Charitable giving guide

Helping to maximise donations to the wider community

September 2017

pwc
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Introduction
Charitable giving offers many benefits to donors and to the wider community. This guide will help you determine the most cost-effective way to structure your donations. The Irish tax system contains a range of incentives aimed at facilitating and encouraging charitable giving by individuals and companies, which help to ensure that charities receive the maximum benefit from public and private donations.

Many individuals and companies are unaware of these incentives, which can enhance the benefit of the donations for charities or provide tax relief for the corporate donor. This can result in the incentives being underused, effectively denying charities valuable resources to fund their work.

The aim of this guide is to provide an overview of the range of tax incentives available in Ireland and in doing so to maximise the level of funding available through charitable giving.

This guide represents the legislative position at time of publication (September 2017).
Tax relief for donations to eligible charities and other approved bodies
Tax relief is available for donations by both individuals and companies provided:

• there is a donation of money or of shares, stock or debentures of a class quoted on a recognised stock exchange,

• the recipient is either an “eligible charity” or another approved body,

• there is no arrangement that the donation can be repaid,

• neither the donor nor anyone connected with the donor benefits from the donation,

• the donation does not depend on and is not conditional upon the acquisition of property by the charity otherwise than by way of a gift from the donor,

• an individual donor is resident in Ireland (corporate donations may be made by branches of foreign companies in Ireland), and

• the minimum donation in any year to any one eligible charity or approved body is €250.

An eligible charity is any charity in Ireland which is authorised in writing by the Revenue Commissioners for the purposes of the scheme of tax relief. Amendments to legislation in Finance Act 2010 mean that charities established in the European Economic Area, and members of the European Free Trade Association, may also apply to be eligible charities in Ireland. A list of authorised charities can be found in the Publications section of the Revenue Commissioners’ website, or at http://www.revenue.ie/en/business/authorised-charities.html.

Although a charity can apply for income/corporation tax exemption on its own income as soon as it is established, it is not permitted to join the list of “eligible charities” (for the tax relief scheme) until it has been tax exempt on its own income for at least two years.

See appendix 1 for the list of other “approved bodies”. 
2.1 The following is a summary of the position in relation to donations by individuals on or after 1 January 2013. The previous position is set out in Appendix 2.

• Donations from all individual donors are treated in the same manner, with the tax relief in all cases being repaid to the charity. Self-assessed taxpayers can no longer claim a deduction on their tax returns for donations.

• A blended rate of relief (31%) applies for all taxpayers regardless of their marginal tax rate, subject to the taxpayer having paid at least the amount of tax being claimed by the charity. All donations should be grossed up as previously done for donations from PAYE taxpayers.

• The charitable donations scheme is not within the scope of the high earners’ restriction.

• The total amount of donations for which relief can be claimed is limited to €1 million per individual, per annum.

• A restriction of the donation to 10% of the individual’s total income, where the donor is associated with the charity, also applies.

• The administration of the scheme has also been simplified in that bodies will be permitted to use “Enduring Certificates” from donors that can last up to a maximum of 5 years (CHY3 Cert). There is also an option to complete an “Annual Certificate” in respect of donations made in a single year (CHY4 Cert). These forms can be found on the Revenue Commissioners website at http://www.revenue.ie/en/business/authorised-charities.html.

• The charity is only required to record the donor’s PPSN the first time a declaration is signed. Thereafter, charities will use their own identifier for any communications with the donor.

• Bodies must register for the scheme by completing a CDS Tax Registration Form.

• Bodies must submit refund claims to the Revenue Commissioners electronically.

• Claims will not be processed until after the appropriate returns have been received by Revenue. In the case of a PAYE donor the appropriate return is the employer’s Form P35 for the year in which the donation is made, and in the case of a self-assessed donor it is the donor’s tax return for the year in which the donation is made.
Example 1
Cash donation by an individual – PAYE taxpayer or self-assessed tax payer

- In 2014, Alan Allman donates €400 to an eligible charity.
- Alan has paid sufficient tax to cover the tax refund due to the charity and the relevant appropriate returns in support of the tax paid have been made.
- The value of the donation to the charity is €579 (€400 x 100/69). This comprises the €400 payment by Alan plus the tax associated with the donation of €179 (€579 - €400).
- The charity may claim a repayment of €179 from the Revenue Commissioners once it is in receipt of either an enduring or annual certificate from Alan.
- The donation costs Alan €400.

Example 2
Donation of quoted shares by an individual

In 2014, Breda Brien donates quoted shares with a market value, at the date of donation, of €600 to an eligible charity. She does not wish to claim CGT relief on the donation (see Section 3)

- Breda has paid sufficient tax to cover the tax refund due to the charity and the relevant appropriate returns in support of the tax paid have been made.
- The value of the donation to the charity is €869 (€600 x 100/69). This comprises the shares valued at €600 and the tax associated with the donation, which is €269 (€869 - €600).
- The charity may claim a repayment of €269 from the Revenue Commissioners once it is in receipt of either an enduring or annual certificate from Breda.
- Breda reports the transfer of shares to the charity on her tax return, and may (subject to her personal exemption on gains of €1,270 per year) be liable for capital gains tax at 33% on the difference between the value of the shares transferred and the original cost of the shares.
- The donation costs Breda €600 plus any capital gains tax payable on the shares.
- The charity will not be liable to capital gains tax on any subsequent sale of the shares provided the proceeds on the sale are applied for its charitable purposes.
2.2 Corporate Donations

Companies claim tax relief by deducting the donation (which would otherwise be non-deductible) as if it were a trading expense or a management expense for the financial accounting period in which it is made.

Where the donation is made in a short accounting period (less than twelve months) the minimum donation of €250 is reduced proportionately. A receipt for the donation should be obtained from the charity or approved body.

Example 3
Cash donation by a company

In 2014, International Distribution Limited donates €2,000 to an eligible charity.

• International Distribution Limited gets tax relief on the €2,000 donation at 12.5% (€250).

• International Distribution Limited claims a deduction for the donation as a trading expense. No repayment claim can be made by the charity.

• The donation costs International Distribution Limited €1,750.

• The value of the donation to the charity is €2,000, i.e. the cash received.
Example 4  
Donation of quoted shares by a company

Joiners Ireland Limited donates quoted shares with a market value of €2,200 to an eligible charity.

• Joiners Ireland Limited gets tax relief on the €2,200 donation at 12.5% (€275).

• Joiners Ireland Limited claims a deduction as a trading expense. No repayment claim can be made by the charity.

• Joiners Ireland Limited is liable for capital gains tax at 33% on the difference between the value of the shares transferred and the original cost of the shares. If the CGT liability is higher than the tax relief on the donation Joiners Ireland could consider claiming the CGT relief available on disposals to charities instead (see Section 3).

• If the corporation tax deduction is claimed, the donation costs Joiners Ireland Limited €1,925 plus any capital gains tax liability on the shares.

• The value of the donation to the charity is €2,200, ie the market value of the shares received.

• The charity will not be liable to capital gains tax on any subsequent sale of the shares provided the proceeds on the sale are applied for its charitable purposes.
Gifts and bequests to charities – gift tax, inheritance tax and capital gains tax
As a general matter, a gift tax or inheritance tax liability may arise on a person who receives a gift or an inheritance, and donors must separately consider whether capital gains tax is due by them on the transfer of assets by way of a gift.

A benefit taken for public or charitable purposes is exempt from gift tax and inheritance tax to the extent that the Revenue Commissioners are satisfied that the benefit has been, or will be, applied for purposes which in accordance with Irish law are public or charitable. Thus, charities in receipt of gifts or bequests are not generally subject to any taxation themselves on receipt of the funds.

The exemption from gift tax and inheritance tax is broader than other exemptions in respect of charitable giving to the extent that a public purpose might be one which is not otherwise regarded as charitable.
**Example 5**
Bequest to a charity

Kathleen Kelly provides in her will to leave €100,000 to an animal welfare charity.

- The receipt of the legacy by the charity on Kathleen’s death is exempt from inheritance tax.

**Example 6**
Individual recipient of charitable funds

Larry Lawrence receives financial funding from a charity in order to purchase special equipment to cater for his specific medical needs.

- The receipt of funds by Larry is exempt from gift tax.

Gifts and bequests may be made to charities either in cash form or in the form of a transfer of property to the charity. No capital gains tax arises on a bequest, or on a transfer of cash, but an individual or a company making a gift of property (as opposed to cash) needs to bear any capital gains tax implications in mind. Capital gains tax arises where an asset (e.g. an investment property) has increased in value since it was acquired by the donor and the asset is either sold or given away. It does not generally feature where there has been no increase in value.

There is a special relief from capital gains tax where a donor transfers an asset to a charity for less than its market value. The normal rule requiring the disposal to be treated for tax purposes as made at market value does not apply and the disposal is deemed to be for a consideration which would ensure that neither a gain nor a loss accrues on the disposal, so the individual or company making the gift is not subject to capital gains tax.

This special treatment does not apply to gifts of quoted shares for which income tax or corporation tax relief has been claimed. As outlined in section 2 of the guide, the donor may be liable to pay capital gains tax on these gifts, and a donation cannot qualify for both income tax/corporation tax and capital gains tax relief. The choice as to which relief applies ultimately rests with the donor, and where the donation of shares is made by an individual, the individual must advise the charity if he/she is claiming the CGT relief.
Example 7
Comparison of CGT relief for donor vs tax relief for charity

In 2014, Mike McMahon donates shares worth €10,000 to an eligible charity. He has a taxable capital gain of €5,000 on the shares. He has paid sufficient tax to enable the charity make a full tax reclaim in respect of the donation. The table below illustrates the effect of the CGT relief vs the income tax refund available to the charity.

<table>
<thead>
<tr>
<th></th>
<th>Tax relief for charity</th>
<th>OR</th>
<th>CGT relief claimed by Joe</th>
</tr>
</thead>
<tbody>
<tr>
<td>CGT due by Joe</td>
<td>€1,650</td>
<td></td>
<td>0</td>
</tr>
<tr>
<td>Income tax</td>
<td>€4,492</td>
<td></td>
<td>0</td>
</tr>
<tr>
<td>refund to charity</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Net Cost to Joe</td>
<td>€11,650</td>
<td></td>
<td>€10,000</td>
</tr>
<tr>
<td>Net benefit to charity</td>
<td>€14,492</td>
<td></td>
<td>€10,000</td>
</tr>
</tbody>
</table>
Example 8
Gift of investment property by an individual

John Jordan bought a house in May 1992 for €150,000. In January 2014 he made a gift of the house to a charity supporting the homeless so that they could convert it into a shelter. At that time the house was valued at €400,000 and had not been his principal private residence.

- The making of the gift is treated as a disposal for capital gains tax purposes and John is treated as disposing of the house to the charity.

- John is deemed to have disposed of the property to the charity for €150,000 (plus any costs of acquisition or disposal of the property), giving no gain/no loss for tax purposes.
**Subsequent sale of donated property by charity**

If the donated property is subsequently sold by the charity and the disposal is made within the ambit of the general relief for charities i.e. the gain arising has been or will be applied for charitable purposes, then no issues arise, and the disposal is exempt from capital gains tax in the hands of the charity. However, if the gain arising is not applied for charitable purposes, the gain is not exempt from capital gains tax, and a capital gains tax liability also arises to the charity on the original disposal by John as if the property had been disposed of by the donor at market value at that time. Both gains are assessed on the trustees of the charity.

**Example 9**

Same facts as example 8, but the charity subsequently sells the house in December 2014 for €440,000 and applies the proceeds for charitable purposes.

In these circumstances the trustees of the charity are exempt from tax on the gain during their ownership of the property and there is no change in the exemption on the original disposal by John to the charity.

**Example 10**

Same facts as example 8, but the charity subsequently sells the house in December 2014 for €440,000 and the proceeds are not applied for charitable purposes.

The trustees of the charity are liable to capital gains tax in respect of two disposals:

- disposal by John to the charity in January 2014 in respect of which John is deemed to have disposed of the house at market value i.e. €400,000, with a base cost of €150,000, and
- disposal by the charity in December 2014. As the proceeds of the disposal were not applied for charitable purposes, the trustees are liable to capital gains tax on any gain arising. The base cost is the market value of the house at the date on which the donation was made, €400,000, and the proceeds are €440,000.
Taxes payable by charities – VAT and stamp duty
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From a VAT perspective, charities are not generally regarded as supplying goods or services in the course or furtherance of a business and as such are neither obliged nor entitled to register and account for VAT. However, this is not the case in all circumstances and consequently VAT registration may be required if the charity is seen to be trading i.e. engaged in commercial activity, or it acquires or is likely to acquire more than €41k (in any period of 12 months) worth of goods from other EU member states. Where a charity is registered for VAT, they may be obliged to account for VAT on services from abroad. As a result, whether a charity needs to be VAT registered needs to be determined on a charity by charity basis.

Voluntary donations, whether made by members of the general public, corporate entities or by Government institutions, should generally be outside the scope of VAT. This will be the case if it is clear that there is no obligation (contractual or otherwise) for the charity to provide anything in return i.e. the donation is not considered to be consideration received for the supply of goods or services. If there is such an obligation, the charity may be making supplies in the course or furtherance of business and may in turn have an obligation to charge VAT on such supplies (if it does not qualify for VAT exemption).

As most charities are generally outside the scope of VAT and so not in a position to reclaim it, the VAT incurred on purchases tends to be a real cost. However, for certain expenditure funded by voluntary donations, there are some reliefs in place which allow charities to reclaim the VAT incurred.
Donated Medical Equipment

VAT may be repaid to a hospital or donor on the purchase of a new medical instrument/appliance (excluding means of transport) which is funded by voluntary donations. However it must;

• Cost €25,390 or more (ex-VAT)
• Be designed and manufactured for use solely in medical research or in diagnosis prevention or treatment of illness
• Not have been part-funded by the State and
• The Minister for Health must recommend that, having regard to the requirements of the health service, a VAT refund would be appropriate.

Donated Research Equipment

VAT incurred in the purchase or importation of new instruments, funded by voluntary donations to a research institution, university, school or similar educational body engaged in medical laboratory based research, may be refunded provided the conditions set out in the preceding paragraph are met.

In addition, there are other reliefs in place in respect of VAT incurred on the purchase/adaptation of vehicles for the transport of severely and permanently disabled persons, appliances for use by disabled persons, radios for the blind, certain sea rescue craft and equipment and goods purchased for exportation by philanthropic organisations for humanitarian, charitable or teaching activities outside of Ireland.
Stamp duty

There is no general exemption from stamp duty for charities. In general, it is the transferee or purchaser who is accountable for the payment of stamp duty and as such a charity will only be liable to stamp duty in the event that a stampable instrument is executed on the transfer of an asset to the charity.

There is a specific stamp duty exemption for conveyances or transfers (whether on sale or by way of gift) or leases to a charity of land which will be used for charitable purposes in Ireland or Northern Ireland.

Thus, a charity acquiring a property for use as part of its charitable activities may qualify for stamp duty exemption, but a charity purchasing shares is normally subject to stamp duty. An exemption is also available where a donor donates quoted securities to the charity and the donation qualifies for income tax relief.
Donations supporting Innovation

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**Supporting scientific research**

Any trading company or self-employed individual can claim a tax deduction, in computing the profits of the trade, in respect of any capital or revenue expenditure on scientific research, whether or not the scientific research relates to the company or individual’s business. This gives an opportunity to provide support, in a tax effective way, to research activities undertaken by, for example, medical or other charities.

“Scientific research” is defined for this purpose as “any activities in the fields of natural or applied science for the extension of knowledge”.

The benefit of the tax deduction in respect of an individual donor depends on the marginal rate of income tax for the individual. The rate of corporation tax (generally 12.5%) determines the benefit of the tax deduction in the case of a company.

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**Assistance through sponsorship or advertising expenditure**

A tax deduction may be claimed by a company or self-employed individual in respect of sponsorship/advertising paid to a charity, provided the payment is made wholly and exclusively for the purposes of a trade. There is no de minimis amount required to qualify for this tax relief.

Sponsorship or advertising is different from a donation of money as the company or individual gets something in return and therefore tax relief is not available under the scheme of tax relief for donations to eligible charities and other approved bodies. In order to claim a deduction for such expenditure as a legitimate trading expense, it must be shown that the individual or company has, for example, received publicity in respect of the business or one of its products, that represents a reasonable return for the amount paid to the charity.
**Other tax effective donations**

**Donation of heritage items**

Tax relief is available in respect of the donation to the Irish national collections of important national heritage items. The relief consists of a tax credit equal to 80% of the value of the heritage item or items donated, which can be credited against particular tax liabilities incurred by the donor, including income tax, corporation tax, capital gains tax, gift tax and inheritance tax.

For the purpose of the relief, heritage items mean any kind of cultural item including:

- any archaeological item, book, estate record, manuscript and painting, and
- any collection of cultural items and any collection in its setting considered appropriate for donation to the national collections

The “national collections” to which the donations of the heritage items must be made for the purpose of the relief include:

- the National Archives
- the National Gallery of Ireland
- the National Library of Ireland
- the National Museum of Ireland
- the Crawford Art Gallery Cork Limited
- the National Museum of Modern Art, or
- any other body (being a body owned, or funded wholly or mainly, by the State or any public or local authority) as may be approved by the Department of Culture, Heritage and the Gaeltacht.
For the relief to apply a number of conditions must be satisfied. These include a successful application to the Department of Culture, Heritage and the Gaeltacht that the item being donated is a “heritage item”, a valuation of the heritage item by the Revenue Commissioners and the issuing of a certificate to the taxpayer certifying the change of ownership to the national collection. This certificate is also given to the Revenue Commissioners to confirm the availability of the tax credit on request from the donor.

In order to obtain the tax credit, the heritage item or items must be donated for no consideration and the open market value of the item (or collection of items) must be at least €150,000 (in the case of a collection, at least one item in the collection must generally have a minimum value of €50,000).

The donor is not entitled to any other tax benefit in respect of the donation so capital gains tax may be payable on the donation of a heritage item by a donor. The capital gains tax relief for donated property (described in section 3) would not be available and market value proceeds would be imputed.

This relief is a specified relief for the purposes of the high earner’s restriction.
Example 11  Jilverton Sales Limited contributes €3,500 to an Irish registered international humanitarian charity on the understanding that the charity will provide advertising opportunities.

- These would include, for example, advertisements displayed at the charity’s premises, at its fundraising functions or on brochures published by it.

- The payment of €3,500 should represent a reasonable payment for the benefit received to enable the full amount to be deducted as a legitimate trading expense.
Philanthropy is effectively a process of planned giving whereby individuals, families and corporate bodies can contribute to charities through a structured and tax efficient approach.

Philanthropic giving can be achieved in a number of different ways but among the most popular methods are:

1. Establishing a charitable fund/foundation

A fund/foundation is a personal fund-raising vehicle that distributes donations from an individual, family or corporate body to a portfolio of beneficiaries. It can be focused on particular causes or it can be broad in its approach to giving. A fund/foundation is the best option for those seeking maximum flexibility and control over their donations and for those seeking to involve future generations in planned giving.

2. Contributing to a donor advised fund

A donor advised fund is a charitable giving vehicle administered by a third party and created for the purpose of managing charitable donations on behalf of an individual, family or corporate body. A donor can make recommendations as to which organisations to support but the third party (generally a philanthropic organisation) takes care of the legal and administrative requirements for the fund. The benefits of this approach include availing of the expertise of the philanthropic organisation in the area of planned giving.

3. Donating directly to a charity

This approach works best where there may be a particular project which the donor wishes to assist. The approach has the benefit of being simple and fast and can eliminate upfront costs associated with other vehicles of philanthropic giving.
Frequently asked questions
What types of donation or legacy do charities prefer - cash, property, shares?

Obviously charities are happy to receive any type of donation or legacy but, due to the administration burden and potential costs involved in dealing with non-cash donations, most charities would prefer to receive cash. It may prove difficult for charities to track donated shares, especially if the shareholding is small and, unless a charity decides to use donated property for its own charitable purposes it will need to dispose of the property. This also increases administration and may prove difficult depending on the resources available to the charity.

Charities will generally prefer to have full discretion as to how the cash which has been donated may be spent i.e. that donors make general rather than directed donations, with the charity then deciding upon the most relevant purpose within its overall remit.

I make regular monthly donations to charity - what relief is available?

Charities which benefit from monthly donation schemes from individuals can avail of the scheme of tax relief for donations to eligible charities and approved bodies as detailed in this guide. The charity can reclaim the “grossed up” amount of tax from the Revenue Commissioners provided donations from the individual total over €250 within the tax year (i.e. €21 per month).

How monthly or annual donations paid under the scheme of tax relief for donations to eligible charities and other approved bodies increase the value of the donation of an individual taxpayer (Effective from 1 January 2013)

<table>
<thead>
<tr>
<th>Gift</th>
<th>Total annual donation</th>
<th>Value to charity at blended rate of 31%</th>
</tr>
</thead>
<tbody>
<tr>
<td>Monthly gift of €21</td>
<td>€252</td>
<td>€365</td>
</tr>
<tr>
<td>Monthly gift of €50</td>
<td>€800</td>
<td>€869</td>
</tr>
<tr>
<td>Single gift</td>
<td>€350</td>
<td>€507</td>
</tr>
</tbody>
</table>
Is it obligatory to provide an “Enduring or Annual Certificate” when requested by the charity?

No, it is not obligatory to provide an “Enduring or Annual Certificate” and so this is a matter which the taxpayer may choose to do or not to do. However, if a taxpayer does not provide an “Enduring or Annual Certificate”, the charity cannot claim the refund of the tax associated with the donation and is thus deprived of these funds.

I provide sponsorship or advertising to a charity which is over and above a reasonable amount in respect of the publicity received in return – how might I structure the payment in order for it to be more tax efficient?

If a payment is made to a charity and relates fully to sponsorship or advertising, a trading deduction can only be claimed to the extent that the payment is made wholly and exclusively for the purposes of the trade. However, the amount over and above a reasonable amount for the publicity received in return is not deductible as a legitimate trading expense. To structure the payment more efficiently it would be advisable to make two payments - one which equals the value of a reasonable amount for sponsorship/advertising and the publicity received, which will qualify as a trading deduction, and the second being the balance of the proposed payment to be donated under the scheme of tax relief for donations to eligible charities and other approved bodies whereby relief can be claimed subject to the conditions of the scheme being fulfilled.
**Can I claim tax relief in respect of a donation to a non-Irish charity?**

Finance Act 2010 introduced provisions relating to charities established in the EEA or EFTA, in order to allow such organisations to apply for charitable status in Ireland and to bring them into line with Irish charities. Donations to such organisations will now qualify for relief (subject to the organisation obtaining charitable status from the Revenue Commissioners, and joining the list of “eligible charities” after the prescribed two year waiting period).
Appendix 1

Scheme of tax relief for donations to eligible charities and other approved bodies, under section 848A, Taxes Consolidation Act 1997

List of other “approved bodies” for purposes of the donation scheme relief

• Educational institutions or bodies including primary, second level or third level, if they meet certain conditions (e.g., their programmes are approved by the Minister for Education and Skills or the institution provides courses which are validated by the Higher Education Training and Awards Council),

• A body approved for promotion of or for education in the arts by the Minister for Finance. This scheme of relief is directed at educational establishments providing third level courses and at arts organisation that contribute to the advancement of an arts subject on a national or a regional basis. The arts subjects that can be approved for this purpose are the practice of:
  - architecture,
  - art and design,
  - music and musical composition,
  - theatre arts,
  - film arts,
  - any other subject approved for this purpose by the Minister for Finance.

• A body to which section 209 of the Taxes Consolidation Act, 1997 applies, i.e. a body for the promotion of the observance of the Universal Declaration of Human Rights or the implementation of the European Convention for the protection of Human Rights and Fundamental Freedoms, or both.
Appendix 2

*Tax relief for donations made prior to 1 January 2013.*

Upper limit on donations qualifying for tax relief
In most cases, there is no upper limit on the amount that can be donated, either to a single charity or in aggregate. However, an upper limit can apply in two circumstances.

1. **Associated individuals**

   Individuals who are employed by or are members of the charity or approved body are regarded as associated with the body concerned. If there is such an association, relief for donations in a single tax year to the charity or approved body with which the individual is associated is restricted to 10% of the individual’s total income.

2. **High Earner’s Restriction**

   Donations to charities also count towards an overall restriction on the tax reliefs available to high-income individuals. These provisions are complex but apply only to individuals with annual income in excess of €125,000 who claim total tax reliefs (i.e. deductions from taxable income and tax-exempt amounts) of more than €80,000 in any year. The relief available is restricted to the greater of €80,000 or 20% of the individual’s adjusted income for the year. Amounts that are ineligible for relief can be carried forward to future years, subject to another computation of the restriction in each subsequent year. Thus an individual with an income of €1,000,000 could claim total tax reliefs (including charitable donations and other amounts e.g. exempt artist’s income, property incentives) of €200,000. Reliefs in excess of this would be carried forward to subsequent years.
**Methods of claiming relief**

The method of claiming relief depends on whether the donor is a PAYE taxpayer, a self-assessed taxpayer or a company. The different processes are illustrated in the following paragraphs.

**PAYE taxpayers (Charities benefit from the scheme of relief)**

For the PAYE donor, tax relief is calculated by “grossing-up” the donation at the donor’s marginal rate of tax to determine the tax associated with the donation. The charity or approved body then reclaims the “grossed-up” amount of tax associated with the donation directly from the Revenue Commissioners.

In order for the charity or approved body to reclaim the “grossed-up” amount of tax associated with any donation, the individual PAYE donor must complete an “Appropriate Certificate” and forward it to the charity or approved body. The information provided is then forwarded by the charity or approved body to the Revenue Commissioners in order for the claim to be validated and the repayment made.
Example 12
Cash donation by standard rate PAYE taxpayer

In 2012, Alan Allman pays the standard rate of tax (i.e. 20%) and donates €400 to an eligible charity.

- The value of the donation to the charity is €500 (€400 x 100/80). This comprises the €400 payment by Alan plus the tax associated with the donation of €100 (€500 - €400).
- The charity claims a repayment of €100 from the Revenue Commissioners provided Alan completes and submits an “Appropriate Certificate” to the charity.
- The donation costs Alan €400.

Example 13
Donation of quoted shares by standard rate PAYE taxpayer

In 2012, Breda Brien pays the standard rate of tax i.e. 20% and donates quoted shares with a market value of €600 to an eligible charity. She does not wish to claim CGT relief on the donation (see section 3).

- The value of the donation to the charity is €750 (€600 x 100/80). This comprises the shares valued at €600 and the tax associated with the donation, which is €150 (€750 - €600).
- The charity claims a repayment of €150 from the Revenue Commissioners provided Breda completes and submits an “Appropriate Certificate” to the charity.
- Breda reports the transfer of shares to the charity on her PAYE tax return, and may (subject to her personal exemption on gains of €1,270 per year) be liable for capital gains tax at 30%¹ on the difference between the value of the shares transferred and the original cost of the shares.
- The donation costs Breda €600 plus any capital gains tax payable on the shares.
- The charity will not be liable to capital gains tax on any subsequent sale of the shares provided the proceeds on the sale are applied for its charitable purposes.

¹ The CGT rate increased to 33% with effect from 6 December 2012
In 2012, Conor Clarke pays the marginal rate of tax i.e. 41% and donates €800 to an eligible charity.

- The value of the donation to the charity is €1,356 (€800 x 100/59). This comprises the donation of €800 plus the tax associated with the donation of €556 (€1,356 - €800).

- The charity claims a repayment of €556 from the Revenue Commissioners provided Conor completes and submits an “Appropriate Certificate” to the charity.

- The donation costs Conor €800.

In 2012, Deirdre Doyle pays the marginal rate of tax i.e. 41% and donates quoted shares with a market value of €1,000 to an eligible charity. She does not wish to claim CGT relief on the donation (see section 3).

- The value of the donation to the charity is €1,695 (€1,000 x 100/59). This comprises the shares valued at €1,000 plus the tax associated with the donation of €695 (€1,695 - €1,000).

- The charity claims a repayment of €695 from the Revenue Commissioners provided Deirdre completes and submits an “Appropriate Certificate” to the charity.

- Deirdre reports the transfer of shares to the charity on her PAYE tax return, and may (subject to her personal exemption on gains of €1,270 per year) be liable for capital gains tax at 30%\(^1\) on the difference between the value of the shares transferred and the original cost of the shares.

- The donation costs Deirdre €1,000 plus any capital gains tax payable on the shares.

- The charity will not be liable to capital gains tax on any subsequent sale of the shares provided the proceeds on the sale are applied for its charitable purposes.

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\(^1\) The CGT rate increased to 33% with effect from 6 December 2012
**Self-assessed individuals**

*(the taxpayer benefits from the scheme of relief)*

In the case of self-assessed individuals, the charity does not claim tax relief under the “grossing-up” arrangement discussed above, but rather the individual donor claims the relief directly as a deduction from taxable income in his or her annual tax return. This method also applies to individuals who pay tax under both the PAYE tax system and under the self-assessment system (i.e. who have PAYE income but file a self-assessed income tax return), regardless of the relative size of PAYE and non-PAYE income. The donation is not deductible for the purposes of calculating the USC or PRSI. There is neither a “grossing-up” arrangement nor a requirement to submit an “Appropriate Certificate” to the charity. The donor should obtain a receipt for the donation from the charity.

It may also be necessary for the individual to consider the high earner’s restriction as outlined above. Where such a restriction applies, the individual may be restricted from taking a full deduction in the current year for the total donation made / other reliefs available. Any excess relief will be carried forward to future years, subject to another computation of the restriction in each subsequent year.
Example 16
Cash donation by self-employed standard rate taxpayer

In 2012, Eric Evans is self-employed and pays the standard rate of tax i.e. 20%. Eric donates €1,200 to an eligible charity.

• Eric gets tax relief on the €1,200 donation at 20% (€240).
• Eric claims a deduction on his tax return in respect of the 2012 tax year. No repayment claim can be made by the charity.
• The donation costs Eric €960 (€1,200-€240).
• The value of the donation to the charity is €1,200, ie the cash received
In 2012, Florence Farrell is self-employed and pays the standard rate of tax, ie 20%. Florence donates quoted shares with a market value of €1,400 to an eligible charity. She does not wish to claim CGT relief on the donation (see section 3).

- Florence gets tax relief on the €1,400 donation at 20% (€280).
- Florence claims a deduction on her tax return in respect of the 2012 tax year. No repayment claim can be made by the charity. Florence reports the transfer of shares to the charity on her tax return, and may (subject to her personal exemption on gains of €1,270 per year) be liable for capital gains tax at 30% on the difference between the value of the shares transferred and the original cost of the shares.
- The donation costs Florence €1,120 (€1,400-€280) plus any capital gains tax liability on the shares.
- The value of the donation to the charity is €1,400, ie the market value of the shares received.
- The charity will not be liable to capital gains tax on any subsequent sale of the shares provided the proceeds on the sale are applied for its charitable purposes.

Example 18
Cash donation by self-employed marginal rate taxpayer

In 2012, Gerard Gunning is self-employed and pays the marginal rate of tax i.e. 41%. Gerard donates €1,600 to an eligible charity.

- Gerard gets tax relief on the €1,600 donation at 41% (€656).
- Gerard claims a deduction on his tax return in respect of the 2012 tax year. No repayment claim can be made by the charity.
- The donation costs Gerard €944 (€1,600-€656).
- The value of the donation to the charity is €1,600, ie the cash received.
In 2012, Hilary Harris is self-employed and pays the marginal rate of tax i.e. 41%. Hilary donates quoted shares with a value of €1,800 to an eligible charity. She does not wish to claim CGT relief on the donation (see section 3).

- Hilary gets tax relief on the €1,800 donation at 41% (€738).
- Hilary claims a deduction on her tax return in respect of the 2012 tax year. No repayment claim can be made by the charity.
- Hilary reports the transfer of shares to the charity on her tax return, and may (subject to her personal exemption on gains of €1,270 per year) be liable for capital gains tax at 30%\(^1\) on the difference between the value of the shares transferred and the original cost of the shares.
- The donation costs Hilary €1,062 (€1,800–€738) plus any capital gains tax liability on the shares.
- The value of the donation to the charity is €1,800, ie the market value of the shares received.
- The charity will not be liable to capital gains tax on any subsequent sale of the shares provided the proceeds on the sale are applied for its charitable purposes.

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\(^1\) The CGT rate increased to 33% with effect from 6 December 2012
**Appendix 3**

**Comparison of tax relief on donations pre and post Finance Act 2013 changes**

<table>
<thead>
<tr>
<th></th>
<th>Individuals</th>
<th>Company (unchanged)</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>Pre 2013</strong></td>
<td></td>
<td></td>
</tr>
<tr>
<td>PAYE taxpayer</td>
<td>Charity gross up at taxpayer’s marginal tax rate</td>
<td></td>
</tr>
<tr>
<td>Self-assessed tax payer</td>
<td>Individual claims relief at marginal tax rate</td>
<td></td>
</tr>
<tr>
<td><strong>Post 2013</strong></td>
<td></td>
<td></td>
</tr>
<tr>
<td>All</td>
<td>Charity gross up at 31%</td>
<td>Company claims relief at effective tax rate, usually 12.5%</td>
</tr>
<tr>
<td><strong>Minimum Annual Donation per Charity</strong></td>
<td>€250</td>
<td>€250</td>
</tr>
<tr>
<td><strong>Cap on donation</strong></td>
<td>10% if connected to charity</td>
<td>10% if connected to charity</td>
</tr>
<tr>
<td><strong>High Earner Restriction</strong></td>
<td>Yes</td>
<td>Yes</td>
</tr>
</tbody>
</table>
Appendix 4

Donations to approved sports bodies

Tax relief is available for relevant donations to approved sports bodies for the funding of approved projects.

An approved sports body means a body that holds:

- an exemption certificate under section 235 TCA, 1997 (i.e. a body established for the sole purpose of promoting athletic or amateur games or sports and whose income is exempt from tax where it is applied solely for those purposes), and
- a valid tax clearance certificate.

An approved project means a project falling into one or more of the following categories and in respect of which the Minister for Tourism, Sports and Recreation has issued a certificate to the approved sports body certifying that it is an approved project:

- purchasing, constructing or refurbishing a building or structure or part thereof for use for sporting or recreation activities provided by the approved sports body,
- purchasing land for use by the approved sports body in providing sporting or recreation facilities,
- purchasing permanently based equipment (excluding personal equipment) for use by the approved sports body in providing such facilities,
- improving the playing pitches, surfaces or facilities of the approved sports body, and
- repaying money borrowed (and paying interest on such money) by the approved sports body on or after 1 May 2002 for any of the above-mentioned purposes.

The Minister for Tourism, Sports and Recreation\(^1\) will not approve a project where the aggregate cost of the project is or is estimated to be in excess of €40,000,000, and a certificate may be revoked where the donated funds cease to be used towards the funding of the project for which it was granted approval.

A donation will be a relevant donation where it satisfies the following conditions:

- it is made to the approved sports body for the sole purposes of funding an approved project,
- it is or will be applied by that body for that purpose,

\(^1\) Now Transport, Tourism and Sport
• it is not otherwise deductible in computing the profits or gains of a trade or profession or deductible as an expense of management in computing the profits of a company,

• it is not a relevant donation qualifying for tax relief under section 848A TCA, 1997 (donations to approved bodies e.g. charities),

• it is not subject to repayment,

• neither the donor nor any person connected with the donor receives a benefit, whether directly or indirectly, as a result of making the donation, (e.g. a person will be regarded as receiving a benefit where the donation is in substitution in full or in part for an annual membership fee, or where the donation entitles the donor to rights or enhanced rights or facilities etc. not available to members who have not made a donation,)

• the donation is not conditional on or related to the acquisition of property by the approved sports body (otherwise than by way of gift) from the donor or any person connected with the donor, and

• in the case of a donation made by an individual, the individual is resident in the State for the year of assessment in which the donation is made, and in the case of a PAYE taxpayer, the individual has given an appropriate certificate to the approved sports body in relation to the donation and has paid the tax referred to in such certificate and is not entitled to a repayment of that tax or any part of that tax.

• it takes the form of the payment of a sum or sums of money amounting to at least €250, in the case of an individual, in a year of assessment, and in the case of a company, in an accounting period. Where an accounting period is less than 12 months the €250 must be proportionally reduced.

The method of claiming relief depends on whether the donor is a PAYE taxpayer, a self-assessed taxpayer or a company and is based on the same process as for charitable donations paid prior to 1 January 2013 and as outlined in Appendix 2.

Donations made under this scheme are included in the overall restriction on tax reliefs available to high income individuals.
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