



Response to HM Treasury Consultation on Gift Aid and digital giving

**Charities Aid Foundation
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Introduction

- 0.1.1 The Charities Aid Foundation (CAF) is a registered charity that promotes charitable giving and provides financial services and social finance to not-for-profit organisations. We help donors – including individuals, major donors and companies – to give more effectively whilst providing financial and fundraising solutions for charities in the UK and internationally, helping good causes to manage their resources more effectively. We also have a strong track record in research, policy and advocacy, working across a range of issues to ensure the best possible funding environment for charities.
- 0.1.2 CAF operates both account-based and direct payment services for donors. The former involve us claiming Gift Aid on donors' money that is then added to their personal account and they can use it to make donations to charities of their own choice. As a registered charity ourselves we are able to operate as an intermediary in this way. Our direct payment services involve us collecting Gift Aid declarations on donors' behalf, which are then passed on to their chosen charity, and that charity reclaims the Gift Aid themselves. We therefore have experience of both models of intermediation proposed in this consultation.
- 0.1.3 Each year, CAF claims a significant amount of Gift Aid on behalf of our major donors and regular giving customers. In 2011/12 this amounted to £25 million.
- 0.1.4 CAF has a strong history of campaigning for changes in policy and legislation in order to improve the giving environment and to secure supportive legal, fiscal and regulatory conditions for donors, charities and social enterprises. Our knowledge and understanding – gained through direct experience and research – makes us a trusted voice on giving and the effective use of charitable funds.
- 0.1.5 CAF was one of the leading voices in the call for a new charitable tax relief to replace the system of covenants, which led to the introduction of Gift Aid in 1990. We have since continued to be closely involved with all aspects of policy and legislation governing Gift Aid, including commissioning a report from the think tank ResPublica in 2010¹ which examined in detail the issues surrounding digital giving and which has prompted much of the subsequent debate around reform of Gift Aid to meet the needs of digital donors.

¹ http://www.respublica.org.uk/documents/gsd_ResPublica%20Digital%20Giving.pdf

0.1.6 We are currently running the “Back Britain’s Charities” campaign.² This aims to promote the vital work of charities in the UK and to encourage individuals, businesses and the Government to continue to support them during these difficult economic times.³ One of the key asks of this campaign is to encourage and enable people to give more regularly, and reform of Gift Aid is an important element of this.

² www.backbritainscharities.org

³ The campaign was launched following the finding in [CAF/NCVO’s 2012 UK Giving](#) report that charitable donations had fallen by 20 per cent in real terms during 2011. Subsequent research reiterated the importance of the issue- we found that [one in six senior charity executives were concerned that their organisation faced the risk of closure in the coming year](#).

Responses to Consultation Questions

Question 1. Are there any general points about Gift Aid that you would like to raise with Government?

1.1 Gift Aid is by far the most successful charitable tax relief currently available in the UK, so we need to be careful that in our efforts to improve it we do not end up making it worse by over-complicating it.

1.2 Higher Rate Relief:

1.2.1 Gift Aid is unusual in that it is a hybrid tax relief, at least in the case of higher-rate taxpayers (HRTs). Through Gift Aid, basic rate tax is reclaimed by a charity on behalf of the donor, but a higher rate taxpayer can also reclaim the difference between their highest rate of tax (either 40 or 45 per cent) and basic rate tax as personal tax relief through their self-assessment tax return. This is different to every other charitable tax relief (Payroll Giving, gifts of shares etc), which are all solely personal tax reliefs for the individual donor.

1.2.2 There is still an outstanding issue about the HRT reclaim which is not addressed in this consultation. The HRT personal relief is underused by donors, due to a combination of lack of awareness and perceived complexity/bureaucracy. CAF found in previous research that 50 per cent of higher-rate taxpayers were not aware of the ability to reclaim their marginal rate of tax as personal relief, although when this possibility was explained to them 61 per cent of those who did not previously know about it expressed an interest in using the higher rate relief in the future.⁴

1.2.3 There has been an ongoing debate about whether to change the rules governing the HRT relief to allow charities to claim this as well as the basic rate of tax if a donor so wishes, or whether to leave it as it is. Those who would prefer the charity to be able to reclaim HRT argue that this would result in more money overall going to charities. However, there is clear anecdotal evidence that some individual major donors highly value the personal HRT relief, and calculate the size of their donations taking this relief into account. HMRC research from 2009 concluded that whilst there was an argument for considering changes to the treatment of higher rate tax

⁴ Goodey L, *The Public Bond with Tax-Effective Giving in the UK*, CAF, 2009
https://www.cafonline.org/pdf/PublicBond_Report.pdf

through Gift Aid, the ability to claim personal relief was important to a significant minority of donors.⁵ This accords with CAF's experience of dealing with donors, and our position remains that the ability to reclaim higher-rate tax is an important factor for some individuals when determining how much to give.

- 1.2.4 One concern with changing the rules to allow charities to reclaim the HRT relief as well is that in order to do so the donor would have to declare that they were a higher-rate taxpayer, and that as a "higher-value" donor they would almost inevitably become a target for further fundraising. This is something that many donors do not want.
- 1.2.5 A proposal that could circumvent this concern whilst still potentially increasing the overall amount going to charity would be to empower intermediaries to reclaim HRT on a donor's behalf. This would avoid the issue outlined above, as the donor would still be able to choose to be anonymous while giving to charities if they so chose. This proposal was put forward in a Policy Exchange report in 2007,⁶ and seems pertinent to this consultation since one of the proposals is to broaden the marketplace of recognised intermediaries. One of the powers given to such regulated intermediaries could be the ability to be nominated by a donor to reclaim higher-rate tax on their behalf.

Question 2. Beyond digital giving, what other barriers to take-up of Gift Aid do charities experience?

- 2.1 Gift Aid is by far the most commonly known method of tax-effective charitable giving. 68 per cent of the public is aware of Gift Aid when prompted, whereas only half of the public is aware of charitable legacies, and just 42 per cent is aware of payroll giving.⁷
- 2.2 However, levels of Gift Aid usage are still not that high. In 2011/12, 39 per cent of donors used Gift Aid on their donations.⁸ Worryingly, this was the first drop in usage since 2005/06 and was due to a particular downturn in usage by individuals giving smaller amounts (under £10).⁹ This most likely

⁵ Scharf K, Smith S, Gift Aid donor research: the options for reforming higher-rate relief, HMRC, 2009

⁶ John R, Davies R, Mitchell L, *Give and Let Give: building a culture of philanthropy in the financial services industry*, Policy Exchange, 2007 <http://www.policyexchange.org.uk/images/publications/give%20and%20let%20give%20-%20dec%2007.pdf>

⁷ Goodey L, *The Public Bond with Tax-Effective Giving in the UK*, CAF, 2009

https://www.cafonline.org/pdf/PublicBond_Report.pdf

⁸ UK Giving 2012, CAF <https://www.cafonline.org/PDF/UKGiving2012Full.pdf>

⁹ *Ibid.*

reflects the challenges of getting people to give Gift Aid on smaller gifts, where the bureaucratic hassle of making a declaration (perceived or actual) is not seen as proportionate to the value of the donation. It was in response to precisely this challenge that the Government introduced the Gift Aid Small Donations Scheme. This may have some impact on enabling charities to claim Gift Aid-like payments on small cash donations, but it is limited in scope, and does not address the wider issue of low levels of Gift Aid take-up.

- 2.3 Another potential barrier to Gift Aid take-up is the perception amongst donors that by signing a declaration they will open themselves up to greater scrutiny of their tax affairs by HMRC. Even for individuals with impeccable tax affairs, the nebulous fear of “the taxman” and of inadvertently making a mistake that may get them into trouble can be a strong disincentive. This is particularly relevant given the proposed rewording of the Gift Aid declaration in section 2 of the consultation.

Question 4. What new promotional materials – leaflets, website materials and other products – could the Government usefully provide to help increase take-up of Gift Aid?

AND

Question 5. What should these materials contain to be most helpful in encouraging donors and Charities to use Gift Aid?

- 4.1 We would welcome a renewed commitment from the Government to raise awareness of and support for Gift Aid. There are many elements that promotional material could potentially contain, but probably the most useful would be a simple description of what the Gift Aid system is and how it works. There should also be clear, positive messages on how valuable the system is for charities and how strongly the Government supports it. This might counterbalance the trend in official announcements of focusing on the penalties that might be incurred by donors in a few exceptional cases, which (as highlighted above) is extremely off-putting.
- 4.2 In addition to traditional forms of promotion, it would be useful to explore what work the Cabinet Office’s Behavioural Insights team could undertake to identify new points of engagement and methods of prompting that could have a positive impact on people’s propensity to add Gift Aid to their donations.

Question 6. Might rebranding Gift Aid help increase take –up? How?

- 6.1 Despite the fact that levels of public awareness and understanding of Gift Aid are not as high as they could be, there has still been a long-term upward trend in both. It would be far better to build on the work already done in developing the Gift Aid brand rather than changing it now and potentially confusing donors.

Question 8. Do you agree that it would be helpful to enable charities to shorten the Gift Aid declaration in this way, provided they were prepared to accept liability for a charge to tax where the donor had not paid enough tax to cover the Gift Aid?

- 8.1 We agree that in principle the Gift Aid declaration can and should be shortened, in order to reduce the potential barriers to donors making use of the system. There are a number of aspects of the existing model declaration that we feel could be removed, including the reference to CASCs, the mention of VAT and Council Tax, and the detail pertaining to gifts made before April 2008 (which are now time-barred in any case).
- 8.2 However, we are concerned about a number of aspects of the specific proposal for a shorter declaration outlined in the consultation . One concern is that in seeking to maintain clarity about the link to a donor’s tax affairs, the wording of the proposed version is in fact more likely to put donors off using Gift Aid than the current, longer version. In particular, we believe that the final sentence of the declaration “I understand HMRC will check and may tell the charity if I have not paid enough tax” is not phrased in a helpful way and will read very negatively from a donor’s point of view.
- 8.3 One thing that is lacking is evidence on the impact the wording of the Gift Aid declaration actually has on donor behaviour. We are told that the length of the declaration acts as a disincentive, but how strong is this effect? Similarly, are there particular ways of wording things that are more likely to encourage people to use Gift Aid? If the Government is planning to make changes to the requirements on Gift Aid declarations, it would be good to have some evidence to answer these questions.
- 8.4 The suggestion that charities, rather than individuals, should be willing to accept liability for charges to tax when a declaration has been made in error is another source of concern. This would clearly mean that charities were

taking on an increased level of risk, which makes it absolutely vital to have better evidence on the effect that shortening the Gift Aid declaration would have on donor behaviour. Only then would charities be able to assess whether the benefits in terms of a potential increase in the rate of Gift Aid on donations would outweigh the additional risks in terms of liability for charges to tax. Our feeling is that the proposed shortening as put forward in the consultation document is not sufficiently radical to make the prospect of taking on new liabilities an appealing one for charities.

- 8.5 We recognise that the Government has attempted to mitigate the potential risk to charities by suggesting in the proposal that they would continue to have the choice to use a longer form of the Gift Aid declaration, and also by suggesting that there should be an upper limit on the size of donations for which the shorter form would be acceptable (of between £1,000 and £5,000). However, we are concerned that this merely complicates Gift Aid, effectively creating a two-tier system which will confuse charities and donors alike.
- 8.6 Perhaps the more fundamental problem with the proposal to transfer liability for charges to tax to the charity is that it changes the nature of the charity/donor relationship and potentially damages trust. If a charity feels that it has to inquire as to the tax affairs of an individual when they are making a donation in order to ensure that it is not opening itself up to risk, then this undermines the principle of accepting gifts meant in good faith by people who care about a given cause.

Question 9. Do you think a reasonable limit for individual donations that can be made using a shorter Gift Aid declaration, as set out in Proposal 1, would be £1000, £5000 or somewhere in between? If not, what limit would seem reasonable and why?

- 9.1 As detailed above, CAF has general concerns about the introduction of any limit on the size of donation for which a shorter form of the Gift Aid declaration can be used, because of the added complexity this would involve.
- 9.2 Putting aside these concerns for a moment, there is still an important question about what the evidence base is for any proposed cut-off point. Is it accurate to say that there is a point at which people think about their giving in a qualitatively different fashion, and that it is therefore appropriate to apply different rules? Without an answer to this question, a putative limit between £1000 and £5000 seems entirely arbitrary. If the aim is to pinpoint a certain size of donation above which it is reasonable to assume that people

have thought about the tax consequences of their gift, then it could be argued that it should be a lot lower than £1,000.

- 9.3 It is worth bearing in mind when considering whether to impose a limit that if the aim is to minimise the number of Gift Aid claims made in error because a donor did not fully understand the eligibility requirements, then it would make more sense to focus on smaller donations, as the real risk of mis-claiming is surely at this level. Those giving larger amounts, if anything, require less information in the wording of the Gift Aid declaration because they are more likely to be aware of the tax implications of their gift already. There is a danger that in using the shorter form of the declaration wording only for smaller donations, we would actually be giving less information to those who need more and more information to those who need less.

Question 10. Given the complexities outlined above, how do you think a tax charge should fall to charities where a donor has only paid enough tax to cover some of the Gift Aid on donations they have made in the year?

- 10.1 This is an extremely difficult question and one which highlights the challenges of implementing the proposal set out above. The real question is whether the donor's Gift Aid declaration needs to be true at the point at which they made the donation or at the point when the charity attempts to reclaim money from HMRC. Unfortunately neither seems to produce a satisfactory answer. A donor may have made donations to multiple charities across the course of a tax year, and the order in which the charities submitted Gift Aid claims may differ from the order in which the donations were made.
- 10.2 Consider the case in which it turns out at year end that a donor has made Gift Aid declarations totalling more than they have actually paid in tax. Assume they made a donation to charity A early in the year before the aggregate value of their Gift Aid declarations exceeded the amount of tax they had paid, and a donation to charity B after this aggregate value was exceeded.¹⁰ Suppose however, that Charity B submitted a Gift Aid claim to HMRC before Charity A. In this case, which charity should be the subject of the charge to tax? If we think the important point is when the donation was made, then Charity A should be able to make their claim and charity B should pay back the Gift Aid they have received because when A received their donation the

¹⁰ We are assuming here, for illustrative purposes that the amount of tax a donor is required to pay in a given year is known, so that there is an upper limit on the amount that can be claimed through Gift Aid. In practice this value might well only be known once the financial year has ended, so it would not be possible to make such a calculation in reality until well after the event.

declaration was valid but when B received theirs it no longer was. If, however, we think the relevant juncture is when the claim was submitted, then B should be allowed to keep their Gift Aid payment and A should have to pay it back, because B actually submitted their claim first, before the total value of claims made in the donor's name exceeded the amount of tax they had paid. Neither situation seems satisfactory.

- 10.3 This example suggests that besides being extraordinarily difficult to administer, the proposal to shift liability for charges against tax to the charity will potentially give rise to situations in which it is hard to see a resolution that would not be perceived as unfair by one party or the other.

Question 11. Do you agree that HMRC should be able to tell charities which donations tax charges relate to?

- 11.1 It would seem both necessary and fair to inform charities in this way for their own internal audit processes, and to allow them to take any necessary steps if they suspect they have been the victims of a deliberate attempt to defraud the Gift Aid system rather than an honest mistake.

Question 13. What intermediaries exist now? If the Government makes changes to Gift Aid to make it easier to claim on donations made through intermediaries, what new intermediaries might emerge to support donations to charity?

- 13.1 The current marketplace contains a range of intermediaries, some of which have charitable status and some of which do not. The majority of these intermediaries take a fee from individuals' donations in order to cover their running costs, although a small number cover these costs in other ways. Most notably, BT MyDonate is able to offer its services for free to charities and donors because its running costs are covered by BT as part of its corporate responsibility strategy.
- 13.2 CAF currently operates as an intermediary in two ways. We offer account-based services for major donors and regular givers, in which we are able to claim Gift Aid on the donor's behalf and add it to their own personal account. We can do this because we are ourselves a registered charity, so in practical terms the donor names us on the Gift Aid declaration, we claim the repayment, and then allow them to direct this reclaimed money to their chosen charity along with their actual donation. We also offer direct payment

services which allow individuals to give via us straight to a charity. Hence in some instances we do claim Gift Aid payments and in others we do not claim the payments, but instead pass on the declaration we have collected to the relevant charity for them to make the claim themselves.

- 13.3 It is hard to say with certainty what new intermediaries might emerge to support donations to charity, as this will depend on the exact nature of any changes made to Gift Aid. If the changes are limited in scope, they may simply lead to an increase in intermediaries of the same type that are currently in the market. If, however, the changes are more ambitious, they could result in new entrants to the market with the potential to have a transformative effect. For instance, if payment providers (such as World Pay, Sage, or even Visa and Mastercard) were able to register themselves as Gift Aid intermediaries, donations to charity made using their systems could be automatically Gift Aided if a donor chose to make a universal declaration. This would significantly reduce the friction in the Gift Aid system when making digital donations, and potentially encourage many more donors to use Gift Aid.
- 13.4 An increase in the number of intermediaries should not be seen as a sign of success in itself – it must result in an improved experience for donors and, crucially, in an increase in Gift Aid usage. It is not necessarily in the best interest of charities for there to be a proliferation of intermediaries if this simply means that they have to go through a greater amount of administration in order to receive donations to which they are entitled. The presence of intermediaries also creates an extra layer between the donor and the charity, which many charities would not welcome. We can see from the example of Payroll Giving where this can lead, as many of the challenges facing that system stem from the severing of the link between donor and charity (a fact which the Government recognised in its recent consultation on Payroll Giving). Intermediation can be a positive thing, but in order for that to be the case it must offer some added value that makes it worth sacrificing some of the strength of the donor-charity relationship.

Question 14. What are your views on the requirements placed on non- charity intermediaries and the regulatory powers the Government would need to take under Proposal 2?

- 14.1 The proposed requirements sound reasonable from the point of view of ensuring that charities and donors are adequately protected and that the

integrity of the Gift Aid system is maintained. As pointed out in the consultation document, the requirements are broadly in line with those placed on Payroll Giving Agencies in any case.

- 14.2 There are a number of key elements of regulation that will be required in order to maintain public trust if non-charitable, commercial intermediaries were to be given a greater role and allowed to claim Gift Aid on behalf of charities. These would include:
- Transparency on fees: It is important that donors are able to see clearly how their money is being handled, where any fees are being charged, and what they are getting in return for those fees.
 - Disbursement requirements: Donors and charities need to have confidence that any donations made via an intermediary are passed on to the nominated charity as soon as possible so that the donor's wishes are honoured and the charity is able to thank them in a timely manner (if that is appropriate)
 - Accounting: commercial intermediaries should be required to hold any reclaimed Gift Aid in escrow as client funds, and to make this clear on their balance sheet. This will avoid creating an artificial impression of financial health that could mask significant underlying problems.
- 14.3 It is also important to consider the impact that regulation will have on the willingness of new providers to enter the market as intermediaries. The fairly stringent level of regulation proposed may well act as a disincentive to many commercial organisations. That is not to say that the regulation should be lessened, as the most important thing is that charities and donors are protected and the overall integrity of Gift Aid is maintained. It may, however, have a significant impact on the likelihood of achieving any policy ambition to broaden the market for charitable giving intermediaries.

Question 15. What sorts of features do you think intermediaries would need to have? What sorts of organisations should be able to be intermediaries?

- 15.1 Intermediaries should operate in an honest and ethical way that is in line with the spirit and purpose of the Gift Aid system. It is important that regulatory safeguards are put in place to ensure this, particularly if intermediaries are to be empowered to make Gift Aid claims as suggested in proposal 2.

- 15.2 There is no dogmatic reason why intermediaries should be limited to any particular type of organisation, as long as they meet the regulatory requirements. However, the level of regulation required if intermediaries are to be given the power to make Gift Aid claims seems likely to be a significant disincentive for any new commercial entrants to the market. It is possible; therefore, that the appeal of making claims on behalf of donors would be limited to organisations that already have charitable status and thus that proposal 2 would not have the desired impact.

Question 16. As set out above, the Government intends to put in place two requirements under Proposal 2 – a time limit on declarations, and a requirement to ask donors if they wish to Gift Aid each donation – to reduce the risk of Gift Aiding a donation in error. Are there other methods to protecting donors against the risk of overclaiming?

- 16.1 There is obviously a balance to be struck between reducing the barriers to Gift Aid usage sufficiently to increase take up and not reducing them so much that the rate of mistaken claiming increases significantly. It is important, however, for any of these proposals to work, that disproportionate concern about the risk of fraud does not lead to the addition of unnecessary and burdensome requirements. The requirement to ask the donor each time they give whether they still want their enduring declaration to apply would seem to be a case in point, as many donors might find this off-putting given that from their point of view they have already stated their wish for all of their subsequent donations through that channel to receive Gift Aid. This might not be a major problem if it merely means an extra tick box, but there is still a risk that it will be viewed as an unnecessary step by donors, and add to a sense of “Gift Aid fatigue”.
- 16.2 The imposition of a time-limit on declarations has many of the same potential pitfalls, as donors might rightly wonder why they are being asked to restate what they considered to be a one-off, enduring declaration.
- 16.3 The problem with both of these suggestions is that they would place a greater administrative burden on intermediaries, and at the same time might have a dampening effect on donors’ willingness to use Gift Aid. The original aim of the proposals in this consultation was surely to improve the donor experience of using Gift Aid when giving through intermediaries, but by making declarations annual rather than enduring and requiring intermediaries to check with a donor each time they give that they still want

that declaration to apply, we have a situation which is likely to seem little different to a donor from the current one and thus provides no additional incentive to use Gift Aid.

Question 17. Would it be helpful to place a requirement on intermediaries to inform donors how much they had donated that year, with the amount of tax required to cover Gift Aid on those donations?

- 17.1 CAF already does this for its account based services. We provide quarterly statements for our Charity Account customers detailing:
- their contributions to the account
 - the amount claimed in Gift Aid and added to the account
 - The deduction of CAF's fees
 - Any donations made from the account and which charity they were made to
- 17.2 This is useful for donors as it allows them to keep track of their giving, and potentially to ensure that they do not claim Gift Aid in excess of the tax they have paid (although in reality this is not a particularly realistic danger for the majority of donors). It also has a number of additional benefits:
- Higher Rate Taxpayers are able to have a clear statement of the Gift Aid they have claimed on donations through the year, which they can use to reclaim the personal relief through their Self-Assessment tax form if they wish.
 - We have found that for Charity Account donors, the ability to see the value of Gift Aid being added to their "giving pot" leads to more generous donations. The average value of monthly donations from CAF Charity Accounts is significantly higher than the average value of general donations.

Question 18. Do you think intermediaries will offer to claim Gift Aid on behalf of charities as set out under Proposal 2?

See answer to question 15

Question 20. If the proposals in Chapter 2 are adopted, do you agree that the liability for tax charges arising where the donor has not paid enough tax to cover a Gift Aided donation should fall to the intermediary? Or would it be more appropriate for the liability to fall to the charity?

- 20.1 If the Gift Aid declaration is shortened and the intermediary is empowered to reclaim Gift Aid, the liability for any charges to tax would have to sit with them rather than the charity. This would have to be the case as the charity has no power to control the interaction with the donor and no ability to choose whether to give them a short or long-form Gift Aid declaration.
- 20.2 It is not clear what incentive there would be for an intermediary to use a shorter form of the Gift Aid declaration. The length of the declaration is primarily an issue for spontaneous or low-value gifts where the level of friction has to be as low as possible, but since the intermediary is collecting a one-off (or possibly annual) enduring declaration, it would not seem unreasonable to present the donor with a longer form of the declaration. It would clearly be in the intermediary's interest to do so too, if it meant that the liability for charges to tax remained with the donor rather than passing to them.

Question 22. How can charities' relationships with donors be protected under Proposal 2? (I.e. should charities have a right to request donor info from intermediaries, perhaps for a small charge?)

- 22.1 Intermediaries should offer donors the option of having their details passed on to the charity if they so wish, but donors should also be able to remain anonymous.
- 22.2 We recognise that from a fundraising charity's point of view, it is not desirable for an intermediary to sit between them and the donor and prevent direct donor contact. In many cases, we would agree that the optimum state of affairs is for the charity to be able to cultivate a long-term personal relationship with a donor. However, it is important to acknowledge that some donors wish to remain anonymous, and will only give if they are able to do so. To many of CAF's customers, it is an important feature of the services we offer that they are able to make donations whilst retaining control over who has access to their personal details, precisely because they do not want to be contacted for future fundraising.

- 22.3 We believe that it must remain the right of donors to choose whether an intermediary makes the recipient charity aware of their identity or not. It is crucial that there should not be compunction on intermediaries to reveal donor details to charities when the donor does not wish them to be, as this will deter some donors from giving at all.

Question 23. Do you think Proposal 2 would lead to an increase in Gift Aid going to charities? What is the evidence for this?

- 23.1 This proposal could potentially lead to an increase in Gift Aid going to charities, in 2 ways:
- By increasing the number of donations through existing intermediaries that are Gift-Aided
 - By increasing the number of intermediaries to include non charity-specific payment providers, which could have a material impact on enabling Gift-Aided donations from people who otherwise would not bother.
- 23.2 However, as highlighted in 15.1 and 16.2, the additional requirement to check with a donor that they still want their declaration to apply each time they make a gift and the level of regulation of intermediaries will make both of these outcomes significantly less likely.

Question 24. Do you think Proposal 2 would lead to an increase in overall donations to charities? What is the evidence for this?

- 24.1 Whilst this proposal might have an impact on the proportion of donations that receive Gift Aid, it is unlikely to result in an increase in overall donations to charity. Most available research suggests that tax relief does not motivate people to make donations; it only affects the value of the donations that they do make once they have decided to give. It is possible that innovation by intermediaries could improve the user experience so much that people are motivated to give more or to give when they otherwise would not, but experience would suggest that this is unlikely.

Question 25. What are the advantages and disadvantages of Proposal 3 over Proposal 2?

25.1 The major advantage of proposal 3 over proposal 2 is that there is likely to be less risk for the intermediary. Since the intermediary in proposal 3 would not be responsible for making the Gift Aid reclaim, they should be able to structure their relationship with donors and with charities so that they do not take any additional liability. This will make it more appealing for commercial providers, and is therefore more likely to have the effect of bringing new intermediaries into the market.

Question 26. What are your views on the option that both Proposals 2 and 3 should be available in parallel?

26.1 There is no reason in principle why both proposals should not be available in parallel, so that intermediaries have the choice of how to operate. However, in practice the introduction of a new two-tier regulatory regime – such as would be required to police intermediaries using the two approaches - would simply make the Gift Aid system far more complicated, potentially for little material gain.

Question 27. Do you agree that intermediaries should be liable for invalid Gift Aid declarations and any repayments required or penalties issued in relation to these? Or should charities be liable, given they will have received any Gift Aid paid out on these incorrect claims?

27.1 Placing liability on the intermediary in this case doesn't seem particularly fair: the charity still owns the declaration, even if they don't have control over the interaction with the donor, so they have the final say over whether they are happy with the information they have been given.

27.2 There would obviously be a problem if an unscrupulous intermediary used donors' details to produce Gift Aid declarations without making those donors sufficiently aware of the requirements in terms of tax paid and then passed those declarations on to a charity with a false implication that a proper process had been followed. However, this situation should be avoided by proper regulation of intermediaries and their own Gift Aid processes: if an intermediary has its processes approved by HMRC, then liability should

remain with the charity that is the final claimant and recipient of the tax relief.

Question 28. If Proposal 1 (in Chapter 2) and proposal 3 are adopted in combination, should the charity be liable for tax charges where the donor has paid insufficient tax to cover the Gift Aid on the donation? Or should the liability for the tax charges fall on the intermediary?

- 28.1 As highlighted in 20.1, it is not clear what the value would be of combining proposal 1 and proposal 3 from an intermediary's point of view. If you were collecting a one-off enduring declaration that was then the reference point for future tick boxes, you would surely use a sufficiently robust version of the declaration to avoid liability, rather than a marginally shorter version that would open you up to the risk of liability for claims to tax.
- 28.2 Assuming that an intermediary did want to use a shorter form of the Gift Aid declaration it is still not clear that they should be liable for any charges to tax, since they have not claimed any money. The recipient charity still has final say. One possibility is that there should be a requirement on intermediaries to let charities know what form of the Gift Aid declaration they have used (which would be a fairly normal part of a charity/intermediary relationship anyway). In the situation where a charity is sent funds plus a declaration by an intermediary they do not have an existing relationship with, this would leave them the option of whether to claim the Gift Aid on the basis of the declaration collected by the intermediary or to contact the donor themselves to get a more satisfactory declaration if they so wish.

Question 29. Would intermediaries be content to operate Proposal 3?

- 29.1 It is hard to give a definitive answer to this question, but as suggested in 25.1, intermediaries (particularly commercial ones) are likely to prefer proposal 3 to proposal 2 because they will be less heavily regulated and less likely to have to accept additional liability.

Question 31. Do you think additional HMRC guidance and support would help digital providers to operate Gift Aid more efficiently and make it easier for donors to claim Gift Aid on their donations through digital channels?

31.1 If any of the proposals in this consultation were implemented, clear guidance for intermediaries on what constitutes an acceptable Gift Aid declaration and any implication the wording has for who is liable for any claims to tax would be useful.

Universal Gift Aid Declaration

Question 34. What model for a UGADD would you prefer to see in place?

34.1 CAF would like to see a model of the UGADD in which donors are able to complete a single, enduring universal Gift Aid declaration covering all their subsequent gifts to eligible charities, combined with a central database of all such declarations that charities could easily interrogate in order to see whether a given donation has a Gift Aid declaration against it.

Question 35. What are the advantages and disadvantages of a UGADD compared to either Proposal 2 or 3 set out in the previous chapter, for charities, donors and intermediaries?

- 35.1 CAF has found in previous market research that both donors and charities are interested in the idea of a Universal Gift Aid declaration:
- When people were asked if they would be interested in “a single online form that means you won’t need to fill out Gift Aid forms again”, 62 per cent of donors gave a positive response, which rose to 75 per cent when restricted to existing CAF customers.
 - When charities were asked whether they were interested in “the idea of a universal Gift Aid declaration form”, 64 per cent of charities said yes, which rose to 66 per cent when restricted to existing CAF charity customers.
- 35.2 One major advantage of a UGADD is that it would simplify the claiming of Gift Aid on offline donations as well as online ones, because unique identifiers could be collected in offline situations and used to make Gift Aid claims.
- 35.3 Another advantage of the UGADD in the online environment is that it is not channel-specific. This means that unlike proposals 2 and 3 in the previous

section, it would not require a separate declaration for each different online giving platform used.

- 35.4 From the donor's point of view, the introduction of a UGADD would make it far easier to ensure that Gift Aid was claimed on all their gifts (if they so wish).
- 35.5 The introduction of a single online form that donors could fill in to make their universal Gift Aid declaration would also be a good hook for a new promotion campaign (see question 5), as there would be a clear central ask of donors- i.e. to sign themselves up as a UGADD donor.

Question 36. How might the introduction of a UGADD fit with charities' current systems for managing Gift Aid? Would the benefits outweigh any costs?

- 36.1 The challenge of introducing any reform such as a UGADD, which is designed to address problems with an existing system, is that it risks penalising those who have put effort into trying to make the most of the system in its current form. Hence one might suspect a certain coolness towards the idea of the UGADD on the part of large fundraising charities, since they already have well-developed Gift Aid systems. However, we have had indications from a number of large charities that they are in fact in favour of the idea of a UGADD, because they believe that the eventual benefits they would see from streamlining the system and potentially driving up Gift Aid usage outweigh the costs of investing in new admin and IT systems.

This evidence of appetite from charities, while encouraging, is clearly only anecdotal. It would be important to get much more robust market intelligence before proceeding.

Question 37. What functions should a UGADD have, and why?

- 37.1 Donors should be able to access the database through a suitable User Interface (UI). This should allow them to:
- Edit personal details if those details change
 - Cancel their enduring declaration (either temporarily or permanently) if their tax situation changes

- See a list of the inquiries that have been made by charities against their unique identifier claims that have been made against their universal declaration
- Potentially to see a list of claims made against their unique identifier, if the UGADD is responsible for claiming Gift Aid repayments

37.2 If the UGADD operator was not responsible for claiming Gift Aid but instead passed on declarations to the charity, then it needs to be able to provide those declarations in a format that works well for charities and which fits with the operation of HMRC's Charities Online system.

37.3 In order to ensure that the introduction of a UGADD actually results in a reduction of administration, charities need to be able to interrogate the system easily. The level of functionality (i.e. interaction with 3rd party software, real-time claims etc) could depend on fees paid by charities.

Question 38. What information should a UGADD pass on to charities about their donors? How, and why?

38.1 The UGADD should pass on to the charity confirmation that a valid declaration is held for that donor identifier and (if the system operates in this way) the relevant info from the declaration to enable the charity to make a GA claim.

38.2 If the UGADD operator is able to claim Gift Aid on behalf of the charity (i.e. is performing a similar role to that of an intermediary under proposal 2, although without processing the actual donation), then there is a question about whether donors should be able to choose to remain anonymous. Whilst we believe that it is appropriate for intermediaries to offer the choice of donor anonymity, it is less clear whether this would be appropriate for a UGADD, which would be performing a semi-statutory role. It would probably have a significant impact on the willingness of charities to support the development of a UGADD if they felt that it would add a potential barrier between them and their donors.

Question 39. Should Gift Aid be claimed directly by the charity, or should the UGADD claim the Gift Aid on the charity's behalf?

- 39.1 On balance, it is probably most practical for GA to be claimed directly by the charity.
- 39.2 The benefit of allowing the UGADD to reclaim Gift Aid on a charity's behalf would be that it might be possible to design the system so that it interacted with the Charities Online system and effectively automated the process of Gift Aid claim and repayment. All the charity would have to do would be to collect a donor's identifier- which would act as an indication that they wish their donation to be Gift Aided and that they believe themselves to have a valid declaration in force- and submit that to the UGADD. The Gift Aid payment would either be made automatically and confirmed, or the system would indicate that there had been a problem of some sort.
- 39.3 However, enabling the UGADD to claim Gift Aid on the charity's behalf would require more complex functionality from the UGADD operator and would also require a greater degree of oversight and regulation by HMRC, as repayments of tax would be involved.

Question 40. How could a UGADD best be encouraged to emerge? What might be the best role for Government in supporting a UGADD's development?

- 40.1 The value of a UGADD is dependent on it having a critical mass of donor information on it. That is why it would be important to work with large fundraising charities to try and convert their existing donors to UGADD donors, and to encourage them to adapt their fundraising approaches so that they promote UGADD sign-up.
- 40.2 Government could play a vital coordinating role in bringing this support together. It could also help by sending a clear signal that it is committed to the idea of a UGADD, through positive announcements in the media and in its interactions with charities.
- 40.3 The Government (and HMRC in particular) will have to play a role in selecting the organisation to run the UGADD. This could be an existing organisation or one specifically established for this purpose.

Question 41. How should the UGADD and charities identify donors, given the Government's requirements on accuracy and security as set out above? Would donors find this easier than providing a new Gift Aid declaration?

- 41.1 The UGADD itself should be able to identify donors through the personal information it holds, which would be at least as detailed as the information currently required for a valid Gift Aid declaration.
- 41.2 The key question is what the minimal piece of information is that would enable a charity to uniquely identify an entry in the UGADD? It is absolutely critical that this "unique identifier" is seen as sufficiently easy to remember and use by donors that it has a positive effect on their propensity to Gift Aid their donations. If the requirements on the nature of the unique identifier are too onerous, then as suggested in the question we might end up with an identifier that donors found no easier to use than simply providing a Gift Aid declaration each time they make a donation.
- 41.3 There are a number of options for what form the unique identifier could take, including:
- A) *New purpose-specific unique identifiers for UGADD users.* This is neither practical nor desirable. People already complain of having to remember too many bits of information in their lives, so asking them to memorise another string of numbers and letters in order to claim Gift Aid is going to act as a major disincentive.
 - B) *National Insurance number:* The problem with this is that most people cannot easily recall their NI number, and it may also create unnecessary concern in donors' minds about the tax implications of using Gift aid
 - C) *Mobile phone number.* The main problems with this are that not everyone necessarily has a mobile phone, and also that old mobile numbers are recycled so that there is a danger of mistaken identity.
 - D) *Post code and house number/name.* The concern with this has been that it does not necessarily uniquely identify an individual because there may be more than one person living at the same address with the same name.
 - E) *Email address.* The primary concern with this is that not everyone has an email address, although if they do it can be assumed to be unique.
- 41.4 Of these, either email address would appear to be the best option as it is easy for donors to remember. We recognise that there remain questions about whether this is sufficiently universal. However, given that the introduction of

a UGADD is primarily designed to improve the take up of Gift Aid on gifts made through online and mobile channels, it would seem reasonably fair to assume that the majority of people giving in this way will also have an email address.

Question 42. How can a UGADD be developed in a way that allows access for a wide range of charities?

- 42.1 It should be stipulated that the UGADD is accessible in at least a basic form to all charities. It is vital that small charities are not disadvantaged, because the UGADD is supposed to benefit the whole charitable sector, so it should be easy to sign up for the new system and to manage it online.
- 42.2 Enhanced functionality could be offered for an additional fee to those who wanted it- for instance if larger charities wanted to make real-time checks against the database, or if they wanted to integrate 3rd party fundraising software with the UGADD.
- 42.3 It might also be appropriate to charge a fee in proportion to the volume (or total value) of Gift Aid claims a charity made. That way large charities who are making large numbers of claims could pay fees that would help to subsidise offering the service for far less (or even for free) to small charities who only want to make small numbers of claims.

Question 43. Where a Gift Aid declaration has not been taken correctly so it is invalid, should the UGADD administrator or the charity be liable for the repayment of the Gift Aid? Why?

- 43.1 This is similar to the questions raised in section 3 about who should accept liability in the various models proposed. As was the case there, the answer to this question depends in part on whether the UGADD operator is also claiming Gift Aid payments on behalf of the charity, or simply passing on declarations for the charity itself to make the claim. If the former, then the UGADD operator should accept liability. However in the latter case the charity retains final control over the submission of the claim, even if they do not necessarily have control over how the declaration was taken. The answer, again, is for HMRC to inspect the UGADD operator's processes to satisfy themselves that a declaration collected through these processes is valid. With this proviso, it would be appropriate for the charity to be liable.

Question 44. Where a donor has paid insufficient tax to cover a Gift Aid claim made on a donation, should the donor, the charity or the UGADD operator be liable to make up the shortfall in tax? Why?

44.1 As above, assuming that HMRC inspects the UGADD operator's processes and is happy with them- in terms of the information and prompts they provide to donors - it does not seem right for the liability to rest with the UGADD operator. It would most appropriately remain with the individual, although as is the case now, the charity might wish to pay back small sums itself.

Question 45. How can the Government get sufficient assurance that taxpayers' confidential information is adequately protected by the operators of a UGADD?

45.1 The Government (and HMRC in particular) should be involved in the appointment of a UGADD operator. There should also be appropriate contractual arrangements in place and ongoing regulation of the system.

Question 47. How do you think the costs of building and/or operating a UGADD should be covered?

47.1 The eventual operational costs of running the UGADD should be covered by an appropriate fee structure. As outlined above, this would most likely be variable so that charities paid more for greater volume/value of claims and for enhanced functionality.

47.2 There would also be initial capital costs for developing the system. These could be recouped through subsequent fees, although care would have to be taken that this did not result in overly high charges.

47.3 The other options for covering these capital costs are:

- A) The money comes from the voluntary sector, possibly in the form of grant funding from foundations or other bodies with an interest in developing a culture of giving in the UK
- B) The money comes from government: whilst we recognise that Government finances are tight, there are existing pots of money that could provide relevant funding, such as the Innovation in Giving fund

- C) The money comes from the private sector: this would have to be in the form of CSR support rather than commercial investment, along the lines of BT's decision to underwrite the costs of operating its BT MyDonate online giving platform. It is possible that a company in the technology sector might be willing to offer financial and technical support to assist the development of a UGADD.

Question 48. If charities had to pay to use a UGADD, how can these costs be kept low and transparent, to avoid greater Gift Aid administration costs than is currently the case?

See section 42.

Question 49. Do you believe that the costs to charities of using a UGADD would be outweighed by the benefits e.g. a higher take -up of Gift Aid?

See 36.1

General views on digital giving

Question 50. In your view, what proportion of relevant donations to charity are made through 'new' digital giving channels compared to more traditional forms of giving?

- 50.1 A 2012 report on digital giving found that across all charities, 70 per cent of donations are received through offline channels while 30 per cent are received via online channels. CAF and NCVO's UK Giving 2012 report found that in terms of participation, 7 per cent of donors had given online in 2011/12.

Question 54. In your view, what effect might the proposals in this document have on the proportion of donations that are Gift Aided, taking into account:

- a only donations made through 'new' channels;**
- b all donations?**

- 54.1 All of the proposals put forward in this document have the potential to increase the proportion of donations that are Gift Aided. However, as has

been highlighted a number of times, there is a need for more research to understand what effect any of the changes might have on donor behaviour.

- 54.2 The introduction of a UGADD could have by far the largest impact, as it would apply to all online donations regardless of the specific channel used to make them, and also to offline donations. This would give it broader applicability than the intermediary-specific proposals, and also mean that it was more likely to be adaptable to any new forms of giving that emerge as technology develops.

Question 55. In your view, would the proposals in this document have the effect of imposing extra costs on your organisation? How? Would these be start - up costs or ongoing costs? How large would they be?

- 55.1 These proposals might lead to extra costs for CAF, both in terms of the up-front costs of adapting our systems and also ongoing costs, depending on the fee structure used.
- 55.2 It is almost impossible to say what these costs would be, although as long-standing advocates of Gift Aid reform, and in particular the idea of a UGADD, we are confident that any increased costs would be outweighed by the benefits to CAF itself and to charities more broadly.

Question 56. Do you agree with the assessment of impacts set out in the summary of impacts table? In your view, are there any impacts that have not been mentioned here?

- 56.1 The assessment of impacts seems broadly correct, although any figures for projected Exchequer impact will be heavily dependent on the which, if any, of the proposals in the document are implemented and on what assumptions are made about the impact on donor behaviour as a result of these changes.