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Giving by Gift Aid

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Significant changes were made to the regulations concerning Deeds of Covenant and Gift Aid with effect from 6 April 2000. These changes not only simplified the administration involved, but extended the scope of Gift Aid very considerably, giving an opportunity to churches and other charities of increasing their income by increasing the amount of tax which can be recovered on donations made by members of the congregation.

The Baptist Union of Great Britain has prepared this explanatory document to provide guidance to Baptist church treasurers and gift aid secretaries about the regulations as they relate to churches. Further assistance on particular matters of concern which arise from these regulations can be obtained from the Finance Office of the Baptist Union of Great Britain, Baptist House, 129 Broadway, Didcot, Oxfordshire OX11 8RT, tel: 01235 517724, e-mail: financeoffice@baptist.org.uk.

Treasurers should note the Action Points at paragraph 20

1 What were the main changes to the schemes?

- The removal of the minimum limit for Gift Aid donations, so that the scheme applies to any donation whether large or small, regular or one-off. There are rules concerning any benefit available to the donor from making the donation, but these do not appear to be relevant to normal freewill offerings in a church situation.
- The withdrawal of separate tax relief for payments made under a Deed of Covenant, with relief for such payments to be given under the Gift Aid scheme. While it is possible to give by Deed of Covenant, they have almost entirely ceased to exist.

2 How is Gift Aid to be operated?

- The original Gift Aid certificates were replaced by new, simpler and more flexible Gift Aid Declarations. A sample certificate is set out on page 7.
- It is not necessary for a new Gift Aid Declaration to be completed for each gift, depending on which option is ticked on the original certificate.
- The church must be able to produce the relevant Gift Aid Declaration to support every claim made for tax relief, and demonstrate that the money was actually received when they have an Inland Revenue Audit.

3 What does the Gift Aid Declaration include?

- The Declaration requires the donor's signature but it need not be witnessed.
- The Declaration contains a statement of what Gifts are covered by the Declaration. Four alternatives are set out in the sample Declaration on page 6.
- The Declaration must include the name of the beneficiary charity, ie, the church.
- The Declaration must contain an explanation that the donor must pay an amount of income tax or capital gains tax equal to the tax to be reclaimed in respect of the gifts made under the Declaration.
- The National Insurance number and the individual's Tax Reference are no longer required.
- To enable the Revenue to trace the taxpayer's records, the inclusion of the donor's full forenames, and their address, including postcode is advisable. Where perhaps only initials and no postcode is obtained, and an audit takes place you may have to get further information to show that your tax claim is correct, if the information is insufficient for the Revenue to trace the taxpayer. If the failure to obtain the full details is habitual, then the Revenue may well treat the matter with suspicion.

The Declaration can be made in advance or in arrears, so long as the donations are adequately described, and do not relate to gifts made before 6 April 2000, and/or to gifts made not more than six years before the Declaration.

Care should be taken to attach new details to an existing Declaration where the donor's address is changed.

4 Which Declaration is preferable?

In designing a system for documenting the Declarations and the Gifts made in respect of them, the Church Treasurer must keep in mind the over-riding requirement to be able to produce a valid Declaration in support of every claim made. It is likely to be preferable for there to be as few Declarations as possible, so that donors should be asked to complete the Declaration including 'all donations I have made from 6 April 2000 and all donations I make from the date of this declaration until I notify you otherwise'. If donors are reassured that the Declaration can be withdrawn, in writing, at any time, then most will probably agree to sign such a Declaration. It is much easier to withdraw than a Deed of Covenant because the decision is solely in the hands of the donor, whereas with a Deed of Covenant there needed to be mutual agreement.

The other advantage of this Declaration is that it will not need to be renewed each time the donor increases their giving, and it can be used to cover donations from special offerings and gift days as well as regular church offerings.

5 How do donors withdraw Gift Aid Declarations?

By giving notice in writing to the church that the Declaration is to be withdrawn from a specific date. Any gifts made before the date that such a withdrawal letter is received, or before the date on which the withdrawal is stated to be effective, remain valid for reclaim. The taxpayer cannot in law back date the withdrawal of the Declaration, but in practice the Treasurer will presumably agree to an effective back dating where claims have not yet been made.

6 Are Deeds of Covenant being abolished?

Deeds of Covenant remain completely valid in law, and can continue to be used. For repayment purposes, the Inland Revenue will require a separate Gift Aid Declaration in respect of any new Deeds of Covenant executed after 6 April 2000, although there are transitional provisions for Deeds of Covenant which straddle 6 April 2000.

Deeds of Covenant remain subject to the very detailed rules about the dates of signature, no back-dating, witnessing of signature, and defined amount payable, all of which are avoided by a transfer to the Gift Aid system. For these reasons we anticipate that churches will quickly cease to use Deeds of Covenant and switch to Gift Aid Declarations.

The sole advantage of the Deed of Covenant is the promise it contains of regular income to the charity over at least a four year period. Since few if any churches actually sue donors for non fulfilment of this legal obligation, it would be perfectly possible to ask donors to give a written promise of continued support for a specified period if this is required, without it being in the form of a Deed of Covenant or legally enforceable.

7 What about people who pay little or no tax?

For the gift to be eligible for tax relief it remains necessary that the donor is a taxpayer. However, there are two significant changes to the rules which are helpful for people who pay little tax.

- Previously, the donor was required to have paid tax at the basic rate of tax, and could be surcharged with the difference if tax had only been paid at the lower rate of tax. Under the new system it is necessary for the taxpayer to have paid the amount of tax which is recoverable by the church, but it does not matter at what rate the tax was paid. This means that people on low incomes, and/or those whose income consists largely of investment income on which lower rates of tax are paid, will not have to pay the additional money to the Revenue, so long as they have paid the amount of tax which is recovered in the tax claim.
- Previously the donor was required to have paid income tax of the relevant amounts, but this has now been widened to include both income tax and capital gains tax. This means in effect that the old requirement for the gifts to be made out of income and not capital has been removed, and may give an opportunity for more people to give a gift following the disposal of assets. It will depend on capital gains tax actually being paid, so that the sale of exempt assets like owner occupied houses, or the sale of assets where the gain is rolled over, will not provide an opportunity unless there is sufficient income tax paid to cover the gift.

If insufficient tax has been paid by the donor to cover the tax claim by the church, the donor is liable to make good to the Revenue the amount of any shortfall. However, where it may help, the donor may elect to the Inland Revenue that the donation be treated as made in the preceding tax year.

8 What about gifts from visitors?

Reclaims of tax may be made for any gift so long as the information required on the Gift Aid Declaration is available. Churches may therefore wish to place special envelopes in the church seats or in the foyer on which a Gift Aid Declaration is printed. If the declaration is fully completed, (ie, with full name and address including postcode, amount of gift, statement of intention to be under Gift Aid, signature and date,) and the envelope, identified by a temporary number, is included in the overall record of envelopes and retained, claims can be made on the gift.

9 What records are required?

An audit trail linking each donation to an identifiable donor who has made a valid Gift Aid Declaration is essential. In the event of an Inland Revenue audit, they will need

- a signed written Gift Aid Declaration
- bank statements
- paying in book counterfoils detailing cheques and cash
- the church's cash book recording the standing orders and offerings
- where stewardship envelopes are used, a sample of the envelopes and the record of the sums enclosed, and the list of donor's names and envelope numbers

The regulations state that these records must be kept until the later of 31 January next but one after the end of the tax year; or if it is longer, one year after making a tax reclaim (rounding up to the end of the next quarter), or until the completion of any Revenue audit which has been commenced. However, because the Revenue are likely to want to re-open earlier years if errors are discovered, it would be best practice to continue to retain the records for a full six years from the end of the tax year in which donations are made. The records that are most likely to go missing are paying in book counterfoils, and these should be carefully stored.

Where the church has received open-ended Gift Aid Declarations these will need to be retained in a retrievable form for as long as they are operative, which could be decades.

The records do not have to be kept on paper, but may be kept on computer, floppy disk, CD Rom or microfiche. Signed declarations should be kept in a form which preserves the signature. If records are kept on computer, regular backups must be kept since the records must be produced for an audit, and computer failure which loses the records may lead to all the tax being reclaimed since there is no proper audit trail.

10 What other records should be kept?

Though it is not a legal requirement, it is good practice to give to each donor a record of the gifts on which tax reclaims have been made in each tax year. The donors will need to enter these details on their own income tax returns, so the details will need to be made available quickly. It will also give the donors a reminder that the Declaration is still in force, so that if their circumstances have changed and they no longer pay sufficient tax, they are alerted to the situation.

It will also be necessary to ensure that all gifts are claimed and that no gift is claimed twice, and therefore the grid which is printed on the last page of this leaflet, and which could be reproduced on the reverse of the Gift Aid Declaration, is offered to Treasurers as guidance. Each time a claim is made, the details can be set out in this grid, and will subsequently (perhaps at audit time) be a confirmation of the following:

- a valid declaration does exist
- the date and the amount of the gift, in order to avoid duplicate claims
- the method of payment ie, by Standing Order, cheque or through a particular numbered envelope
- the date of the tax claim
- the number of the tax claim, since churches may well make several claims during each year so that over a period of years there may be dozens of claims to be reviewed in an audit.

If this record is kept, it can be photocopied to give the donor a record of the claims. Some Treasurers may prefer to put the Gift Aid Declaration notes on the reverse of the Declaration, and to keep this grid separately.

11 How often can claims be made?

Since claims for repayment of tax can be made for any donations actually received, it is possible for claims to be made much more frequently than for Deeds of Covenant, which would help to even out the church's cash flow from this important source of income. For administrative reasons, the Inland Revenue will not accept claims for less than £100 tax, unless it is the only claim in the tax year.

12 How will repayments be claimed?

The Revenue have issued new authorised signatory forms which should be completed and returned to the Revenue with the first repayment claim made. This will ensure that only authorised officials can make a claim on behalf of the church. Claims will only be repaid if they are signed by the official of the church who has been authorised on the appropriate form, so a new authorised official form needs to be completed and submitted to the Inland Revenue when there is a change of Church Officer.

The Revenue have introduced new simpler forms in respect of Gift Aid claims. Separate schedules will be required for each tax year or part of tax year.

The schedules will include

- the donor's name,
- the date of the donation (or the last date where there is more than one for a particular donor),
- the total amount of the donations by each donor included in the claim,
- a calculation of the total amount of tax claimed (but not of each gift separately).

The Revenue prefer to make repayments directly into the Charity's Bank account and not by cheque, so that the Bank details should be given to the Revenue when requested.

13 What about Inland Revenue Audits?

The Inland Revenue have published a leaflet entitled Inspection of Charities' Records which explains how audit visits will be conducted. This is sent automatically to all churches selected for audit but is also available to churches on request.

The Revenue have already indicated that they will view with a degree of suspicion any church which has no unidentifiable cash offerings, particularly if they also have regular gift aided donations of bizarrely irregular amounts from the same individual.

14 How should Gifts be made?

Gifts must be made in cash, and not in kind. Where a taxpayer has made a loan to the church, Gift Aid cannot be claimed if the loan is waived. It should be repaid, and a separate payment of the gift should be made, in order to qualify for Gift Aid.

15 What about Gifts made from joint accounts?

If a charity receives a donation drawn on a joint bank account, and it has not been given a Gift Aid declaration by both account-holders, it will need to determine whether the donation is from the donor who has given a Gift Aid declaration. The charity may, however, assume that the donation is from the person who has made the Gift Aid declaration, even if it is authorised by the other account-holder, unless it holds evidence to suggest that the donation is from that other account-holder. If there is any doubt whether the donation is from the person who signs the cheque, etc. or authorises the transaction, the charity should ask them to confirm whether the donation is from them.

16 What about Collection for other charities?

The Revenue have issued guidance on whether collections made for particular charities, by churches can fall within the churches Gift Aid scheme. This will depend on the particular circumstances.

If the church has not exercised any discretion in collecting the donations and the donations are merely given to the church to pass on to a particular charity then:

- the church has no entitlement to the donations (and they do not form part of the church's income)
- the church is merely acting as a conduit and it is the charity that is the donee
- the charity must claim any Gift Aid tax relief (subject to normal requirements, Gift Aid declaration and audit trail)

However, if the church exercises its discretion and decides to open a fund for donations to a particular charity, then:

- the fund is a designated fund of the church
- the church is the donee and the donations form part of the church's income
- the church is able to claim Gift Aid tax relief (subject to the normal requirements)

The Revenue consider that a church would be legally obliged to pass the tax associated with a Gift Aid payment to the charity. The donor would have made his or her donation in expectation that both the Gift Aid donation and the associated Gift Aid tax would go to the charity for which the collection was made.

17 What are Oral Gift Aid Declarations?

The Revenue have made provisions for Gift Aid Declarations to be made orally where a written declaration is not obtained. This is of particular concern to charities which receive many donations by post, or receive donations by credit card over the telephone. Since these are not usual methods of fund raising by churches, details of this new provision is not included in this leaflet. More details can be found on the Revenue's website at www.hmrc.gov.uk.

18 Are there other changes in Tax Efficient Giving?

Tax efficient giving includes Payroll Giving, and Gifts of Shares and Securities to charities. Since these will be of little concern to churches, they are not explained in this leaflet. More details can be found on the Revenue's website at www.hmrc.gov.uk.

19 Does the Baptist Union Corporation still run a Gift Aid Scheme?

The Baptist Union Corporation continues to operate a scheme to assist churches with the reclaim of tax on donations made under Gift Aid. Many churches who previously used the scheme now wish to make their own Gift Aid claims directly to the Inland Revenue since the procedure is significantly simpler. Church Treasurers wishing to deal directly with the Revenue are asked to inform the Corporation of their intentions and to arrange an appropriate hand over of responsibilities. Church Treasurers wishing to start to use the Corporation's scheme should contact the Finance Officer of the Union.

20 What should Church Treasurers do now?

- Publicise the opportunities for tax efficient giving to their congregations.
- Decide their preferred wording for a Gift Aid Declaration, though the model giving alternative options will probably suit most occasions.
- Arrange for Gift Aid Declarations to be completed (the example in this leaflet may be photocopied).
- Prepare a system that will provide the information required by an Inland Revenue auditor.

MODEL GIFT AID DECLARATION

Name of Church:

Details of Donor:

Title: Forename(s):

Surname:

Address:

..... Post code:

I want the church to treat

- the enclosed donation of £.....
- the donation(s) of £ Which I made on (date)
- all donations I make from the date of this declaration until I notify you otherwise
- all donations I have made since 6 April 2000, and all donations I make from the date of this declaration until I notify you otherwise
- *delete as appropriate*

as Gift Aid donations.

Signature: Date:

Notes: (which could be printed on the reverse of the declaration)

- 1 If the declaration covers future donations you are able to cancel the declaration at any time by notifying the church. It will not then apply to donations made after the date of cancellation or such later date as you specify.
- 2 Please notify any change of name or address while the declaration is in force.
- 3 You must pay an amount of income tax and/or capital gains tax at least equal to the tax that the church reclaims on your donations in the tax year (currently 28p for each £1 you give).
- 4 If your future circumstances change and you no longer pay tax on your income and/or capital gains equal to the tax that the church reclaims, you can cancel your declaration.
- 5 If you pay tax at the higher rate you can claim further tax relief in your Self Assessment tax return.
- 6 Because of the need to identify your gift(s), payment must be way of:
 - a) cash or cheque, using either personally numbered church offering envelopes, or accompanied by a note clearly showing your name and the amount and date of your gift:
 - or
 - b) by banker's standing order.

(A copy of the Declaration should be given to the donor for record purposes.)

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