

## Charity Law Association

Response by the Standing Committee on Taxation on

### HM Treasury's consultation on Simplifying the Gift Aid donor benefit rules

#### 1. Introduction

1.1 The Charity Law Association has over 900 members, mainly lawyers but also accountants and charity professionals. It is concerned with all aspects of the law relating to charities, and has established a Standing Committee on Taxation to consider the application of tax law to charities and their supporters.

1.2 The members of the Committee involved in preparing this response are:

Paul Bater – Wellcome Trust (Chair)  
Harriet Brown – Old Square Tax Chambers  
Neasa Coen – BLP  
Gavin McEwan, Turcan Connell  
Trevor James – Chartered Accountant  
Elizabeth Jones – Farrer & Co  
Sylvie Nunn – Wrigleys  
Robert Pearce QC – Radcliffe Chambers  
Alana Petraske – Withers  
Julian Smith – Farrer & Co

1.3 The members of the Committee serve in a personal capacity and the views expressed in this submission should not be taken to be the formal opinion of the organisations that they represent. Similarly, the views in this paper should not be seen as constituting the opinion of CLA members as a whole.

#### 2. Response to the consultation questions

***Question 1: What would the impact on your charity be of the removal of the current legislative requirement that a charity must have been registered for at least two tax years (the two-year rule) before it can access GASDS? Would this change represent a meaningful simplification of the scheme? Please explain your answer.***

2.1 We consider this is a helpful change that is particularly beneficial for newly established charities.

2.2 We also consider this represents a simplification of the scheme.

***Question 2: What would the impact on charities be if the requirement that a charity must have made a successful Gift Aid claim in at least two out of the previous four tax years (the two-in-four rule) was changed to a requirement that a charity must have made a successful Gift Aid claim in the previous tax year only?***

2.3 As with the previous proposal, we consider this is a meaningful simplification.

2.4 This change is likely to disadvantage charities that periodically make Gift Aid claims but do not routinely make a claim every year. There are likely to be organisations

that meet the current two-in-four rule but find themselves unable to access the GASDS with the same regularity if the requirement is a claim had to be made in the previous tax year.

- 2.5 Our preference is to see this rule removed entirely, which we consider is proportionate given the limits already inherent within the scheme (such as the £8,000 maximum).

**Question 3: Does your charity currently collect donations using contactless payment technology, or are you currently considering doing so in the future? Please explain your answer.**

- 2.6 Not applicable.

**Question 4: Would the expansion of GASDS to include donations received via contactless credit and debit cards present any challenges to charities, particularly in terms of record keeping or other administrative requirements? Please explain your answer.**

- 2.7 We suspect it is unlikely to make record keeping more difficult and it may well be simpler to prepare and retain records of donations via contactless credit and debit cards than donations made in cash given that (1) the amount of the donation; (2) the date it was collected; and (3) the date it was paid into a bank account should be ascertainable from a review of the charity's bank account. However, a charity receiving donations via contactless cards will obviously need to record that these were donations and not payments for goods and services.

- 2.8 We would welcome the expansion of the GASDS to cover donations made by contactless credit and debit cards.

**Question 5: Would the Government's proposal to allow charities to claim either under the main GASDS allowance or under the community buildings allowance, but not both, present any specific equality issues or generate any obviously unfair outcomes? Please explain your answer.**

- 2.9 This change will obviously disadvantage charities currently claiming under both allowances.

- 2.10 It does seem to work against the purpose of the community buildings allowance that was intended to ensure charities established using a range of different structures would not be in any worse position when making a claim under the GASDS. If these rules were changed, any central office of a national charity with branches operating from community buildings (but which does not constitute a community building itself) will lose its capacity to claim under the main GASDS scheme if claims are made instead under the community buildings allowance by its separate branches. Consequently, the central office may be worse off as a result of adopting a unified structure.

**Question 6: What impact would this proposal have on your charity?**

- 2.11 Not applicable.

**Question 7: Would relaxing the community buildings rules to allow donations to be received outside of the building itself allow more charities to claim under GASDS? Please explain your answer.**

2.12 We envisage it may well allow more charities to claim under GASDS but we have no specific comments in response to this question.

2.13 If there is a relaxation of these rules we suggest the rules for collections outside community buildings are made as simple as possible because the take up by charities of opportunities to organise relatively small collections is likely to be in inverse proportion to the number and extent of the conditions that have to be met for the collection to qualify for the GASDS scheme.

**Question 8: *What reasonable requirements could be included to ensure that the relaxed community buildings rules still only benefit donations received in a specific local community?***

2.14 Any additional rules should be kept as simple as possible. If the Government wishes to include this requirement we would suggest that a simple geographical radius from the community building should not be prescribed as this is likely to have a very uneven application across rural and urban areas and the different sizes of communities that may be served by a community building. We suggest it may be preferable to allow a charity to make a subjective determination (on the basis of what is reasonable) of what constitutes the local area of the community that the building serves.

**Question 9: *Are there any other reforms that you would like the Government to consider? Please provide details.***

2.15 We suggest the matching rule is abolished to increase the uptake of GASDS by smaller charities.

2.16 We also request that the maximum donation limit of £20 for the scheme is raised to £50, which we consider is a proportionate change given the inbuilt limits within the scheme. Furthermore, this will be high enough to cover the maximum spend of £30 per transaction using a contactless debit or credit card.