

Tax Relief for Guernsey Registered Charities

In September 2009 the States of Guernsey agreed to change the way in which tax relief is given in respect of donations to Guernsey Registered Charities (GRC).

Previously income tax relief was only available to individuals who made payments under an irrevocable Deed of Covenant in favour of a Guernsey Registered Charity for a period in excess of 3 years; no relief was available to Guernsey resident individuals in respect of non-covenanted donations to Guernsey charities.

In summary, the new system works as follows:

As from the 1st January, 2010, if an individual (i.e. not a company) makes a donation or donations to a particular Guernsey Registered Charity, of at least £500 and not exceeding £5,000 in a calendar year, the donation is deemed to have been made to the charity net of income tax. If the individual is able to complete a declaration in the form and manner required by the Director of Income Tax, the donation is grossed up and a repayment of the income tax is made to the charity.

For example, if the individual makes a donation to a Guernsey Registered Charity of £1,000 and completes the appropriate declaration, the charity is treated as having received the sum of £1,000 net of tax which gives the equivalent gross donation of £1,250 (i.e. £1,000 X 100/80). The charity would then claim a repayment from the Director of Income Tax in the sum of £250 (i.e. £1,250 - £1,000).

It is important to note that relief is only available in respect of donations made by an individual out of income taxed in Guernsey to Guernsey charities which have registered in accordance with the Charities and Non Profit Organisations (Registration) (Guernsey) Law, 2008. To view the list of charities that have registered, please click on this link.

Donations to non GRC do not qualify for relief under the provisions of Sections 64A – 64F of the Law.

For the avoidance of doubt, the individual making such a donation cannot set off the amount of the donation against his/her income for the purpose of calculating his/her own liability to tax.

Frequently Asked Questions

What is a Guernsey Registered Charity (GRC)?

A GRC is a charity registered in accordance with The Charities & Non Profit Organisations (Registration) (Guernsey) Law, 2008 and is defined as “any organisation established for charitable purposes only”.

What is meant by a charitable donation?

A charitable donation means a donation made in favour of a charity. This must be an outright gift, made in cash/cheque/bank transfer or by debit/credit card; it must have no conditions attached and no benefit can be derived by the donor, or anyone connected with the donor, in return for the gift. Gifts must be in the form of money.

Is tax relief available if I pay less than the minimum amount to a charity in any one year?

The minimum level is currently set at £500 in respect of donations made to a particular charity in the calendar year, so no relief is available for donations under that limit. This was put in place in order to keep the administrative burden on charities and this office to a minimum; it would create significant administrative difficulties for the donor and/or the charity if they were required to retain/create documentary evidence to support a claim for relief from income tax in respect of donations made to street collections or sponsored events, for example.

It therefore follows that no relief is available if the donor paid £100 to five different GRCs in the calendar year; in order to qualify, he/she would have to pay £500 to one GRC, although the donations do not necessarily have to be made in one lump sum but can be made at different points throughout the year.

However, in the case of a married couple, the minimum limit is still £500, irrespective of the apportionment between the spouses. This means that a married couple would qualify for relief if, for example, they each paid £250 to the same GRC in a year.

Can I pay more than the maximum level during the year?

Yes, but a GRC/GRCs can only claim a repayment of £1,250 per individual (i.e. £5,000 net, grossed up to £6,250, at 20% = £1,250). Therefore, once the donor has contributed the maximum £5,000, no repayment can be claimed on any further donations made during the year. The certificate shows the amount which qualifies for repayment.

If, for example, the individual has already certified payments during the year amounting to £4,500 and then makes a further donation of £1,000 to a charity, the certificate should show the payment of £1,000 being made but that only £500 would be a qualifying donation (i.e. £5,000 less the £4,500 already certified). If any further donations are made during the year, either no certificate is completed or any that are show the qualifying payments as “nil”.

In the case of a married couple, the maximum qualifying donation is £10,000, irrespective of the apportionment between them.

What are the conditions that have to be met in order for a Guernsey Registered Charity to be able to claim a repayment?

The individual making the donation has to make a written declaration to the GRC that:

- (a) The donation is made to a Guernsey Registered Charity.

- (b) The donation is being made by an individual from his/her income in respect of which he/she has been charged to income tax and has paid tax at the individual standard rate in the year of charge in which the donation is made.
- (c) The amount of the donation, when aggregated with the amount of any other payment made by the same individual to the same Guernsey Registered Charity in the same year of charge is at least £500.
- (d) The amount of the donation, when aggregated with the amount of any other payment made by the same individual to the same or any other Guernsey Registered Charity to date in the same year of charge does not exceed £5,000 (see note below).
- (e) The donation, and any other payment referred to in paragraph (c) or (d) is not made under a deed of covenant entered into before 1st January 2010.

Note: If the donor has made donations exceeding £5,000 as a single payment, or in aggregate, during the calendar year, when completing the certificate to pass on to the charity, he/she should restrict the amount qualifying for repayment accordingly.

How does a Guernsey Registered Charity make a claim for a repayment of tax?

Claims for repayment may only be made after the end of the year of charge (calendar year) in which the donation was made. The relevant certificates may be printed from our website, completed by the donor and passed to the charity.

For example, claims in respect of 2010 should not be sent to the Income Tax Office until after 1st January, 2011.

The GRC has to complete a Repayment Claim Sheet (FORM CH2) showing the qualifying donations received, as certified by each donor on FORM CH1. The certificates (FORM CH1) should be attached to the Repayment Claim Sheet (FORM CH2) and sent to States of Guernsey Income Tax, P O Box 37, 2, Cornet Street, St Peter Port, GY1 3AZ.

If more than one Repayment Claim Sheet is needed, a Repayment Claim Summary Sheet (FORM CH3) should be used to show the total repayment claimed by the charity.

What happens if a claim for repayment is found to be wrong?

If the declaration made by a donor is found to be incorrect, incomplete or is false, deceptive or misleading in a material particular then it is void and the charity shall not be entitled to claim a repayment of income tax.

If a repayment has already been made to the charity by the Director of Income Tax it is repayable to him on a "joint and several" basis by the individual who made the declaration and/or the charity.

How is a Deed of Covenant that was set up on, or before, 31st December 2009 treated?

Where a Deed of Covenant was entered into prior to the 1st January, 2010, and the Deed remains valid and enforceable on that date, it will be allowed to run its course.

However, the Deed is deemed to have expired if at any time after 31st December, 2009:

- (a) the covenantor ceases to be under any obligation to make donations under it,
- (b) the Deed is amended in any material aspect, or
- (c) the obligations under the Deed are extended or renewed.

Put simply, payments made under the terms of a Deed of Covenant set up before 1st January, 2010 would continue to be claimable on the personal tax return of the donor provided the Deed had not expired or was not amended, extended or renewed.

For clarification, donations to a charity under a Deed of Covenant entered into prior to 1st January, 2010 cannot be an exempt charitable donation, so the charity may not claim a repayment of the tax paid in respect of any donations made by an individual under a Deed.

If a Deed of Covenant that existed at 31st December, 2009 is renewed or amended on 1st January 2010, or subsequently, it would not qualify the person making the payments for relief; any payment made on or after 1st January, 2010 would only be valid for relief to the extent that the charity could claim a repayment in respect of the tax on the donations.

The notes and information set out above are intended to be for the purposes of guidance only.

If you have a query that is not covered by the notes then you can contact the Income Tax Office, by e-mail (charities@tax.gov.gg), letter or telephone on 724711.