



**Irish Tax
Institute**

Leaders in Tax

Donations Scheme Consultation
Income Tax Incentives
Financial Services and Taxation Division
Department of Finance
Government Buildings
Upper Merrion Street
Dublin 2

11 May 2012

Response to Consultation on Proposed Amendments to the Scheme of Tax Relief for Charitable Donations

Dear Sir / Madam

We have read the consultation document with the proposed amendments to the scheme of tax relief for charitable donations, together with the Minister's comments on same (8 May 2012).

We note that a key aim of the proposals is to simplify the relief scheme in a revenue neutral manner. The objectives of **simplification** and **revenue neutrality** are, in our view, intrinsically linked. It is unlikely that the reforms suggested can be achieved in a revenue neutral way, unless the current system for administering the relief is simplified for both the charities and for Revenue.

Reforming the relief in a revenue neutral way

Of the four proposed amendments to the regime, the two which are likely to have the most significant overall impact are:

1. The introduction of a blended rate rather than marginal tax relief; and
2. The ending of tax relief for self-assessed taxpayers – with all tax relief proposed to be repaid to the charity.

If a blended rate of relief is to replace the current marginal rate, then correctly setting the level of that blended rate will be one of the imperatives to achieving revenue neutrality.

Under the proposed amendments, self-assessed donors will no longer be able to claim a tax deduction for donations made under the scheme. Members of the Irish Tax Institute advise the majority of the country's self-assessed taxpayers, assisting them with their tax compliance obligations. We have sought feedback from our members on these proposed changes and their feedback indicates that there will be some element of behavioural change as regards charitable donations if the tax relief is removed i.e. some self-assessed taxpayers may reduce the level of their donations or even cease to donate, as a result of the reduced tax benefit.

It is difficult to predict the likelihood or quantify the resulting impact on revenues of a drop in donations by the self-employed. However, this possibility will need to be factored in to the determination of the most appropriate blended rate of relief, to ensure that the potential negative impact on donations is counteracted by an increase in the rate of relief available to charities.

The Irish Tax Institute does not have the necessary sectoral data to advise on the correct level of the blended rate. However, we understand from discussions with the charitable sector that a blended rate of approximately 33% is likely to leave them in a revenue-neutral position.

Simplifying the administration of the relief

The other element that is critical to achieving revenue neutrality is simplification of the current system for administering the relief. Simplification is essential for both the charities and for Revenue.

The total cost to the Exchequer of the tax relief expenditure is estimated to be €50 million per annum. The Commission on Taxation made this estimate based on figures for 2006¹. It is not clear whether this cost includes the cost to the State of administering the current system. However, we understand from charitable sector sources that the administrative burden and the associated costs for charities in terms of staffing and resources are quite significant. So why is the current system so cumbersome?

Administration of the relief prior to 2010

Under the system which operated prior to 2010, the following steps were followed once a taxpayer made a donation to a charity:

¹ Commission on Taxation 2009 – page 266

1. The charity prepared a CHY2 Certificate for the donor, pre-populated with the donor's name and PPS number, the name of the charity and the amount of the donation.
2. The pre-populated CHY2 Certificate was sent to the donor.
3. The donor indicated on the form whether he/she was a standard rate or higher rate taxpayer, signed the form and returned it to the charity.
4. The charity completed an aggregate Form 848A, which it forwarded to Revenue, and retained the CHY2 Certificates on file.
5. Revenue paid the tax relief to the charity.

The position since 2010

In 2010, the Office of the Data Protection Commissioner became aware that charities held the PPS numbers of donors on their system to enable them pre-populate CHY2 Certificates as described above. The Commissioner instructed the charitable sector to hold PPS numbers for only so long as is necessary to obtain the tax relief available. In the Commissioner's view, this is limited to the current tax year only. Charities were also requested not to pre-populate their CHY2 Certificates with donors' PPS numbers.

This necessitated a change to the procedure outlined above, in that the donor was now required to complete his/her PPS number on the CHY2 Certificate. Unfortunately, this has had a profound impact on the number of Certificates being completed and returned to the charities. Whereas previously approximately 60% of Certificates were completed and returned by donors, this figure has now fallen dramatically to an estimated 33%.

Proposals for reform

The proposed amendments in the Minister's Consultation Paper go some way towards addressing the administrative burden for Revenue. Revenue will no longer be required to identify standard rate and marginal rate taxpayers separately. Their objective under the new proposals will simply be to ensure that tax relief is not awarded to charities on behalf of individuals who have paid no tax (or insufficient tax to cover the relief due).

However, it is not apparent in the proposals, how essential administrative savings can be achieved for the charities themselves. If the charities are still required to collect PPS numbers from every taxpayer that makes a donation, every year that they make such a donation, then there is no simplification for them in these proposals and their level of administrative cost will remain unsustainably high.

Alternatives should be considered which would reduce the administrative and financial burden on both charities and Revenue. The alternatives that we suggest below do not rely on PPS numbers. The requirement for PPS numbers to be obtained is placing such an administrative burden on the charities because Data Protection rules require such data to be collected every year from every taxpayer and most taxpayers will simply not engage with this system.

Option 1

The first option would involve the adoption by Revenue of a risk-based approach to the granting of tax relief for charities.

The process would operate as follows:

- Revenue would agree with the charitable sector a percentage of donations each year made by donors who are not within the tax net. This would be based on the historic profile of donors to date. If necessary, this could be agreed on a charity by charity basis, if the profiles of the donor base vary significantly.
- The charity would then provide Revenue with details of total donations received at the end of each year.
- Revenue would apply the agreed percentage to disallow relief for a portion of the donations, and allow relief at the blended rate for the balance.

In order to reduce the administrative burden for both parties and to free up resources, this process could be completed once each calendar year, on an agreed date.

We believe that this risk-based method would be consistent with Revenue's stated approach to its selection of cases for intervention, which involves the analysis of cases by reference to risk criteria. It would also avoid the data protection issues associated with obtaining the PPS numbers of donors.

Option 2

An alternative option would be to implement a procedure similar to that used for the "Gift Aid" scheme in the UK.

Under the Gift Aid scheme, the charity requests the donor to complete a "Gift Aid declaration", which certifies that the donor pays as least as much tax as will be reclaimed on all of his/her charitable donations (to all charities) for that year. The donor is not required to furnish his/her tax reference number to the charity. The declaration can cover a once-off donation or it can cover all past and/or all future donations.

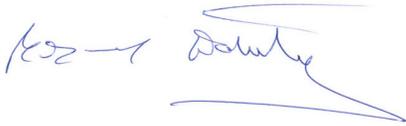
The charities retain these declarations to support their Gift Aid repayment claims. The onus is on the donor to inform the charity if his/her tax status changes.

We understand from discussions with representatives of the charities sector that a scheme operated along these lines would represent a significant improvement on the current system. It would be worth giving some consideration to whether such an approach could be agreed here.

We are available for further discussions or consultations on any of the matters raised in this submission.

Yours truly

Bernard Doherty

A handwritten signature in blue ink, appearing to read "Bernard Doherty", with a long horizontal flourish extending to the right.

President
Irish Tax Institute