Small Charitable Donations Bill

Bill 28 of 2012-13

RESEARCH PAPER 12/45 14 August 2012

The *Small Charitable Donations Bill* introduces the Gift Aid Small Donations Scheme (GASDS) which was announced at Budget 2011. The purpose of the scheme is to enable charities and community amateur sports clubs (CASCs) to claim a Gift Aid-style payment on small cash donations of up to £20 in circumstances where it would be difficult to obtain a Gift Aid declaration. In general, eligible charities and CASCs will be able to claim top-up payments on small donations totalling up to £5,000 a year.

The Bill extends to the whole of the UK.

Antony Seely

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Summary

Charities are entitled to claim tax relief on the income they receive from individual donations under Gift Aid. In brief, if the donor is a basic rate taxpayer, the charity can claim from HM Revenue & Customs (HMRC) the tax the individual will have paid on this part of his or her income. If the donor pays tax at the higher or additional rate, the charity claims back the tax paid at the basic rate, and the donor claims back the extra amount of tax he or she will have paid. Community amateur sports clubs (CASCs) may also claim relief under Gift Aid. The scheme is one of the most important tax reliefs for charities and pays out around £1 billion each year.

To make a claim under Gift Aid charities must ensure that the donor is a taxpayer, so that the tax authorities can match the tax that has been paid on the donation with the payment claimed by the charity. Charities can find it difficult or impossible to collect this type of information for small cash donations – such as those made into a collecting tin. Donors may feel that they do not have the time to fill out a Gift Aid declaration for a donation made on the spur of the moment, or may be reluctant to do so for a relatively small gift. Smaller charities who may rely on small cash donations may therefore find that they are losing out from the extra income they could get from Gift Aid.

In his Budget speech on 23 March 2011 the Chancellor, George Osborne, announced a number of measures to encourage charitable giving, including a new scheme to allow charities to obtain a top-up payment on small cash donations equivalent to the tax relief given under Gift Aid.[1] Under the Gift Aid Small Donation Scheme (GASDS), charities would be entitled to claim payments on up to £5,000 of income from small donations each year. The scheme would be launched from April 2013.[2] After informal discussions with the charitable sector, the Government confirmed its plans in the 2012 Budget and published details in a consultation document.[3] As participants will not be required to obtain evidence of small cash donations in the same way as donations made under Gift Aid, GASDS will be more vulnerable to fraud. As a consequence charities and CASCs using the scheme are to be subject to certain eligibility conditions: for example, they must have a good compliance record of making Gift Aid claims. They will also be required to raise a certain amount under Gift Aid in relation to income received under GASDS. The Government anticipates that these ‘matching’ rules will require charities to raise at least half as much through Gift Aid as raised under GASDS.

The scheme is not a tax relief so legislation to introduce it must be made separately to the annual *Finance Bill*. The Queen’s Speech on 9 May 2012 included mention of a Bill enabling charities to claim additional payments on small donations, to be introduced during the 2012/13 Session.[4] The *Small Charitable Donations Bill 2012-13* was published on 21 June. It is scheduled to have its Second Reading on 4 September 2012.[5]

The text of the Bill, explanatory notes and details of the Bill’s progress are collated on the Parliament Bill page at:

http://services.parliament.uk/bills/2012-13/smallcharitabledonations/documents.html

[1] HC Deb 23 March 2011 c962
[2] *Budget 2011* HC 836, March 2011 para 2.113
[3] *Budget 2012* HC 1853, March 2012 para 2.88; HMRC, *The Gift Aid Small Donations Scheme*, 27 March 2012
[4] HC Deb 9 May 2012 c3
[5] HC Deb 12 July 2012 c484

1 Current tax relief on donations

There is no *general* tax exemption or relief granted to taxpayers who make gifts to charities. Tax relief is provided through two schemes which cover regular donations made out of one's salary (Payroll Giving) and one-off cash gifts (Gift Aid). Furthermore gifts and bequests to charities are generally exempt from inheritance tax.

Under the Payroll Giving scheme, charitable donations are wholly deductible for income tax purposes, the relief being given through the PAYE system. The employer deducts the appropriate sum from a participating employee's pay, and passes it to an agency which distributes it to the charity or charities of the employee's choice. There are no minimum or maximum limits for donations under the scheme.[6]

Gift Aid allows income tax relief for single donations by individuals. When this relief was introduced in 1990, a minimum limit on donations was set at £600. Tax relief applies to a donation of any size, following the abolition of the minimum limit – then £250 – from 6 April 2000.[7] Under the scheme, charities claim repayment of basic rate tax on donations. Higher rate taxpayers claim higher rate tax relief on their gifts.

Of the two schemes Gift Aid is far the more significant in terms of Gift Aid donations and the cost of the relief: in 2010/11 it is estimated that donations were worth £4.91 billion in total – of which £1.08 billion was tax repaid to charities. Donations through payroll giving were worth £114 million in the same year; tax relief on donations cost £30 million.[8] Detailed statistics on charity tax reliefs are collated on HM Revenue & Customs' site;[9] a selection is presented in a short appendix to this paper.

2 Development of Gift Aid, 1990-2010

Gift Aid was introduced by the then Chancellor, John Major, in his 1990 Budget: one off charitable donations could be made free of tax, on or after 1 October 1990, for gifts of £600 or more. In effect the scheme was a 'single year' covenant, and proved popular with both charities and donors. As with covenanted payments, charities were entitled to claim repayment of basic rate tax on the donation from the Inland Revenue (now, HM Revenue & Customs). Higher rate taxpayers could claim higher rate tax relief on their gifts. If the donation under Gift Aid is not made out of taxed income, tax has to be paid by the *donor* to the tax authorities. The minimum limit was reduced to £400 from 7 May 1992, and was further reduced to £250 from 16 March 1993, before being abolished in April 2000, as one of a series of changes made to the taxation of charities in the *Finance Act 2000* "to encourage more individuals and businesses to give more, and to make the taxation system simpler for donors and charities to use."[10]

In the 2007 Budget report the Labour Government announced a number of measures to support the take-up of Gift Aid:

> 5.84 There is much greater scope for charities to claim additional funds through gift aid. The Government will consult with the charitable sector on measures to increase

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6 Further information is on HMRC's site at, *Giving to charity through your payslip or pension*.

7 Further information is on HMRC's site at, *Giving to charity through Gift Aid*.

8 *HMRC National Statistics* Tables 10.3 & 10.8, June 2011

9 http://www.hmrc.gov.uk/stats/charities/menu.htm. This also gives a useful introduction to these reliefs.

10 The background to these changes is examined in, *Taxation of charities*, Library Research paper 01/46, 12 April 2001.

> take-up of gift aid and conduct an awareness-raising campaign. The Government will also work with the sector on payroll giving, and publish guidance on tax efficient giving for individuals. In addition, the Government recognises the need for charities to build ongoing relationships with their major donors, giving them the opportunity to thank their donors and to demonstrate how effectively donations are used, as well as to encourage continued giving. To facilitate the ability of charities to build relationships with donors, this Budget announces an increase in the value of benefits that donors may receive, in consequence of a donation made within the gift aid regime, to 5 per cent of the donation for those donating £1,000 or more, with the upper limit on benefits received increased to £500.[11]

Provision to this effect was made under section 60 of the *Finance Act 2007*.[12]

The Labour Government's consultation exercise on encouraging the take-up of Gift Aid, mentioned in the 2007 Budget report, was launched in June that year.[13] In December the department published the responses it had received; some respondents argued that the scheme should be reformed, to cut the link between Gift Aid and the basic rate:

> 1.42 While some respondents supported the fundamental design principle of Gift Aid - as a system tied to the basic rate of income tax - others pointed out that this meant that Gift Aid income fluctuated with the basic rate of taxation. Some respondents sought a transitional relief alongside the reduction in the basic rate of income tax in April 2008.
>
> 1.43 Many respondents proposed a fundamental reform that would transform Gift Aid from a taxation based system to an accounts-based method that allowed a charity to reclaim a fixed proportion of its total voluntary income – at a composite rate calculated on an individual, donor-based or sector-by-sector basis. This would remove the need for the charity to obtain and retain Gift Aid declarations from donors ...
>
> 1.44 A variation on this proposal was that Gift Aid should operate on the basis of a composite rate – set somewhere between the basic and higher rate of income tax – that was claimable by the charity. However, unlike the accounts basis model this proposal would retain a link to tax paid by the donor, and a requirement for declarations from individual donors.
>
> 1.45 However, other respondents supported a continuation of the link between Gift Aid and the basic rate of income tax.[14]

In his 2007 Budget the then Chancellor, Gordon Brown, had announced that the 10% starting rate of income tax would be abolished from 2008/09, and that income tax on earned income would be charged at two rates: the basic rate of 20% and the higher rate of 40%.[15] As the Gift Aid scheme allows a charity to recover the basic rate tax paid on any donation, the cut in the basic rate from 22% to 20% implied a fall in all charities' income.[16] In his 2008 Budget the then Chancellor, Alistair Darling, announced a new transitional relief for charities to compensate them for the impact of the cut in the basic rate:

> As the House will know, the basic rate of income tax will fall by 2p in April. Because charities have a vital role to play, we will therefore implement a transitional rate of 22

11 *Budget 2007* HC 342, March 2007 p 125

12 The change was generally welcomed by all parties when debated at the Committee stage of the Bill (PBC 24 May 2007 cc 368-73).

13 HC Deb 19 June 2007 c 80WS

14 *Consultation on Gift Aid: a summary of responses*, December 2007 pp 10-11

15 The 10% starting rate was retained for savings income.

16 "Charities worse off after the Budget", *Financial Times*, 24 March 2007

> per cent. to allow them to continue to claim gift aid at the current rate, delivering £300 million-worth of relief. It will provide charities with certainty for the next three years.[17]

At the time the relief was projected to cost £60 million in 2008-09, £105 million in 2009-10, and £120 million in 2010-11.[18] It was very much welcomed by the charity sector.[19]

The Labour Government announced a number of other changes to Gift Aid "including major reform to the auditing process; a comprehensive programme for bringing additional smaller charities into Gift Aid; redesign of guidance; outreach to 5,000 new charities through the launch of targeted marketing tools; and a number of other administrative changes."[20] Full details were given in the Government's formal response to the June 2007 consultation on Gift Aid.[21] The paper also noted a number of further reforms that might be made to improve the scheme:

> The principles underpinning Gift Aid make it clear that tax associated with donations to charity can be reclaimed, and the current system enables that process in the most simple and least administratively burdensome way. The consultation showed that opinions on higher rate Gift Aid varied widely with some believing the relief should go directly to the charity, and some that basic rate relief should also go to donors. There are systems that enable higher rate donors to route their relief to charities but many felt that these processes could be simplified to encourage more donors to use these options.
>
> These issues are complex and many of the proposals would involve radical restructuring of the Gift Aid system, making it difficult to judge how the donor population might react. This prevents an accurate assessment of the risks associated with major changes to the current Gift Aid system and the level of funding it provides to charities …
>
> While some respondents supported the fundamental design principle of Gift Aid - as a system tied to the basic rate of income tax - others pointed out that this meant that Gift Aid income fluctuated with the basic rate of taxation. Some respondents sought a transitional relief alongside the reduction in the basic rate of income tax in April 2008. A number of respondents supported an accounts based method, or a composite rate, although others were keen to see Gift Aid retain its link to tax rates and proposed changes that allowed higher rate donors to route their relief to charities.
>
> Throughout the consultation respondents reiterated the importance of maintaining simplicity in the Gift Aid system and minimising administrative burdens, making it clear that any changes would need to be provided in such a way as to ensure this. To meet these concerns, while providing predictable income streams for the sector, the Budget announces that Gift Aid will be paid at a transitional rate of 22% for three years, with no increase in administrative burdens in claiming Gift Aid for charities. Proposals for complex reforms require more time for consideration, particularly given the need to assess fully the risks of any changes to the system and the funding it provides for charities … The Government will continue to work with donors and charities to develop

17 HC Deb 12 March 2008 c298

18 *Budget 2008* HC 388, March 2008 p110. For details see, HM Revenue & Customs Budget Note BN52, 12 March 2008.

19 See for example, "Charities gain £300m gift aid extension", *Financial Times*, 13 March 2008

20 HC 388, March 2008 para 5.50.

21 HM Treasury, *Consultation on Gift Aid: the Government's response*, March 2008. see also, HM Revenue & Customs, *Gift Aid – Administrative Changes and Proposals*, March 2008.

> understanding of donor behaviour and use that to inform further thinking about Gift Aid.[22]

Provision to this effect was made by s53 of the *Finance Act 2008*. When this was debated at the Committee stage of the Bill, Philip Hammond, speaking for the Conservatives, argued that, "members of the Committee probably agree that the best way to [compensate charities] is to increase the take-up of gift aid so that charities no longer have to rely on the supplementary rebate that compensates for the missing income", and asked the Minister for the Government's "long-term thinking" on the issue.[23] The then Financial Secretary, Jane Kennedy, replied as follows:

> The transitional period is a three-year breathing space to allow charities to adjust to the change in the basic rate tax without it affecting their existing expenditure plans. During that period, charities can drive up more gift aid income with support from the rest of the gift aid package announced in the Budget. In addition, we will work with donors and charities to develop an understanding of donor behaviour, using that to inform further thinking about gift aid—again, in order to continue driving up the take-up ...
>
> Without the provision, if donor behaviour remained as it is today, it has been estimated that losses for charities would be significant across the whole sector, running to more than £100 million next year. The amount received by charities from the supplement will be proportionate to their eligible gift aid claims. For every £1 of gift aid that is donated, charities will receive 3.2p in supplements, so the charities will continue to receive 28.2p in total for every £1 donated under gift aid. The proposals in the Budget were widely welcomed by the sector. I acknowledge that, for some, there was a feeling of relief that they could have certainty going forward. There is continuing dialogue with the sector, which was as keen as we were to maintain the nature of gift aid. That formed the basis of much our discussions, and I am sure that there will be a continuing dialogue in the area.[24]

3 Government proposals to encourage philanthropy, 2010-12

In December 2009 HM Revenue & Customs published some research work which it had commissioned with the Treasury on Gift Aid, and options for encouraging wealthier donors to use it. Notably the authors found evidence that tax relief played a relatively limited role in motivating individuals to give to charity:

> The majority of donors reported that they would not change their donations out of net-of-tax income if faced with changes to Gift Aid … When asked why they would not adjust their donations if the tax system were to change, the majority said that it was because they decided how much to give before thinking about the tax incentives. This may be a consequence of the complexity of the current system. One of the major donors who had calculated the effect of the tax system on net and gross donations described working it out as "a long and painful process". Around one-fifth of those who said they would not adjust their donations said that tax incentives did not matter at all.[25]

In February 2010 the Treasury set up a Gift Aid forum to consider further improvements to Gift Aid, informed by recent Government-sponsored research into the effect of tax incentives

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22 *Consultation on Gift Aid: the Government's response*, March 2008 paras 2.14, 2.28-29. These changes were the subject of a short debate in the Lords soon after the Budget (HL Deb 17 March 2008 cc4-5).

23 Public Bill Committee (Finance Bill) 22 May 2008 c355

24 *op.cit.* c357

25 Sarah Smith (University of Bristol) & Kimberley Scharf (Warwick University), *Gift Aid donor research: exploring options for reforming higher-rate relief (HMRC Research report 91)*, December 2009 pp9-10

on charitable giving.[26] The forum was continued under the Conservative-Liberal Democrat Coalition Government that assumed office in May 2010, and in October Peter Fanning, the chief executive of the Chartered Institute of Taxation, submitted a report on improving Gift Aid, based on the forum's discussions. Although the report did not discuss donations outside the scope of Gift Aid, one of its principal recommendations was that, "small charities are particularly vulnerable at times of economic stress and some find dealing with Gift Aid difficult. Their needs should be a priority."[27]

In December the then Economic Secretary, Justine Greening, wrote to Mr Fanning, and was generally supportive of his report.[28] However, she ruled out extending Gift Aid transitional relief on the grounds that it was "always intended to be temporary" and that prolonging its life would not target support "effectively" – a point made subsequently in answer to PQs, for example:

> **Jon Trickett:** To ask the Chancellor of the Exchequer what assessment he has made of the effect on charities and voluntary groups of the ending of transitional relief on gift aid.
>
> **Justine Greening:** Gift aid transitional relief was introduced as a temporary measure to give charities time to prepare their financial plans in response to a lower rate of relief from gift aid. By April 2011, when the relief ends, charities will have had four years since the announcement of the 20% basic rate of income tax to prepare for the change. In 2009-10 charities benefited by £105 million from this relief and it is forecast that they will benefit by £120 million in 2010-11. The Government believe the £100 million transition fund announced in the spending review will better target support on charities most in need.[29]

In the weeks before the 2011 Budget there was some discussion in the press that the Government was keen to encourage charitable giving,[30] and the Chancellor, George Osborne, announced a series of initiatives in his Budget speech on 23 March:

> The Culture Secretary and I have been working on a series of substantial reforms that will support giving, from the largest donations to the coins collected in the charity bucket.
>
> First, we will dramatically simplify the administration of gift aid. Instead of asking charities to submit a written record of every donation made, we will by 2013 pay for a much easier online system.
>
> Secondly, we will encourage wealthy people in our society to give even more. The gift aid benefit limits will be increased from £500 to £2,500 so that charities and museums can say thank you properly. We will consult in the coming year on how to encourage the donations of pre-eminent works of art and historical objects to our nation in return for a tax deduction. We will introduce from April next year this major change to our inheritance tax system: if you leave 10% or more of your estate to charity, the Government will take 10% off your inheritance tax rate. Let us be clear. No beneficiaries will be better off as a result of this policy-just the charities, to the tune of

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26 HC Deb 4 March 2010 cc1333-4W

27 *Gift Aid Forum – report to Economic Secretary to the Treasury by Peter Fanning*, October 2010 p1

28 Details are collated at: HMT, *Government response to the Gift Aid Forum*, December 2010 (ret'd August 2012)

29 HC Deb 14 March 2011 c92W. The Fund cited here was mentioned in the Spending Review (Cm 7942, October 2010 p)

30 See for example, "Rich told to enlist as patrons of the arts" & ""Britons are not stingy but relaxing tax rules can help open their wallets", *Financial Times*, 9 December 2010; "Charities seek donor incentives", *Financial Times*, 14 February 2011; "Charity begins at the tax-planning stage", *Financial Times*, 26 February 2011

> £300 million. I want to make giving 10% of your legacy to charity the new norm in our country.
>
> The third reform we make to the charitable taxes is about not the biggest donations but the smallest. We will introduce a new scheme where gift aid can be claimed on small donations, up to a total of £5,000 a year per charity, without the need for donors to fill in any forms at all. That means gift aid on the contents of the collecting tin and the street bucket, and 100,000 charities will benefit to the tune of £240 million. Together, these represent the most radical and most generous reforms to charitable giving for more than 20 years. Do the right thing for a charity, and the Government will do the right thing for you. It is a big help for the big society.[31]

The Budget report estimated that the cost of the scheme would be £50m in its first year, rising to £85m by 2014/15.[32]

Details on other changes were given in the department's *Overview of Tax Legislation* published alongside the Budget:

> Gift aid: records for small donations — From April 2013 charities (and community amateur sports clubs) that receive small donations of £10 or less will be able to apply for a gift aid style repayment without the need to obtain gift aid declarations for those donations. The amount of small donations on which the new repayment can be claimed will be capped at £5,000 per year, per charity. In order to qualify for this new repayment, charities will need to have been recognised by HMRC for gift aid purposes for at least three years, have been operating gift aid successfully throughout that time and have a good tax compliance record. The Government will be consulting with charity representatives on the details of the new scheme over the summer 2011.[33]

Following the Fanning report, the department established a new body of tax officials and charity customer representatives – the Charity Tax Forum.[34] At its meeting after the 2011 Budget, it was noted that "forum members will be invited to participate in a sub-group to consider the detail of the [small donations] scheme." In addition, "funding for this scheme will count as public spending and will therefore require primary legislation outside a *Finance Bill*. The scheme also depends on the introduction of online filing and so it will take at least two years before this scheme becomes active."[35]

In answer to a PQ in June 2011 it was noted that the department were "consulting informally … over the summer, with the aim of publishing draft legislation for formal consultation later in the year."[36] Most of the *Finance Bill 2012* was published in draft in December 2011, including some of the measures announced in the 2011 Budget affecting charities,[37] though this was not accompanied by any details of the small donations scheme.

31 HC Deb 23 March 2010 c962

32 HC 836, March 2011 p43 (Table 2.1 : item 51). For more detail on this costing see, HM Treasury, *Budget 2011 Policy Costings*, March 2011 p58.

33 HM Treasury/HM Revenue & Customs, *Overview of Tax Legislation*, March 2012 p26

34 http://www.hmrc.gov.uk/consultations/charities-tax.htm

35 HMRC, *Notes of Charity Tax Forum*, 12 April 2011 para 12

36 HC Deb 7 June 2011 c127W

37 Details are collated on HM Revenue & Customs' site.

4 Budget 2012 and further developments

4.1 Budget 2012

At the time of the 2012 Budget the Government confirmed its plans to introduce the small donations scheme from April 2013. Under the scheme charities would be entitled to claim top-up payments on income from cash donations, totalling up to £5,000 a year. Qualifying cash donations could be up to £20 each, rather than £10 as initially proposed. The size of the top-up payment on each small donation would be equivalent to the tax relief given under Gift Aid, so that a charity could claim a maximum of £1,250 a year.[38]

There was relatively little comment on the announcement, compared with the concerns raised about the Government's proposal to set a cap on certain unlimited tax reliefs – *including* the tax relief that higher or additional rate taxpayers may claim back on Gift Aid donations. Although the proposals would not have affected the amount of tax that *charities* claim under Gift Aid, and would not prevent wealthy donors making donations of any size – many charities argued that it would have a major impact on the level of charitable giving. As it transpired, the Government announced some weeks later that tax relief on charitable donations would be *excluded* from the cap.[39]

The case for limiting the value of Gift Aid for wealthier donors is not examined here, though one point is worth making in relation to the small donations scheme. Gift Aid is not an efficient way of giving for individuals on very low incomes because the tax relief the charity claims on a donation must match the tax paid on this income by the donor. Non-taxpayers making donations through Gift Aid have to pay any shortfall in tax to HMRC.[40]

One consequence of the way Gift Aid works is that donations made by the wealthiest donors attract the most tax relief – divided between the donor and the charity – and some commentators have suggested this distorts public spending.[41] From this perspective the small donations scheme could be seen to counter this effect. In a blog piece for the *Guardian* Joe Irvin, the chief executive of National Association for Voluntary and Community Action, argued that more attention should have been given to the benefits that the scheme could deliver:

> [Under the scheme] many small charities could gain an extra 25% on top of the small donations (individual donations under £20) they collect up to £5,000. This could be worth up to £1,250 a year for a charity. This may not sound huge but it could make a significant difference to thousands of small charities … Remember that 140,000 charities (85% of the total) have an annual turnover of less than £100,000 – and more than half of all charities have an income under £10,000 per year.
>
> So it's strange that there has been a less than full-throated welcome from sector leaders in the media. Typical responses have been 'this is ok, but it doesn't make up for the tax credit cap'. I agree that the tax credit cap is a bad thing for our sector … However, when we get good news, we should say so. The small donations bill is good

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38 Estimates of the cost of the scheme were unchanged from the Budget the year before: see, *Budget 2012* HC 1853, March 2012 para 2.88, Table 2.2 – item ae.

39 HC Deb 12 June 2012 c397-8W; For more details see, *Income tax – cap on unlimited reliefs*, Library standard note SN6303, 16 July 2012.

40 The department's online guidance for donors underlines that the scheme is not suitable for non-taxpayers.

41 For example, see, "Sweetened charity", *Economist*, 9 June 2012 & "Letters: Every £1 of tax relief leaves £1 of tax to be raised elsewhere", *Financial Times*, 17 April 2012. On this issue, Michael Edwards argued in a pamphlet for the think tank Demos, "Why should the rich and famous decide how schools are going to be reformed, or what drugs will be supplied at prices affordable to the poor, or which civil society groups get funded for their work?" (*Small Change: Why Business Won't Change the World, Demos and Future Positive*, January 2010).

> news. It will make running a small charity easier and mean extra money for thousands of small charities. It would be a mistake to overlook this help for thousands of small charities by only viewing the sector through the prism of large charities.[42]

4.2 Consultation on the scheme

Following the 2012 Budget the department issued a consultation document asking for views on a number of aspects of the Gift Aid Small Donations Scheme (GASDS) – comments were invited by 25 May. In the document the Government emphasised that certain features of GASDS were *not* open to change:

- the scheme will apply to donations collected in the UK;
- there will be a maximum limit on small donations eligible for a top-up payment under the GASDS of £5,000, subject to provisions to increase the limit for certain charities with local community groups;
- charities should not have an incentive to fragment into more, smaller, charities in order to obtain further allocations of the £5,000 limit on donations;
- there will be additional measures to limit abuse of the scheme.[43]

The consultation document anticipated that some features of GASDS would be similar to Gift Aid:

- The amount payable in respect of a donation will be computed in the same way as for a repayment under Gift Aid. So, for example, the top-up payment on £5,000 of small donations will be £1,250.
- The donations for which a top-up payment is claimed under the GASDS must be used for charitable purposes (for charities) or qualifying purposes (for Community Amateur Sports Clubs, CASCs, [which may also receive donations through Gift Aid]).
- Charities and CASCs will make claims under the GASDS in the same way as for Gift Aid. A new online claims system is being introduced for making Gift Aid claims and GASDS claims.
- HMRC will administer claims in the same way as for Gift Aid claims, including similar powers to enquire into GASDS claims.[44]

However, there would be some important differences: notably charities and community amateur sports clubs (CASCs) would not be allow to provide any benefit to donors in recognition of their gift. Donations would have to be 'pure' gifts, though tokens like lapel stickers given in return for gifts would be allowed. In addition, as GASDS would not be tax relief, higher and additional rate taxpayers would not be entitled to claim tax relief on their donations. To reduce the risk of the scheme being defrauded, the consultation document proposed a system of 'matching' – where charities and CASCs would have to match donation income under GASDS with income received under Gift Aid to some extent – though respondents were asked for alternative approaches to the problem. A number of other differences between the two schemes were also mentioned:

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42 "Fund raising hub : Why charity leaders should be more positive about the small donations bill", *Guardian*, 10 May 2012

43 HMRC, *The Gift Aid Small Donations Scheme*, 27 March 2012 p8

44 *The Gift Aid Small Donations Scheme*, 27 March 2012 p10

- There will be no documented link between the donor and the payment on which the GASDS top-up payment is made. Donors will not need to give any personal information to the charity or CASC.

- Charities and CASCs must meet certain conditions in order to become eligible to make claims under the GASDS, including having a good, recent, track record of making Gift Aid claims. …

- Claims will be based on the tax year from 6 April for charitable companies and CASCs as well as for charitable trusts. Gift Aid claims are made in relation to the accounting period of a charitable company or trust. Harmonising the rules for all charities and CASCs will simplify the GASDS legislation.

- Claims under the GASDS must be made within one year of the end of the tax year in which the small donations are collected. Gift Aid claims may be made within four years of the tax year or accounting period in which the donations are received; this enables charities and CASCs to deal with late claims by donors who may make a claim to Gift Aid within four years after the end of the tax year in which the donation is made. There is no reason for an extended claim period for the GASDS because there is no interaction with donors' tax affairs, and charities and CASCs should follow best practice in relation to cash handling and make timely claims. A short claim period also reduces administrative costs for HMRC and assists Government accounting for the costs of the scheme, which will be paid for through public spending ...

- GASDS claims must be made by, or on behalf of, charities or CASCs. Some local groups of charities make Gift Aid claims on the donations they receive, however all GASDS claims must be made through their parent charity.

- Charities and CASCs must bank the small donations in a bank branch physically located in the UK. This will give HMRC greater certainty that the donations in respect of which a claim is made were actually collected in the UK and will help guard against potential fraud.[45]

On the question of matching funds, the consultation proposed that charities would have to raise at least as much through Gift Aid as donations under GASDS:

> The main purpose of a matching rule would be to help deter fraud. The continuing requirement to make Gift Aid claims would make it harder for people to defraud the scheme. In addition, and as a point of principle, organisations should continue to claim Gift Aid on donations wherever possible. The GASDS is not intended to be a substitute for Gift Aid. Instead it provides for Gift Aid type payments on donations where it is difficult, or too burdensome, to obtain Gift Aid declarations. Wherever possible donors should be encouraged to make use of Gift Aid but this is not always practical where the amounts collected are small or the donations are collected somewhere where obtaining a declaration is difficult – such as a street collection ...
>
> If a matching rule were introduced, the small donations collected by charities running charitable activities in a community building could be matched to donations on which the charity claims Gift Aid; they would not need to be matched to Gift Aid donations arising from the local group. The small donations collected by a group of connected charities, none of which is running charitable activities in a community building, could be matched to any Gift Aid claims made by any or all of the connected charities.

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[45] *The Gift Aid Small Donations Scheme*, 27 March 2012 pp10-11

> This consultation document seeks views on the introduction of matching, and proposes it be on a £1 for £1 basis – so if a charity or CASC has claimed Gift Aid on £3,000 of donations in the year it would be able to claim GASDS on £3,000 as well – assuming it receives sufficient donations. Setting the match at £1 for £1 would make it simple to understand and operate.[46]

The consultation document also asked for views on the best approach to ensure the scheme did not reward charities on the basis of their operational structure. Some charities have a single centralised organisation whereas others are in a federation of smaller charities, focused on a single charitable objective. If all charities were entitled to the same £5,000 funding limit, GASDS would be highly biased in favour of the second type of structure:

> So, for example, a charity that happens to be structured in such a way that local groups operating under its name are all part of the same charity should get the same access to GASDS top-up payments at the local level as a charity whose local groups are set up as separate charities in their own right, but under the same management and control as the main charity. It would be unfair if the two "parent" charities were entitled to different amounts of GASDS top-up payments purely because of the way they have structured themselves for historical reasons.[47]

To avoid this, the Government proposed two tests for the £5,000 cap to GASDS claims: first, to allow a local branch of a charity run in a 'community building' to claim top-up payments on an extra £5,000 of qualifying donations. This test would be relatively simple to apply and would not require existing charities to fragment so as to claim extra funding:

> [Under this rule] the maximum limit of the parent charity [would be increased] by adding to the "core" maximum limit of up to £5,000 an extra maximum limit of up to £5,000 in respect of small donations made in community premises in which the charity carries out its charitable activities. The maximum limit of up to £5,000 for each premises is limited to the amount of small donations actually collected by the group in the community building.
>
> The small donations collected by each local group must be collected in the course of its charitable activities carried out in the community building. Donations made at local group activities held for non-charitable purposes, including fund raising, or outside the community premises are not eligible for a top-up payment under the GASDS under this rule. By contrast, the small donations relating to the parent charity's "core" limit of up to £5,000 may be collected anywhere, for example through local street collections or in collection boxes or at fund raising events.[48]

Second, any charity connected with another would be entitled to claim up to £5,000 between them, although a charity's maximum claim would also be affected if it had donation income from activities run in a community building:

> The "core" maximum limit of a charity or CASC may be reduced for a tax year if it is connected with one or more other charities or CASCs at any time during the tax year. It is proposed to base the definition of a connected charity or CASC on the definition used for tainted charity donations in Chapter 8 of Part 13 of the *Income Tax Act 2007* and Part 21C of the *Corporation Tax Act 2009*: *a "connected charity" in relation to*

[46] *op.cit.* pp25-6
[47] *op.cit.* p18
[48] *op.cit.* pp18-19

> *another charity means a charity which is connected with that other charity in a matter relating to the structure, administration or control of either charity.*
>
> The definition is wide reaching, by taking into account a connection between charities and CASCs in terms of structure, administration or control and is intended to restrict the maximum donations limit of a charity that is fragmented for administrative purposes and to deter an organisation from artificially fragmenting into a number of charities or CASCs, in order to increase its entitlement to a top-up payment ...
>
> Where several charities or CASCs are connected with one another, and at least one of the charities runs charitable activities in a community building then, instead of each charity or CASC being entitled to the "core" maximum limit of up to £5,000 in its own right, the charities or CASCs will share equally between them just one "core" limit of up to £5,000 ... Note that it is only the "core" maximum limit of up to £5,000 that will be reduced. Where a connected charity runs charitable activities in a community building, the increase in the charity's maximum limit that derives from the groups carrying out those charitable activities is not affected by the fact that the charity is connected with other charities.[49]

Legislation to impose or amend national taxes is introduced by means of the annual *Finance Bill*.[50] However, the scope of the Bill is restricted to this purpose, so that separate legislation is required to introduce the GASDS:

> The GASDS is not a tax relief and therefore the scheme cannot be legislated through the usual Finance Bill cycle. Instead, the scheme must be legislated separately, including all the provisions needed to administer claims that, for Gift Aid, are found in the Tax Acts. The Government will bring forward legislation relating to the GASDS as soon the parliamentary timetable allows.[51]

4.3 Publication of the Bill

On 21 June 2012 the Economic Secretary, Miss Chloe Smith, gave a written statement, confirming publication of the legislation to introduce the new scheme.[52]

The *Small Charitable Donations Bill 2012-13* was printed alongside the Minister's statement,[53] and along with explanatory notes to the Bill, HMRC published a summary of responses to the consultation,[54] and an impact assessment.[55] The Government proposed a number of changes to the scheme in light of the comments received to the consultation document: first, the required ratio of donations raised by Gift Aid to those raised under GASDS would be less restrictive:

> The requirement to match the amount of small donations on which top-up payments are claimed with the amount of donations on which Gift Aid is claimed will be reduced from 1:1 to 2:1. Therefore every £2 on which a top-up payment is claimed, a Gift Aid claim must be made on donations amounting to at least £1.[56]

Second, the rules relating to connected charities and the application of the maximum annual claim would be more generous:

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49 *op.cit.* pp22-23
50 For details see, *The Budget and the annual Finance Bill*, Library standard note SN813, 25 July 2012.
51 *The Gift Aid Small Donations Scheme*, 27 March 2012 p11
52 HC Deb 21 June 2012 c62WS
53 HC Deb 21 June 2012 c1001
54 HMRC, *Summary of Responses: The Gift Aid Small Donations Scheme*, June 2012
55 HMRC, *Gift aid Small Donations Scheme: Impact Assessment (IA)*, 13 June 2012
56 *Summary of Responses …* , June 2012 para 2.4

> The definition of a connected charity rule will be amended to reflect a connection between charities where the same people have control over another charity and where the charitable activities of the charities are broadly similar. Shared administration will not be an indicator of two charities being connected.
>
> Where charities are connected and share the main £5,000 allowance, the allowance will be shared between only those charities that are eligible and make a claim under the GASDS rather than allocating part of the allowance to connected charities that don't make a claim. This will allow one charity in a group of connected charities to make a single claim on behalf of all the charities.
>
> There will be flexibility for a group of connected charities to decide which charity should make a claim to the main £5,000 allowance on behalf of the others in order to maximise the amount that may be claimed on the pooled small donations of the charities, whether or not any of the charities is entitled to an extra allowance in respect of a community building.[57]

It is estimated that these changes will increase the total cost of the scheme by about £10m a year.[58]

As noted, the Government took the view that some aspects of GASDS were not open to consultation, but this did not prevent respondents raising concerns that the perceived risk of fraud had played too strong a part in the design of the rules:

> Some respondents said they understood the need for the scheme to contain safeguards against fraud, although some said that they thought the concern for fraud was exaggerated and that HMRC has not published evidence for its risk-averse approach. The scheme is not a tax measure, but its anti-fraud elements are more suited to the tax system. It makes little use of existing anti-fraud measures such as the Fit & Proper Persons Test. The scheme was described as "over-engineered" and it was recommended it is introduced in a simple form with provisions to target abuse only introduced later if necessary.[59]

While respondents were generally supportive of the Government's initiative, expressing thanks "for [its] making such an effort to create a fair scheme", the eligibility criteria for qualifying charities and the general concept of matching donations, were strongly criticised, and some argued that few charities would use the scheme in practice "because of the perceived complexity and the qualifying conditions for taking part."[60] One further concern was that the scheme was misnamed: "several respondents said that including the words Gift Aid in the title of the scheme was confusing as the money available is a grant, not tax relief. There was concern that the confusion between the two schemes could have a negative impact on Gift Aid."[61]

Further to the Bill, it is anticipated that later this year draft regulations and draft guidance for the scheme will be published for consultation.[62] One of the main concerns expressed in responses to the consultation was that the scheme would be too complex to administer easily. Respondents were keen that the department's non-statutory guidance should "be

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57 *ibid.*

58 *Gift Aid Small Donations Scheme …* , 13 June 2012 p7. This would put the total cost of the scheme at around £125m by 2016/17.

59 *Summary of Responses …* , June 2012 para 2.53

60 *op.cit.* para 2.51-2

61 *op.cit.* para 2.66

62 *op.cit.* para 3.1

very clear, easy to understand and with lots of examples."[63] That said, the department's impact assessment of GASDS suggests the administration and record-keeping to support claims will fall within current best practice, and as a consequence it estimates that the costs to charities and CASCs of using the scheme will be negligible.[64]

5 The Bill

5.1 Introduction : a new procedure

Details of the Government's legislative priorities for the 2012/13 Session were set out in the Queens Speech on 9 May 2012, and this included confirmation that a Bill to establish the GASDS would be introduced.[65] In a statement the next day the Leader of the House, Sir George Young, listed the fifteen Government Bills for the new Session, including the *Small Donations Bill*. He also stated that two Bills from this list would be chosen for a pilot scheme for the publication of explanatory statements on amendments to Bills.[66] In March 2011 the Procedure Committee had argued that this practice would be of significant benefit for Members and those outside the House tracking the progress of any particular piece of legislation – setting out a number of guidelines:

> 32. We recommend that the House adopt the following guidelines for the tabling of explanatory statements in this Parliament:
>
> 1. Any Member tabling an amendment to a bill in a Public Bill Committee, in Committee of the whole House or on Report, including private Member's bills, may at the time of tabling accompany that amendment with an explanatory statement of around 50 words.
>
> 2. The explanatory statement must describe the intended effect of the amendment but may not be phrased as an argument for its adoption or against the existing text of, or any other proposed amendment to, the bill.
>
> 3. An explanatory statement is not required where the amendment is self-explanatory, except that an explanatory statement should be provided for all Government amendments on Report stage giving the reasons for tabling in each case.
>
> 4. Questions as to the implementation of these rules shall be decided by the Chair of the Public Bill Committee, the Chairman of Ways and Means in the case of bills in Committee of the whole House or the Speaker in the case of bills on report.
>
> 5. Explanatory statements will be printed in italics immediately following the amendment to which they relate. Where several amendments are tabled which are introductory to, consequential upon or closely linked to another amendment, the explanatory statement should state that fact and shall only be printed with the first amendment in the sequence.[67]

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[63] *op.cit.* para 2.69

[64] *Gift aid Small Donations Scheme: Impact Assessment (IA)*, 13 June 2012 p2; *Small Charitable Donations Bill – Explanatory Notes*, Bill 28-EN, 21 June 2012 para 90.

[65] Cabinet Office, *The Queen's Speech 2012 – background briefing notes*, 9 May 2012 pp11-12

[66] HC Deb 10 May 2012 cc13-14WS

[67] House of Commons Procedure Committee, *Second report: Improving the effectiveness of parliamentary scrutiny: (a) Select committee amendments (b) Explanatory statements on amendments (c) Written parliamentary questions*, 9 March 2011, HC 800 2010–12 p14. The House agreed a resolution in favour of a pilot on 13 October 2011 (HC Deb c555).

On 23 May the Leader of the House set out details of this pilot, including the fact that the *Small Donations Bill* would be one of the two Government Bills to be included; an extract from his statement is given below:

> We plan to provide explanatory statements for all Government amendments for Bills in the pilot at both Committee and Report stage other than those amendments where the legal effect is clear on the face of the amendment. The Government will also do what they can to promote awareness of, and encourage participation by others in, the pilot. The Procedure Committee will consider other steps which might be taken to the same end.
>
> The Government believe that there would have to be very significant and clearly definable benefits illustrated from this final pilot for any further progress to be made. Because there have already been several pilots for explanatory statements and only limited evidence available on the outcome of those pilots, I have proposed to the Procedure Committee, and that Committee has agreed, that there should be a formal evaluation of the pilot, with an initial evaluation conducted by the House service which the Procedure Committee will then use as the basis for a report on the outcome, together with evidence from elsewhere, including the Government's views.[68]

The format of the Bill itself is unaffected by this pilot.

5.2 Bill provisions

The Bill is quite short, comprising twenty one clauses and one Schedule. A summary of its provisions is given below, though full details are set out in the Explanatory Notes.

Clause 1 establishes what a top-up payment under GASDS is, how its size is determined, and the maximum annual claim that may be made. **Clause 1(2)** sets out the formula by which the value of a payment is calculated, so that it is the same amount as would be claimed under Gift Aid.

Clause 1(4) requires that donations under the scheme cannot exceed the donations claimed under Gift Aid by more than double: **the 'matching' condition**. In the department's summary of responses to the consultation, this proved to be one of the most controversial aspects of the scheme, as "the majority of respondents ... argued that it was an unfair concept and a barrier to using the scheme" because "it could disadvantage small charities without regular income on which Gift Aid is claimed, poorer charities in poorer areas, charities that rely heavily on street collections and those such as mental health charities where a lot of the donors are not taxpayers." Some felt that matching would be difficult for charities without a regular income, whereas others opposed it on the grounds that it did "not fit in with HMRC's risk-based approach and that Gift Aid is complex and time-consuming for small charities."[69] There were also concerns about the purpose of matching:

> According to one view, the only purpose [of matching] is to limit the amount paid out under scheme and it is flawed to have Gift Aid rules as a proxy for the GASDS – most Gift Aid claims demonstrate only that the charity can complete a claim form. Some argued that linking payment to the amount of money claimed under Gift Aid rather than to the number of claims does not indicate better compliance and matching is no guarantee of catching abuse. Others suggested that using GASDS as a reward for Gift

[68] HC Deb 23 May 2012 c72WS

[69] *Summary of Responses …* , June 2012 paras 2.36

> Aid is not in line with policy aims; replacing one set of admin burdens with another defeats the object.[70]

In response to this the Government has argued that "a matching requirement is an important anti-fraud element of the scheme", but, as noted, acknowledged concerns over the ratio for matching funds by reducing the proposed level:

> Even if the charity or CASC appears to be compliant for the first few years, changes in personnel can affect an organisation's attitude to compliance and so HMRC will continue to need some evidence on which to base its assessment of risk the charity or CASC poses in relation to the new scheme. The organisation's continuing compliance with Gift Aid, and HMRC's ability to check a significant number of claims, is the closest proxy to help assure compliance under the new scheme. However the Government recognises that a 1:1 match could be difficult for many charities and CASCs and has decided to reduce the matching level to 2:1.[71]

Clause 1(6) sets the monetary annual limit for donations qualifying for top-up payments at £5,000.

Clause 2 establishes the eligibility criteria for charities making a claim under GASDS: principally charities must have made a successful claim under Gift Aid "in at least 3 of the previous 7 years" and the charity must have been established for at least 3 years. Most respondents had objected to this test, even though the Government had indicated that this was a decided feature of GASDS:

> Respondents said that the three year eligibility criteria will be a deterrent for smaller charities. The requirement that the charity must have been registered for at least three years unfairly punishes newer charities when they need extra income for set-up costs to establish themselves. They said it is counter-productive and may discourage or dishearten some newer, smaller charities. Those who would benefit most will be excluded. A charity must already have been through the registration process including the fit and proper person test, so any further concerns about fraud would be unwarranted. One respondent referred to the requirement as a proxy for anti-fraud vetting.[72]

Some respondents suggested alternative criteria that, in their view, would not have this deterrence effect, without risking significant fraud:

> Some respondents suggested alternative criteria: that eligibility should rely on complying with reporting requirements not claiming Gift Aid. The Charity Commission could issue some kind of compliance statement for charities that have abided by their rules or HMRC could require a legally binding declaration by a member of a professionally certified body such as doctors, lawyers, accountants, or HMRC could rely on tax and VAT records. The qualifying period could be reduced to one year or claims could be allowed one year after a charity has registered with a regulator and filed its accounts.
>
> A proposal was also put forward for a probationary period for charities without a three year track record using a lower limit, for example £2000 rather than £5,000. One suggested that charities should be required to be members of the Fundraising Standards Board in order to take part in the scheme. There should be a simple and

70 *op.cit.* para 2.37
71 *op.cit.* p15
72 *op.cit.* para 2.57

> robust application process, preferably with open eligibility for local groups. The scheme could be restricted to the smallest charities, perhaps based on their income.[73]

However, the Government has taken the view that it "has to balance the desire for simplicity against need to guard against the risk of fraud on the public purse. The three year eligibility rule for charities and CASCs is an important way of reducing the fraud that can enter the scheme."[74]

Clause 3 and **Schedule 1** determine what is to be a 'small donation' for the purposes of the scheme. Donations that are membership fees are specifically *excluded*, under **clause 3(1)**. Under **clause 3(2)** any donation must be used for "charitable purposes" – though provision is made in **clause 17(1),(2)** to ensure that donations made to CASCs do not fall foul of this rule.

Schedule 1 sets out a series of conditions for small donations: principally that they must be £20 in cash or less (**para 1**), collected in the UK (**para 2**), held in a UK bank account (**para 3**), not covered by an existing relief for charitable giving - that is, Gift Aid or Payroll Giving (**paras 4 & 5**), and cannot be given in receipt of any gift (**para 9**). Gifts of negligible value such as lapel stickers are excluded from this last condition.

In general respondents were happy with the £20 cash limit, but expressed serious concerns as to how charities could ensure it was not exceeded in practice:

> A respondent from a church was concerned about the effect of the £20 limit on the elderly. Elderly members of the congregation often give a monthly amount that they cannot Gift Aid as they are not taxpayers. If a person gives £80 per month, can this be treated as weekly donations of £20? And does the scheme extend to donors known not to be taxpayers? If not, the scheme imposes a burden by requiring people to donate anonymously and at regular intervals and could exclude elderly donors. The £20 limit is seen as complex unless a charity can assume that all donations fall into this category except for those that clearly don't e.g. notes with a face value over £20. If a donor puts a £20 note in the collection plate periodically throughout the year, GASDS benefit should not be limited simply to one of those donations.
>
> Respondents asked whether, in order to identify a £20 donation in a church plate, the church would have to take an average of those donating who do not use an envelope? As the £20 limit would be open to abuse, should HMRC require a summary coin analysis of the collections banked? Do churches need to pass round two plates in future and ask the congregation to put in a different plate if they are going to give in excess of £20 and would bucket collectors need to carry around two buckets or keep a record if a donor put in two £20 notes? There was a comment that it is wrong to impose legislation that cannot be complied with.[75]

To meet these concerns, the £20 limit set by **para 1, schedule 1** is subject to a test of reasonableness – so that in circumstances where the charity and its managers do not know if the cash gift is £20 or less, it is assumed to be so *provided* "the managers [of the charity] have taken reasonable steps to find out."

Clauses 4-9 make provision for the maximum £5,000 claim by a charity or CASC to be altered if the organisation is connected with one or more others, and/or if it runs activities in a community building.

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[73] *op.cit.* para 2.58

[74] *op.cit.* p20. The Explanatory Notes give some examples of how the rules would work in practice (Bill 28-EN paras 23-4).

[75] *op.cit.* para 2.60-1

Clause 4 specifies that where two or more charities are connected *and* make a claim, then the £5,000 limit is divided equally between them. Each charity will still have to meet the 2:1 matching rule regarding Gift Aid donations that they have received: Gift Aid donations are *not* pooled for the purposes of this test.[76] Connected charities who do not make a claim under GASDS are not included in this calculation: as the Government noted in the response document, "[this] flexibility will allow a group of connected charities or CASCs to decide which charity or CASC should make a claim to the main £5,000 allowance on behalf of the others in order to maximise the amount that may be claimed on the pooled small donations of the connected organisations."[77] **Clause 5** defines the meaning of 'connected' in this context. While this draws on the way in which tax law determines whether two persons are connected, **clause 5(5)** excludes charities from qualifying as 'connected' if they have different purposes and activities. This exception is in response to concerns raised in the consultation that there are circumstances where independent charities would fall foul of the test as initially proposed:

> Charities can share administration functions without being connected and they can have the same trustees, simply because of practical concerns, but have different charitable objects. Churches working together to cut costs could fall foul of the current rules because PCCs can have common trustees and administrators. Charities might have common trustees just because it is difficult to recruit trustees, particularly in small communities. Two charities could use the same solicitors as trustees without being connected. Religious charities are often interconnected in institutional terms even if they function as separate, independent worshipping communities, with the Salvation Army as a good example of this. Different denominations should be treated the same way irrespective of their structure.[78]

Clause 6 allows for a charity which has activities in one or more community buildings to make an additional claim in relation to donations received in that building or buildings. Several respondents raised concerns that this concept made GASDS too complex, although others suggested that it was "a clever and elegant solution to a complex problem."[79] In its response the Government argued that this was the best approach to ensure that all charities were treated equally, whether they were run centrally with a branch network, or worked in a federated way with other charities:

> It would not be possible to list charities whose branches should be able to receive separate GASDS payments without setting up a new, complex, administrative framework. It would be necessary to devise robust and legally defensible criteria to determine which charities should be listed and set up an administration to deal with applications and appeals. The Government believes the community building rule as set out offers the best approach to achieve parity of treatment, legal compliance and simplicity.[80]

Any claim relating to donation income from a community building is capped at £5,000 worth of donations, though a charity can make a claim in relation to every building in which it makes collections. It may also make a claim, capped at £5,000, in relation to donations collected elsewhere – say, in street collections.[81] The Bill goes on to set out the conditions for this type of claim: what constitutes a community building (**clause 8**) and minimum tests for the frequency and attendance at meetings in that building (**clause 7**). Under **clause**

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76 Bill 28 –EN para 32
77 *Summary of Responses …* , June 2012 p12
78 *op.cit.* para 2.24
79 *op.cit.* para 2.12
80 *op.cit.* p9
81 For examples of how the rules would work in practice see Bill 28-EN (paras 39-40). CASCs are *not* allowed to make this type of additional claim (Bill 28-EN para 41).

7(1)(2) the charity must hold at least six meetings during the year at which at least ten people attend, not including staff. In the response document the Government acknowledged concerns "about the possible inflexibility in relation to the number of people attending a charitable activity and the number of occasions in a year when charitable activities are carried out" and that they might need to be changed in the light of experience.[82] Consequently **clause 7(4)** allows for HMRC to amend these numbers by Order.

Clearly there will be circumstances where a charity connected with other charities or CASCs runs charitable activities in one or more community buildings. **Clause 9** sets out how the provisions for pooling donations for connected organisations interlock with those allowing charities with local branches to make additional claims. The Explanatory Notes to the Bill give a useful précis of how the rules would work – in the case of the Church of England and the Catholic Church: charities with similar functions but very different structures:

> Some religious organisations such as the Church of England have set up each church as a separate charity. However, the Catholic Church has only one charity at the level of the diocese and that diocesan charity is responsible for a number of separate churches. The consequence of this is that if the rules allowed one grant per charity, the Catholic Church would receive considerably less in payments under the scheme than other religions, such as the Church of England.
>
> As a result of these rules the Catholic Church can qualify for up to £5,000 for each church that qualifies as a community building. Similarly, individual parish charities of the Church of England can each qualify for one £5,000 if they are community buildings. As the individual parish charities are connected to other Church of England charities they will not receive an additional £5,000 allowance for each charity. Instead, those connected charities will share one £5,000. As a result the two different arrangements achieve a similar outcome as each local parish church, be it Catholic or Church of England, can qualify for up to £5,000 under the community building provisions and the various charities will share an additional £5,000 under the connected charities rule.[83]

The remaining clauses of the Bill deal with the administration of the scheme and various miscellaneous issues.

Any overpayments of top-up payments are to be repaid to HMRC (**clause 10**); HMRC is to manage the scheme and is given powers to make regulations to administer it (**clause 11**). Charities or CASCs who change their legal form may make an application to HMRC to consider their *predecessor's* compliance history in assessing their eligibility to join the scheme (**clause 12**). The Treasury may amend the monetary amounts specified in the Bill – the £5,000 limit for claims, and £20 limit on individual donations – by Order (**clause 13**). Top-up payments are not taxable income in the hands of charities or CASCs (**clause 14**). **Clauses 15-21** deal with the territorial extent of the Bill, provision for making secondary legislation, matters relating to general interpretation, commencement, financial provision, and the legislation's short title.

82 *Summary of Responses …* , June 2012 p9

83 Bill 28-EN para 64

Appendix : Statistics on Gift Aid

Source: HM Revenue & Customs *National Statistics : Charities*

10.3

Gift Aid and covenants

Amounts donated and tax repayments to charities on donations by whether donor is an individual or company

Amounts: £ million

Year of repayment	Gross amounts donated		Gift Aid:	Amounts donated (net of basic rate income tax)			Tax repayments to charities on donations [1]		
	Total [5]	Covenant	Gift Aid	Total [5]	By individuals	By companies	Total [5]	By individuals	By companies
1990-91	868	825	43	32	19	13	11	7	4
1991-92	1067	850	217	163	89	74	54	30	24
1992-93	1091	800	291	218	122	96	73	41	32
1993-94	1153	825	328	246	138	108	82	46	36
1994-95	1356	900	456	342	165	177	114	55	59
1995-96	1390	950	440	330	162	168	110	54	56
1996-97	1573	1,025	548	414	210	204	134	68	66
1997-98	1,885	1,125	760	583	316	267	177	96	81
1998-99 [2]	2,576	1,250	1,326	1,020	367	653	306	110	196
1999-00	2,230	1,325	905	697	429	268	208	128	80
2000-01 [3]	1,846	850	996	774	n/a	n/a	222	n/a	n/a
2001-02 [3]	1,984	100	1,884	1,470	n/a	n/a	415	n/a	n/a
2002-03	2,325	25	2,300	1,794	1,794	n/a	506	506	n/a
2003-04	2,675	9	2,666	2,079	2,079	n/a	586	586	n/a
2004-05	2,842	0	2,842	2,216	2,216	n/a	626	626	n/a
2005-06	3,410	0	3,410	2,659	2,659	n/a	751	751	n/a
2006-07	3,771	0	3,771	2,941	2,941	n/a	830	830	n/a
2007-08	4,081	0	4,081	3,183	3,183	n/a	898	898	n/a
2008-09	4,299	0	4,299	3,354	3,354	n/a	946	946	n/a
2009-10	4,576	0	4,576	3,569	3,569	n/a	1,007	1,007	n/a
2010-11	4,914	0	4,914	3,833	3,833	n/a	1,081	1,081	n/a
2011-12 [4]	5,023	0	5,023	3,966	3,966	n/a	1,057	1,057	n/a

June 2012

[1] The basic rate of income tax dropped from 22 per cent to 20 per cent on 6 April 2008. Charities receive compensation, through public expenditure, for the associated reduction in Gift Aid repayments. This compensation, referred to as transitional relief, runs for three years and applies to all donations made betw een 6 April 2008 and 5 April 2011. The amount quoted in tax repayments to charities on donations includes this transitional relief, w hereas in table 10.1 the tw o components are presented separately.

[2] Statistics for company donations reflect a single exceptionally large donation in 1998-99.

[3] Statistics on amounts donated are calculated from the repayments of tax to charities. Follow ing Budget 2000 the system for obtaining tax relief altered, avoiding the need for charities to reclaim tax on corporate donations. We do not have information on corporate donations made since that time. Furthermore, since some of the repayments made to charities in years 2000-01 and 2001-02 w ill have included an unknow n element in respect of company donations made in earlier years, w e are unable to provide an accurate total for individual donations for those tw o years.

[4] Provisional. These figures are unlikely to undergo any significant change.

[5] The total under 'Gross amounts donated' (first column of table) is the sum of the 'Tax repayments to charities on donations' (seventh column of table) plus the original donations that are imputed from these in 'Amounts donated' (fourth column of table).

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10.4 Gift Aid repayments to charities

Numbers of charities and amounts of repayments of basic rate income tax, by size of annual repayment and year in which claim for repayment was made.

Amounts: £ millions

Range of annual repayment (£)	2003-04 Number	2003-04 Repay-ments	2004-05 Number	2004-05 Repay-ments	2005-06 Number	2005-06 Repay-ments	2006-07 Number	2006-07 Repay-ments	2007-08 Number	2007-08 Repay-ments	2008-09[1] Number	2008-09[1] Repay-ments	2009-10[1] Number	2009-10[1] Repay-ments	2010-11[1] Number	2010-11[1] Repay-ments	2011-12[2] Number	2011-12[2] Repay-ments
Up to 1k	24,452	9	26,581	10	27,818	10	28,756	11	29,763	11	29,058	11	29,249	12	25,561	10	25,682	11
1-5k	17,414	42	18,320	44	19,128	46	19,610	47	20,418	49	20,310	49	21,313	51	20,128	48	21,420	52
5-10k	5,846	41	6,176	44	6,400	45	6,829	49	7,095	51	7,009	50	7,345	52	7,144	50	7,452	53
10-50k	5,664	110	6,193	122	6,784	136	7,230	146	7,998	164	7,904	161	8,400	173	8,299	172	8,589	177
50-100k	551	37	653	45	761	53	845	58	1,006	70	995	68	1,036	71	1,016	70	1,070	74
100-500k	424	84	471	95	512	105	635	128	716	140	723	144	814	164	790	157	817	161
500k-1m	53	37	69	49	80	55	75	52	87	61	104	72	90	64	108	77	89	61
Over 1m	62	217	66	231	82	304	91	349	97	349	102	376	110	417	112	486	113	424
Total	54,466	577	58,529	640	61,565	754	64,071	839	67,180	895	66,205	931	68,357	1,005	63,158	1,069	65,232	1,012

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[1] Revised. As set out in the commentary, the revisions are of a minor character.

[2] Provisional. Any changes to these figures are likely to be minor.

Notes

1. The totals for amounts of repayments are slightly different from those shown in tables 10.1 and 10.3 because those tables are by year of repayment rather than by year of claim as above.

2. Repayment amounts include payments of transitional relief. Transitional relief was introduced in April 2008 to compensate charities for the reduction in Gift Aid repayments associated with the drop in income tax tax from 22 per cent to 20 per cent on 6 April 2008. The compensation, through public expenditure, runs for three years and applies to all donations made between 6 April 2008 and 5 April 2011.

10.2

Costs of tax relief
Total amounts, by category of relief. Restricted to those reliefs for which accurate figures can be given.

Amounts: £ million

Year	Reliefs for Charities: Tax Repayments [3]	National non-domestic rates	VAT	Stamp Duty Land Tax	Total [1,2,3]	Reliefs for individuals: Inheritance Tax	Payroll Giving [4]	Gifts of shares and property [5]	Higher rate relief on Gift Aid and covenants [6]	Total [1]
1990-91	474	..	..	..	..	..	2	0	20	..
1991-92	559	..	..	..	..	..	3	0	20	..
1992-93	578	..	..	..	..	..	4	0	20	..
1993-94	612	470	200	..	1,280	190	4	0	30	220
1994-95	674	500	200	..	1,370	210	4	0	30	240
1995-96	738	540	200	..	1,480	250	5	0	30	290
1996-97	755	580	200	..	1,540	280	5	0	60	350
1997-98	732	590	150	..	1,470	250	7	0	90	350
1998-99	819	610	150	..	1,580	310	7	0	100	420
1999-00	821	630	150	..	1,600	310	9	0	100	420
2000-01	649	660	150	..	1,460	370	15	65	140	590
2001-02	627	710	150	..	1,490	390	18	50	150	610
2002-03	643	740	200	..	1,580	330	20	30	140	520
2003-04	674	760 [8]	200	40	1,670	340	20	80	150	590
2004-05	661	800	200	60	1,720	440	20	70	180	710
2005-06	779	870	200	120	1,970	420	20	100	190	730
2006-07	859	930	200	120	2,110	410	20	60	240	730
2007-08	918	960	200	140	2,220	400	30	70	280	780
2008-09	967 [9]	1,040	200	190	2,400	345	30	40	300	720
2009-10	1,026 [9]	1,140	200	110	2,480	400	30	70	330 [8]	830 [8]
2010-11 [9]	1,101 [9]	1,220	200	120 [8]	2,640 [8]	445 [7,8]	30 [8]	60 [8,10]	350 [8,10]	890 [8]
2011-12	1,075 [7,8,9]	1,290 [8]	250 [7,8]	110 [8]	2,730 [8]	460 [7,8]	30 [8]	60 [8,10]	360 [8,10]	910 [8]

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[1] Components do not sum to totals because of rounding (see "Notes on the Tables" no. 5).
[2] This table does not include tax relief given to charities and corporate donors under sections 339 and 505 Income and Corporation Taxes Act 1988 or section 256 Taxation of Chargeable Gains Act 1992.
[3] Following the Budget of 2000 corporate donations are paid gross and do not give rise to tax repayments to the charity. Figures for 2000/01 onwards are therefore not directly comparable with data for earlier years. See Table 10.3 for estimates of tax repayments on corporate donations prior to that date.
[4] Excludes the 10% payroll giving supplement which is included under tax repayments.
[5] Relief commenced in the Budget of 2000. Corporate donations of shares and property are excluded because of lack of data.
[6] Figures for the early years are particularly tentative.
[7] Revised.
[8] Provisional.
[9] Budget 2007 announced a two per cent reduction in the basic rate of income tax from 22 per cent to 20 per cent to take effect from April 2008. As the Gift Aid scheme allows charities to reclaim the basic rate of tax on qualifying donations this change reduced the repayment income received by charities. To compensate for this the Government announced at Budget 2008 a transitional rate for charities using the Gift Aid scheme to allow charities time to adjust to the new basic rate. This figure includes the transitional relief.
[10] These provisional figures will be subject to revision when it becomes possible to account accurately for the introduction of the Additional Rate in 2010/11. This is expected to be after June 2012.

Notes on theTables

1. The above table used to show details of covenants to charities. Since the Budget of 2000 covenants have been re-classified as Gift Aid and hence figures on donations are now included in table 10.3.
2. This table now shows all figures relating to reliefs given to charities and those to taxpayers where data is of sufficient quality to enable accurate costs to be ascertained. The estimates for non-domestic rates relief cover mandatory and discretionary relief used by charities and are based on returns from local authorities. The figures on relief from VAT are the cost of zero rating of supplies to charities. The VAT figures are tentative and subject to a wide margin of error. The Stamp Duty Land Tax (SDLT) figures represent relief from land purchases by charities and come from a new data source which became available when SDLT replaced stamp duty. Relief to charities on Stamp Duty Reserve Tax, chargeable on transactions in securities, is not included.
3. Figures include relief for gifts of shares (from 2000-01) and property (from 2002-03) derived from self-assessment returns. Forecasts have been made for 2010-11 and 2011-12 for both shares and property.
4. Figures for the two most recent years of the table are provisional and therefore subject to revision in future versions of this table. When revisions are made to earlier figures, this is indicated using the appropriate footnote.
5. Different columns are rounded to different levels reflecting the accuracy of the figures.