities and 20,000 existing registered charities in the autumn.

The Tax-effective Giving Initiative is to be extended to smaller charities giving them access to training, resources and advice on operating tax-effective giving schemes including Gift Aid. A Small Charities Training Programme targeting charities with an annual turnover of less than £1 million and a new online Gift Aid mentoring forum will be launched. There will also be promotion of local 'umbrella charities' to help the charitable community and voluntary groups access the benefits of Gift Aid.

'Consultation on Gift Aid – the Government's Response' is available at [www.hm-treasury.gov.uk/media/F/F/bud08\\_giftaid\\_335.pdf](http://www.hm-treasury.gov.uk/media/F/F/bud08_giftaid_335.pdf). The HMRC publication 'Gift Aid – Administrative Changes and Proposals' may be found at [www.hmrc.gov.uk/budget2008/gift-aid-admin.pdf](http://www.hmrc.gov.uk/budget2008/gift-aid-admin.pdf).

### Bond-washing and substantial donors

The Chancellor announced that anti-avoidance legislation regarding 'bond-washing', a practice that involves selling a bond just before the interest is due and buying it back within six months, will be repealed. At present charities risk being penalised even if they are involved in the process unintentionally. The Treasury estimates that repealing this legislation will save the charity sector £400,000 a year in administrative costs.

The Chancellor will consult charities on the amendment of the substantial donor rules to reduce the risk of innocent transactions being regarded as tax avoidance.

Budget Report

A copy of the Budget Report can be found at:  
[www.hm-treasury.gov.uk/budget/budget\\_08/report/bud\\_bud08\\_repindex.cfm](http://www.hm-treasury.gov.uk/budget/budget_08/report/bud_bud08_repindex.cfm).

#### Lords to debate amendment to remove restrictions for voluntary workers

The House of Lords is debating an amendment to the Employment Bill that would allow voluntary workers to claim a wider range of expenses without triggering eligibility for the national minimum wage. If passed, volunteers would be able to reclaim expenses such as the cost of travel to and from the charity and childcare or carer expenses incurred while performing their duties without being classed as 'workers' for the purposes of the national minimum wage. This would be a welcome clarification of an area in which the case law has been undermining the ability of charities to use volunteers effectively.

#### Charities Act Third Commencement Order

The Minister for the Third Sector has made the third commencement order of the Charities Act which will bring into immediate effect a range of changes to charity law, the main changes being:

- Allowing charities to pay trustees for providing non-trustee services to their charity. In the past charities had been restricted in this respect in order to avoid conflict of interest. There are a range of safeguards to accompany the new power to prevent conflict or abuse.
- Wider powers for the Charity Commission to direct the actions of a charity (or the individuals running a charity) if the Commission believes misconduct or mismanagement have occurred.
- More flexibility for charities changing their charitable purpose. Previously the law courts and Charity Commission could only permit the nearest alternative purpose but now social and economic conditions can be considered so that the charity may have the most beneficial purpose.
- More flexibility for the Charity Commission to help charities deal with charitable donations that cannot be used as intended or help charities to change their existing purposes.
- Power for the Charity Commission to remove or suspend membership of a charity. This closes a loophole where an individual in a charity has been removed or suspended from their position but could seek re-election to it if they remained a member of the charity.
- A new Charity Tribunal is in the process of being set up to provide a more affordable recourse for charities that wish to appeal against a decision of the Charity Commission.

The Cabinet Office have also reported that progress on the Charitable Incorporated Organisation ( CIO) has been held up but they are expecting to publish a consultation package of the secondary legislation and Charity Commission model constitutions in May. The form itself however may not be available until early 2009.

#### Forthcoming Events

Withers will be hosting a lunchtime seminar at 1pm on 3 April 2008 on the rules and regulations of Community Interest Companies ( CIC) and their conversion to charity status. The speaker will be Sara Burgess, the new CIC Regulator. Kindly inform one of our team below if you wish to attend.

#### Further advice

For further information please speak to your normal contact at Withers LLP or to:  
Chris Priestley [chris.priestley@withersworldwide.com](mailto:chris.priestley@withersworldwide.com) +44 (0)20 7597 6135  
Alison Paines [alison.paines@withersworldwide.com](mailto:alison.paines@withersworldwide.com) +44 (0)20 7597 6057  
Clive Cutbill [clive.cutbill@withersworldwide.com](mailto:clive.cutbill@withersworldwide.com) +44 (0)20 7597 6095

# Authors

Alison Paines

PARTNER | LONDON

Charities

 +44 20 7597 6057

 [alison.paines@withersworldwide.com](mailto:alison.paines@withersworldwide.com)