Gift Aid and admission charges

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Under the Gift Aid scheme charitable donations by both individuals and companies may enjoy tax relief. In December 2003 the Government announced that it would consult on amending the Gift Aid rules for charities offering free admission to heritage or conservation sites in return for donations:

> Improvements to the Gift Aid scheme introduced in Budget 2000 have had considerable benefits for the charitable sector. However, they have also had the unintended effect of widening the impact of the special statutory exemption available to some heritage and conservation charities. An increasing number of these charities have introduced schemes which grant free day admission in return for a donation which attracts Gift Aid. The charities can then reclaim the basic rate of tax on the donation. It was not the intention of the exemption to treat admission charges as donations which attract Gift Aid. This has given a considerable benefit to a small group of charities. The Government is determined to maintain the integrity of the Gift Aid scheme and will close this loophole in the legislation. The Government will consult closely on the detail of how this may best be achieved with the charities concerned.[1]

In the 2004 *Pre-Budget Report* the Government announced that the scope of this exemption would be "expanded to allow more types of charities reliant on visitor support to benefit" and amended so Gift Aid would "apply where the donation is at least 10 per cent more than the normal admission charge, or where the donation results in the unlimited right of admission for a period of not less than 12 months." These changes are to apply from April 2006 "to allow time for charities to make the necessary preparations to operate the new scheme."[2]

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[1] *Pre-Budget Report* Cm 6042 December 2003 para 5.112
[2] Cm 6408 December 2004 para 5.80

A. Gift Aid - an introduction

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.[3] Mr Major argued that the existing reliefs provided exclusively for a regular pattern to donors' giving, despite the fact that many people gave money to charities on a one off basis:

> These reliefs are focused mainly on regular giving, which is of great importance to charities. However, they are ill suited to encourage the one-off gift which, for a variety of reasons, many people find more convenient. Over the years, this has been a persistent source of concern to charities ... I propose a gift aid scheme that will, for the first time, give tax relief for large money donations. It is simply not practical to operate a relief for all small one-off gifts - and in any event, I do not wish to undermine regular giving ... therefore, this scheme applies to larger donations.[4]

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. Higher rate taxpayers could claim higher rate tax relief on their gifts.[5] If the donation under Gift Aid is not made out of taxed income, tax has to be paid by the *donor* to the Inland Revenue. This point may be worth emphasising: non-taxpayers should not use Gift Aid as a method of making donations to charity. Indeed the Government resisted amendments proposed in the course of the Finance Bill in May 2000 to have any basic rate tax on gifts made by non-taxpayers met out of public expenditure.[6]

Initially an upper limit was placed on gifts from one donor - set at £5 million - but this was abolished from 19 March 1991. The minimum limit was reduced to £400 from 7 May 1992, and was further reduced to £250 from 16 March 1993.

In April 2000 the minimum limit was abolished – 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."[7] These measures grew out of a consultation exercise on charity taxation launched at the time of the July 1997 Budget, followed by the Treasury's publication of a consultation document, *Review of Charity Taxation*, in March 1999.[8] Two further changes were announced in the 2002 Budget.[9] Since April 2003 donors have been able to carry back Gift Aid donations made

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3 The scheme was introduced under section 25 of the *Finance Act 1990*.

4 HC Deb 20 March 1990 c 1021

5 Tax relief only applied to gifts of money and not to gifts in kind. Nor did gifts qualify if they were linked with any purchase of property or if they were payments in return for services. It was thought this would prevent abuse, for example, by parents paying private school fees through Gift Aid.

6 SC Deb (H) 23 May 2000 cc 343-370

7 Cm 4479 November 1999 p 90

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

9 Inland Revenue Budget press notice REV BN4, 17 April 2002

before they make their self assessment tax returns into the previous tax year, thereby obtaining any higher rate relief earlier. From April 2004 taxpayers will be able to nominate a charity to receive part or all of a tax repayment that is due to them.

Guidance for individuals who wish to use the Gift Aid scheme is available from tax offices and published on the internet.[10] As this guidance explains, Gift Aid may cover membership subscriptions made to charities, *provided* the benefits received do not exceed certain specified limits, with regard to the amount of one's donation (these are discussed below).[11] The total benefits a donor can receive from a charity in the same tax year – however large their donation – are subject to a maximum limit set at £250. In determining the value of these benefits, one may disregard free or reduced entry to view heritage property or wildlife, the preservation of which is the charity's main aim.[12]

B. Heritage and conservation charities

A deed of covenant is a legal document by which an individual or a company promises to pay a fixed sum to a specific charity each year. Before April 2000 covenanters received relief from income or corporation tax on their covenanted donations to charities, provided the covenants could run for more than three years (though in practice most covenants are written for four). No restrictions were placed on the amounts donated this way. The amount paid by the donor was treated as a 'net' amount after deduction of basic rate income tax, which the charity could claim back from the Inland Revenue. The operation of this relief was complex, and its rationale disappeared once the minimum limit for Gift Aid donations was removed in April 2000; as a result it was abolished at this time.[13]

Prior to these changes covenants represented an important source of tax-privileged funding for charities. Some charities – such as the National Trust – encouraged members to covenant their membership subscriptions, enabling the charity to reclaim tax on this stream of income. However, their ability to do this was thrown into doubt following a court case concerning the consideration, if any, a charity might make in return for a donation. The issue was raised during the progress of the Finance Bill in June 1998 when the then Financial Secretary, Norman Lamont gave a short explanation of current practice:

> Some charities invite their members to pay membership subscriptions by deed of covenant. Where membership confers benefits, payments are not strictly annual payments because they are no longer what is technically termed pure income profit of the charity – it must use some of the payments to meet the cost of providing the benefits. The courts have held that insubstantial benefits can be ignored, and that has been the practice. The courts have not laid down the exact level of benefits that can

10 *Giving to charity by individuals IR65*, February 2004. At: http://www.hmrc.gov.uk/pdfs/ir65.pdf
11 *op.cit.* pp 5-6
12 under section 25(5E) of the *Finance Act 1990*
13 For details see *Taxation of charities*, Library Research paper 01/46 pp 34-36.

> be provided before payments cease to be annual payments. But in the case of the Law and Torridge Festival Society, the court considered that a benefit of almost 25 per cent of the amount of the membership subscriptions could not be ignored. It is necessary to consider the facts of the individual case. But as a broad rule of thumb for ordinary, small subscriptions, Revenue practice is to allow relief if benefits are less than 25 per cent and to refuse it if they are 25 per cent or more.[14]

Several Members raised the concerns of the National Trust that it stood to lose a considerable amount of tax relief following this judgement. The benefit of free entrance to Trust properties would – over the lifetime of many members' covenants – come to exceed 25 per cent of their annual subscription payment – and this might be thought to breach these rules. In response Mr Lamont stated that the Government were "seized of the importance of the problem" and would work hard to solve it.[15]

In the 1989 Budget the Government announced that a special exemption for heritage and conservation charities would be introduced to remove this legal uncertainty. Details were given in a press notice, from which the following extract is taken:

> Certain heritage and conservation charities will be able to disregard the benefit of free entry to view the charity's property so that this benefit does not disqualify the covenant payments from relief. The charities concerned are those whose sole or main purpose is the preservation of property or conservation of wildlife for the public benefit. This will also include museums and supporters' organisations (such as 'Friends' of museums) which have charitable status. The benefit to be ignored is the right of entry to view the property or collection by the member (or by those of his family covered by family membership arrangements), without paying the admission charges made to non-members. The benefit must not be capable of being sold or passed on by the member to someone else. Other benefits provided by charities for their members will continue to be treated in accordance with existing law. The proposal applies to covenant payments due on or after today.[16]

The then Paymaster General, Peter Brooke, gave a short explanation of the scope of this exemption when this provision was debated at the Committee stage of the Finance Bill:

> The charities involved must have as their 'sole or main purpose' the preservation of property or the conservation of wildlife for the public benefit. That would include any charity that has as its 'sole or main purpose' the conservation of landscape of scenic value for the public benefit … The clause tackles the problem of admission of members to view heritage property and wildlife and there is no good reason to extend tax relief to other benefits that charities provide for their members … The clause is aimed at charities that primarily deal with the preservation of the national heritage or the conservation of wildlife. That is the problem area that was identified in last year's

[14] SC Deb (A) 7 June 1998 cc 290-1
[15] SC Deb (A) 7 June 1998 c 292
[16] Inland Revenue press notice, *Covenanted subscription payments to heritage and conservation charities*, 14 March 1989

> debates. Therefore, it is appropriate to consider the 'sole or main purpose' of the charity to identify the charities involved.[17]

This special exemption was imported into Gift Aid as part of the changes introduced in *Finance Act 2000*. The Inland Revenue's consultation letter on amending these rules provides the following summary of the law as it now stands:

> Section 25 *Finance Act 1990* provides the detailed rules on relief for gifts to charity by individuals. Relief is available where gifts are 'qualifying donations'. Section 25(2)(e) stipulates that the donor, or any connected person, cannot receive in return for the donation benefits outside of prescribed limits.
>
> The prescribed limits are:
> - gifts up to £100 - 25 per cent of the amount of the gift;
> - gifts exceeding £100 but not exceeding £1,000 - £25;
> - gifts exceeding £1,000 - 2.5 per cent of the amount of the gift
>
> with an overriding cap of £250.
>
> Section 25(5E) provides a special exemption for certain charities preventing any benefit consisting of a right of admission to view certain charity property from being taken into account as a benefit.
>
> Section 25(5F) specifies the charities that benefit from the special exemption. Broadly they must have as their sole or main purpose the preservation of property or the conservation of wildlife, for the public benefit.[18]

C. Proposals concerning admission charges

In the *Pre-Budget Report* in December 2003 the Government announced that schemes which offer free admission to heritage or conservation sites in return for a donation at least equal to the normal admission charge would no longer be covered by Gift Aid.[19] In January 2004 the Inland Revenue issued a letter outlining the proposed changes:

> Improvements introduced in 2000 to the Gift Aid scheme have brought considerable benefits to fundraising charities. But the changes have also had the unintended effect of widening the scope of a special statutory exemption available to certain heritage and conservation charities. This has allowed some charities in effect to turn simple admission charges into donations on which tax can be reclaimed. The aim of Gift Aid is to encourage more donations to charity - these schemes are re-labelling the admission charge rather than bringing in new donations …

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[17] SC Deb (G) 16 May 1989 c 66. The clause was agreed without amendment and formed section 59 of the *Finance Act 1989*.

[18] *Gift Aid and admission charges*, 26 January 2004

[19] Cm 6042 December 2003 para 5.112

> The special concession [for heritage and conservation charities introduced in *Finance Act 1989*] was designed to allow committed donors to see the use to which their donations were put. Deeds of covenant were taken out for a minimum period of 3 years. The result of importing the special exemption into Gift Aid in its pre-existing form has been that there is no longer any effective requirement for ongoing, committed giving. One-off gifts are eligible for relief and the removal of the minimum donation requirement under Gift Aid means that charities can claim on any amount where the tax at stake outweighs the costs of claiming it. Consequently, an admission payment can, within the rules, be re-labelled as a gift in return for which free admission is provided - thus making the admission payment eligible for Gift Aid if the admission granted meets the terms of Section 25(5E).
>
> The *Finance Act 2000* changes unintentionally made the special exemption far more generous. The original intention was to ensure that those charities benefiting from the special exemption under the covenant scheme could continue to do so under Gift Aid in analogous circumstances. The proposed new legislation will ensure that the special exemption operates as it was originally intended, in circumstances analogous to those under deed of covenant. The granting of a right of admission to view property of a charity whose main or sole purpose is the preservations of heritage or the conservation of wildlife, will be disregarded for the purposes of establishing if a donor has received a benefit related to the donation. But this right of admission will be ignored only where it is for not less than a specified period of, say, 12 months, and where there is no restriction on the number of visits that can be made within the specified period of the membership.
>
> There are no plans to change the general rules with respect to benefits received in return for donations.[20]

The consultation also set a number of questions for potentially affected charities on their fundraising, to ensure that the amended legislation did not prevent them "from using the special exemption in circumstances that were available … before *Finance Act 2000*."[21]

Several heritage associations expressed concerns about this proposal. The Director General of the National Trust wrote to the *Times* soon after the Chancellor's announcement:

> *From the Director General of the National Trust*
> Sir, The inclusion in the Chancellor's pre-Budget statement (reports, December 11) of a clampdown on charities "exploiting" a so-called Gift Aid loophole was astonishing, and just when the Government has been applauding the contribution that charities make to the nation's wellbeing. Large numbers of charities -the National Trust included -have followed the Inland Revenue's official guidance for claiming Gift Aid on donations paid in lieu of admission fees.

[20] Open letter from Mark Nellthorp (Business Director, IR Charities), *Gift Aid and admission charges*, 26 January 2004. In April 2005 the Inland Revenue merged with HM Customs & Excise; this letter is now published on the new department's site: http://www.hmrc.gov.uk/charities/day_memberships_letter1.pdf

[21] http://www.hmrc.gov.uk/charities/day_membership_questions.pdf

> Thousands of visitors willingly participate in these Gift Aid schemes to ensure that all of their donations go towards the causes they support. With no warning, the Government has announced that they will no longer have that choice. The move will have a significant impact on income for a number of charities. The Chancellor argues that his initiative is necessary to preserve the integrity of the Gift Aid scheme. This is a flimsy screen - he is simply extracting more tax out of the charity sector, thereby reducing its ability to perform the good work that the Government has so recently been celebrating.
>
> Yours faithfully,
> FIONA REYNOLDS,
> Director General, National Trust,
> 36 Queen Anne's Gate, SWIH 9AS.[22]

Other organisations were strongly critical, as the *Times* reported in January 2004,[23] and the issue was raised several times in the House. During a Westminster Hall debate on museums on 2 March 2004 both Don Foster and Michael Moss raised the matter, noting that charities had been encouraged to use the exemption by the authorities. In response the then Minister for the Arts, Estelle Morris, said, "I am campaigning about gift aid … I just hope that the power of our argument is heard in the corridors of the Treasury."[24] Bob Russell put down two EDMs opposing any changes to these rules in September and November 2004, which attracted 38 and 46 signatures respectively.[25]

The Inland Revenue received 57 responses during the original consultation period, which "came from charities, representative bodies and associations and other interested parties."[26] The then Economic Secretary, John Healey, gave further details on the proposal in a written answer to a series of PQs – an extract is given below:

> A number of charities eligible for the special exemption are claiming Gift Aid tax refunds under so-called 'day membership' schemes. These schemes do not generate additional giving, but simply reclassify admission fees as donations on which Gift Aid is being claimed. The Chancellor of the Exchequer announced in the pre-Budget report (Cm 6042) that the Government will amend the Gift Aid legislation to ensure that the special exemption applies as it was originally intended and not to these 'day memberships'. This will mean that heritage and conservation charities will continue to benefit from the special exemption where a donor has an ongoing commitment to the charity, such as an annual membership, and these charities—like other fundraising charities—will continue to benefit from Gift Aid on other donations of money.

[22] "Letter: Chancellor's statement on Gift Aid", *Times*, 19 December 2003
[23] "Independent museums", *Times*, 19 January 2004
[24] HC Deb 2 March 2004 c 203WH
[25] EDM 1622 of 2003-04, *Gift Aid and independent museums*, 8 September 2004; EDM 5 of 2004-05, *Gift Aid and independent museums*, 23 November 2004
[26] HC Deb 23 April 2004 c 686W

> No estimate is available of the amount of money being claimed by charities which are taking advantage of this. Charities are not required to differentiate on their Gift Aid claims the amounts they are claiming for 'day membership' income from other amounts they are claiming. However, the purpose of this measure is not to raise revenue but to maintain a level playing field for all charities. It is unfair that some charities are claiming Gift Aid payments on what is in effect an admission fee when most other charities cannot. We will work closely with those charities affected to ensure that the change operates as intended and that the impact on them is minimised. The Government intend to announce final details of the changes in this year's Budget and introduce legislation in the next Finance Bill.[27]

In a second written answer the Minister noted, "these so-called 'Day Membership' schemes do not generate additional donations, but merely reclassify admission fees as donations on which Gift Aid is then claimed. The changes are therefore not expected to reduce the total amount received from individuals by these charities in donations and admission fees, although the gift aid tax relief from government would no longer be claimable."[28]

In the 2004 Budget the Government announced that it aimed to announce the results "around the time of the Spending Review giving charities the opportunity to take account of the changes in their financial planning, alongside the wider Government support for this sector which is now worth over £2 billion a year."[29] The Revenue wrote to those charities and representative bodies which had participated in the first stages of consultation, inviting further comment by 11 June 2004:

> The Government recognises that heritage and conservation charities are different from others in the sector and rely on visitors for much of their income. The Government is not seeking to remove the ability of charities to raise income from visitors but wants to focus efforts on encouraging new donations in line with the underlying principles of the Gift Aid scheme – to promote additional giving to charity. We do not believe that existing day memberships schemes generally give rise to additional giving and are now looking to explore in more detail with charities and their representative bodies how this might best be achieved.
>
> The responses from charities and their representative bodies, both in writing and from our meetings has thrown up various ideas as to how the proposed changes might be implemented. The aim is to replace the existing exemption with an approach that allows Gift Aid to be claimed where there is a genuine donation above the normal admission charge and some indication of an ongoing commitment or relationship between the donor and the charity.
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> - Gift Aid is about encouraging additional donations to charity – the donor should clearly be giving more to the charity than simply paying the equivalent of an admission charge. How much more than the normal

27 HC Deb 15 January 2004 cc 865-6W
28 HC Deb 5 May 2004 cc 1503-4W
29 *Budget 2004* HC 301 March 2004 p 117

> admission charge should a payment be for the whole amount to qualify as a donation? Many season tickets seem to be priced at around three times the normal day admission charge. Would it be appropriate to follow this practice and say that the payment should be at least three times the normal admission charge? Or is there a case to be made for a lower amount such as twice the normal admission charge?
>
> - The commitment or relationship might be most obviously demonstrated by a period of membership during which free admission would be available. What minimum period would be sufficient to demonstrate an ongoing commitment: 1 year, 6 months, 3 months or less? Are there other ways in which an ongoing relationship or commitment could be demonstrated?
>
> Do you have any other ideas on an approach that would address the concerns of heritage and conservation charities while meeting the principles of the Gift Aid scheme? We are seeking views from any charity likely to be affected by a change to the statutory exemption. In the meantime we will also be contacting representative bodies and associations from the heritage and conservation sectors to arrange meetings to discuss the issues raised.[30]

The outcome of this consultation was announced in the *Pre-Budget Report* on 2 December 2004:

> After detailed discussions with the charity sector, an approach has been established which upholds the principles of Gift Aid, while recognising the unique position of charities dependant upon visitor support. To encourage additional Gift Aid donations and support for charities, the scope of the statutory exemption, which allows for the right of free admission to be disregarded as a benefit, will be expanded to allow more types of charities reliant on visitor support to benefit.
>
> The Government will discuss with the charity sector how the broader scope of the exemption will be defined. In addition, the exemption will be amended so Gift Aid will apply where the donation is at least 10 per cent more than the normal admission charge, or where the donation results in the unlimited right of admission for a period of not less than 12 months. The Government will introduce these changes in April 2006 to allow time for charities to make the necessary preparations to operate the new scheme.[31]

Draft legislation was published in January 2005 on the Inland Revenue's internet site; comments were invited on precisely how the broader scope of this exemption should be defined.

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[30] Open letter from Mark Nellthorp (Business Director, IR Charities), *Gift Aid and admission charges*, 29 March 2004. At: http://www.hmrc.gov.uk/charities/gift_aid_letter.pdf. The Revenue wrote to 118 organisations, "of which 84 are charities and 34 are representative bodies" (HC Deb 8 June 2004 c 371W).

[31] Cm 6408 December 2004 para 5.80

D. Budget 2005

In the 2005 Budget the Government confirmed that provisions to amend the scope of this relief would be introduced in the forthcoming Finance Bill:

> Currently certain heritage and conservation charities can offer free admission to donors in return for a donation to allow them to view the work of the Charity, without the admission being considered a benefit for Gift Aid purposes. From April 2006 we will broaden the scope of the exemption to apply where any type of charity grants to the public the right to pay to view property preserved, maintained, kept or created by a charity in relation to their charitable work. Where [these conditions] … are met and, instead of paying the admission charge, the visitor makes a donation, the new rules provide two alternative situations where the Gift Aid may apply.
>
> - The first is where a right of admission given in return for the gift is valid for a period of at least one year for all times that the general public can gain admission. The number of visits within this twelve-month period should not be restricted.
> - The second situation is where the right of admission is for less than one year. The gift must be at least 10% more than the amount that any member of the public would have to pay to gain the same right of admission. So a donation giving a right of admission for one day would need to be at least 10% more than a member of the public would pay for a ticket giving admission for a day. If there is not a comparable ticket the value of the right of admission will not be disregarded in determining whether the benefits received in consequence of the gift exceed those allowed by the normal Gift Aid rules.
>
> Where the new rules are met by the charity, the whole of the gift will be eligible for Gift Aid.[32]

Initially clause 31 of the *Finance Bill 2005* – which was published on 24 March – made this provision. The announcement of a General Election for 5 May meant a second, shortened version of the Bill, replacing the first, was presented to the House on 6 April, when it completed all of its stages in the Commons;[33] the Bill did *not* include this particular clause. When the Bill received a second reading the then Chief Secretary to the Treasury, Paul Boateng, explained that those measures not included in this version of the Bill would be brought back in a second Finance Bill after the election – presuming that the Labour party were returned to power. He went on to note that the Government would "aim to ensure that the statutory dates for these measures will continue to apply, as announced in the Budget."[34]

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32 Inland Revenue Budget Note REV 27, 16 March 2005

33 *Finance (No.2) Bill* [Bill 104 of 2004-05] was scrutinised in its entirety on the floor of the House (HC Deb 6 April 2005 cc 1432-1491) and received Royal Assent the next day (HC Deb 7 April 2005 c 1641).

34 HC Deb 6 April 2005 c 1432

In fact this is what has happened. Following the Labour party's victory in the General Election, the *Finance Bill 2005-06* was published on 25 May 2005.[35] Clause 11 makes this provision in relation to the Gift Aid rules. The explanatory notes to the Bill restate the Government's reasons for pursuing with this change as follows:

> *What is the problem this measure rectifies*
>
> Improvements were made to the Gift Aid scheme in Finance Act 2000 to encourage new donations to charity. The decision was made to retain the existing special treatment with respect to rights of members of certain charities to view the use to which their donations were put.
>
> An unintended result of these changes was that a payment for admission could become eligible for Gift Aid if the right of admission granted met the terms of [section 25(5E) of *Finance Act 1990*]. Charities are able to offer 'free' admission to sites that charge an admission fee in return for a payment at least equal to the normal entrance fee and reclaim Gift Aid on this payment as a donation. The existing rules do not prevent this but it is not what Gift Aid was intended to do.
>
> The existing rules allow only charities whose sole or main object is the preservation of heritage property or conservation of wildlife to disregard the right of admission granted to donors. Many other types of charities allow visitors to pay to view property they are preserving or maintaining in pursuance of their objects and it is unfair that heritage and conservation charities benefit from special treatment.[36]

Clause 11 replaces the current provisions for this type of relief set out in section 25 of the *Finance Act 1900*, subsections (5E) to (5J). As noted above, the scope of the relief is not to be restricted to heritage and conservation charities only: rather, it applies where the right of admission "is a right granted by the charity for the purpose of viewing property preserved, maintained, kept or created by a charity in pursuance of its charitable purposes." To qualify this right of admission may either be for unrestricted visits over at least a year, made at all times when the public can obtain admission; or, for a shorter period of time, if the right granted is worth at least 10% more than it would cost a member of the public to gain the same admission. In the case of unrestricted admission being granted for at least one year, charities may, if they wish, disregard certain days on which they are holding an event; this is limited up to 5 days over a year, or, where the right granted is for a different period of time, for 5 days for every whole or partial calendar year covered.

There have been some concerns about the impact of this measure, despite the Government's consultation. Prior to the *Finance Bill* being published, Bob Russell MP put down an early day motion, critical of any change in the rules:

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[35] HM Treasury press notice 52/05, 26 May 2005

[36] Bill 8-EN, May 2005

> That this House values the important educational and cultural roles of heritage and conservation charities, many of which are independent museums; recognises that the existence and development of such bodies relies not only on the efforts of volunteers but also on admission charges; welcomes the vital financial assistance which Gift Aid has given to them; is concerned that the removal of the Gift Aid provision on admission charges would result in a loss of income to independent museums; and urges the Government to continue to allow these charities to benefit from Gift Aid without restriction to the existing conditions.[37]

The motion has attracted 50 signatures to date.

Several Members referred to this change when the *Finance Bill* received its second reading on 7 June. Speaking for the Conservatives Philip Hammond said, "the concern remains that some charities may be significantly affected and even that some small museums may have to close as a result of the loss of revenue resulting from the closure of that tax loophole."[38] Adam Afriyie suggested that "removing the benefit without proper scrutiny and consideration might cause some valuable charities to struggle, perhaps to falter, and even to fail in certain cases", and asked that "consideration be given in Committee to transitional arrangements, or to delaying introducing the proposed change to the gift aid scheme, so that the charities affected can have time to re-work their finances and to continue their good work."[39] In responding to the debate the Financial Secretary to the Treasury, John Healey, simply said the following:

> The provision is designed to deal with the situation whereby free admission is given by a so-called donation equivalent to the admission price. The clause therefore upholds the core principles of gift aid in generating new and additional giving and, at the same time, broadens the type of charity to which the gift aid can apply. My officials and I have worked with the sector on the measure and the director of the Museums Association has said, 'To its credit, the Treasury has listened, and is not only modifying its original plan, but also giving museums an extra year to prepare'.[40]

The clause was debated and approved without amendment at the Committee stage of the Bill on 13 June.[41] During the debate the Government resisted calls to reduce the 12 month minimum limit on the amount of time for which free admission must be given; the Economic Secretary, Ivan Lewis, set out the reasons for this position:

> Amendment No. 35 … would reduce the 12-month period to three months by allowing gift aid to apply when the right of admission is granted for only three months, would diminish the distinction between paying an admission charge and making a gift that generates an ongoing relationship between the donor and the

37 EDM 5 of 2005-06, *Gift Aid and independent museums*, 17 May 2005
38 HC Deb 7 June 2005 c 1141
39 HC Deb 7 June 2005 c 1196
40 HC Deb 7 June 2005 cc 1212-3
41 HC Deb 13 June 2005 cc 22-54

> charity … That undermines an important principle of gift aid, which is about additional giving or additionality. Furthermore, a short period might encourage charities to manipulate the scheme when they think that it is unlikely that visitors will come back within such a three-month period: they could offer a three-month season ticket for a donation equivalent to a single admission and ensure that gift aid applies rather than asking for a donation that is 10 per cent. more than that admission. We believe that the principles of gift aid are very important, and that the 12-month period is about right for sustaining those principles. It is also important to mention that there is no requirement to offer annual membership for the same price as a single admission. That decision is for the charity, taking account of the relevant circumstances.[42]

As noted, under the new rules admission must be granted to view "property preserved, maintained, kept or created by a charity in pursuance of its charitable purposes." The legislation sets out a list of types of property which may be eligible if the other conditions for the exemption are met: specifically, buildings, grounds or other land, plants, animals, works of art (but not performances), artefacts, and property of a scientific nature. The list is *not* exhaustive. During the debate Members asked if museums showing military memorabilia or interactive experiments with an educational purpose would be covered. The Minister confirmed that these specific examples would be included, and that guidance on the new rules would be published "as soon as possible".[43]

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[42] HC Deb 13 June 2005 c 48
[43] HC Deb 13 June 2005 c 47