

Charity, Assets and Residence
Room GC20 (Mail station A)
100 Parliament Street
London
SW1A 2BQ

Ken Robinson
by E-mail

Tel 020 7147 2782

Fax 020 7147 2744

Email

Date 24 July 2006
Our Ref
Your Ref

www.hmrc.gov.uk

DX

Dear Mr Robinson

GIFT AID ON DONATIONS THAT ATTRACT THE RIGHT OF FREE ENTRY TO CHARITY PROPERTY.

As the organisations in your Liaison Group are aware, new Gift Aid rules covering donations that attract the right of free entry to charity property have taken effect from 6 April 2006.

Following discussion about the operational implications and interpretation, guidance on the application of the new legislation was made available to charities in advance of the change and is now incorporated in the detailed guidance notes for charities about Gift Aid at Chapter 3.48. This guidance can be found at www.hmrc.gov.uk/charities/guidance-notes/chapter3/sectionf.htm, and the link to this appears on your website.

Unfortunately it has come to our attention that not all charities are applying the legislation correctly and may as a result be claiming repayments in respect of sums not eligible for Gift Aid.

Donations that are at least 10% above the Admission Charge: A number of charities have chosen to ask visitors to pay the admission price plus an additional 10% as a default - requiring visitors to indicate if they wish instead to pay the normal admission charge only. This is acceptable - subject to certain conditions.

To qualify for Gift Aid a payment must be voluntary. If visitors are to be asked to pay an additional 10% the charity must: -

Information is available in large print, audio tape and Braille formats.
Type Talk service prefix number – 18001



INVESTOR IN PEOPLE



- Make it clear to a visitor that they have the choice of making a donation, or paying the normal admission charge to gain entry to the charity premises. It should be clear that the right of entry is the same whether an admission charge is paid or a donation of 10% more than that charge is made.
- Make it clear that the additional 10% is entirely voluntary
- Clearly advertise the normal admission charge

Accuracy and clarity of notices, etc: We have seen a number of cases where on entrance signage or ticket purchase websites the only prices displayed are the standard cost +10% and visitors are not being made aware that they can gain admission for the normal admission charge only. This is not acceptable.

We have also seen cases where the explanation is given on signs and website, but is so well hidden in the "small print" that it is most unlikely that the average visitor would ever be aware of it. That is also unacceptable.

Gift Aid Declarations: We are also aware that some charities may not be collecting sufficient data on the Gift Aid declarations. For example they may only be collecting postcodes and not also collecting the house number or name. House name/number and postcode is the minimum acceptable address information.

In order to claim Gift Aid charities must maintain proper records of a Gift Aid Declaration being made by the donor. This is a legal requirement. Detailed guidance is given here: www.hmrc.gov.uk/charities/guidance-notes/chapter3/sectionb.htm#

If a donor has not completed a paper Gift Aid Declaration then the claim may be challenged, in which case the charity would need to write to the donor giving details of their declaration and giving the donor 30 days in which to cancel their declaration, or forfeit the relevant Gift Aid. The transcribing of the donor details onto a database is not considered to be an auditable record, without an associated written or recorded declaration by the donor made at the time, or the donor's written or recorded confirmation obtained when required.

Review of implementation of the new rules: I have asked HMRC Charities Auditors to undertake a review of charities making use of this particular relief, to ensure that the legislation is being applied correctly and consistently. This review will commence shortly.

If a charity is seeking Gift Aid on admissions payments, they may wish to check that their processes and/or publicity material come within the terms of the scheme. They can get in touch with a member of the HMRC Charities Audit Team for advice, who can be contacted on 0845 3020203.

I hope this clarification is helpful, and that you are able to pass this information on to your members.

Yours sincerely

Mark Nellthorp
Head of Charities