

***THEATRES SHOULD TAKE FINANCIAL ADVICE IN THE LIGHT OF THEIR OWN CIRCUMSTANCES
AND THAT OF THEIR DONORS.***

1. Becoming a Charity

- 1.1. It is recommended that all Theatres are run as Charities. Virtually all Grant giving bodies require Charitable status for recipients. The Charity Commission run a website at – www.charity-commission.gov.uk which holds all the information and forms you will need to complete this exercise. They provide applications forms and will provide you with a reference number so that you can easily refer to your submission.

2. For existing Charities

- 2.1. Charities can claim tax relief on income and gains, and on profits from some activities, as well as claiming tax back on income received on which tax has already been paid, for example on bank interest and Gift Aid donations.

3. Her Majesty's Revenue and Customs

- 3.1. Theatres must apply to HMRC for recognition as a charity for tax purposes before any refunds can be considered. To do this Theatres need to complete form ChA1.
- 3.2. Charity trustees and anyone involved in the day-to-day running of your organisation should also read the basic guidance on 'Fit and Proper Persons'. This guidance explains the need for charities to ensure that their managers are suitable to hold such posts and, in particular, that they haven't been involved in tax fraud or disqualified from being a charity trustee. It also includes a model declaration managers can sign.

4. Tax relief for charities

- 4.1. Gift Aid is an easy way to maximise the value of donations, as Theatres can reclaim tax from HM Revenue & Customs (HMRC) on its 'gross' equivalent - its value before tax was deducted at the basic rate. This is 20 per cent from 6 April 2008. You can work out the amount of tax you can reclaim by dividing the amount donated by four. This means that for every £1 donated, Theatres can claim an extra 25 pence.
- 4.2. In addition, HMRC will automatically pay your charity a further three pence for every pound donated on or before 5 April 2011. This 'transitional relief' - to adjust to the fall in basic rate tax (from 22 per cent to 20 per cent) - is available on Gift Aid donations made from 6 April 2008 until 5 April 2011. This means that for every £1 donated, your charity or CASC can receive 28 pence, so the total value of the donation is £1.28. To receive 'transitional relief' the Gift Aid claim must be made within two years after the end of:
- 4.2.1. for charitable trusts, the tax year to which the claim relates and
- 4.2.2. for charitable companies the accounting period to which it relates.

5. Tax relief for donors

- 5.1. If a donor is a higher rate taxpayer, they too can benefit from tax relief as they can claim back the difference between the higher rate of tax at 40 per cent or 50 per cent and the basic rate of tax at 20 per cent on the total value of the donation - a total of 20 per cent and/or 30 per cent.
- 5.2. Further details and examples of the above calculations are available on the HMRC website.

6. Donations that qualify for Gift Aid

- 6.1. Gift Aid can only be claimed on gifts of money from individuals, sole traders or partnerships, in any of the following forms:
- 6.2. Cash/Cheque/Direct Debit/Credit Card/Debit Card/Postal Order/Standing Order or Telegraphic Transfer.
- 6.3. Gifts made by cheque only count as received once the cheque has cleared.

- 6.4. Your charity or CASC can accept gifts of money made in sterling or any foreign currency.

7. Payments that don't qualify for Gift Aid

- 7.1. These include:

- 7.1.1. corporate donations
- 7.1.2. donations in the form of a loan waiver or debt conversion - for example an individual may lend money to your charity or CASC and then, at a later date, agree that it does not have to be paid back - this is not a gift of money it is the waiver of a loan
- 7.1.3. gifts made on behalf of other people for example a membership subscription paid on behalf of somebody else - this is a gift of membership from the payer to the member not a gift made to the charity or CASC
- 7.1.4. gifts that come with a condition about repayment
- 7.1.5. gifts with a condition that it buys goods or services from the donor
- 7.1.6. payments received in return for goods or services - these are not gifts - for example payment for admission to a concert, payment for a raffle ticket, an entrance fee for an adventure challenge event etc
- 7.1.7. a 'minimum donation' where there is no choice about payment - this is simply a fee for goods or services, it is not a gift
- 7.1.8. gifts made using 'charity vouchers' or 'charity cheques'.

8. Providing benefits in return for donations

- 8.1. Your charity or CASC can give donors modest (low value) tokens of appreciation - called 'benefits' - in order to acknowledge a gift but there are limits on their value.
- 8.2. The key principle to remember is that if any donor - or person connected to the donor - benefits significantly from their donation, then their donation(s) will not qualify for Gift Aid.
- 8.3. The benefit limits listed above are for Gift Aid purposes only. If you give a donor a benefit in return for a payment this may be considered a business supply for VAT purposes and VAT may be due on income.

9. Benefit Value Limits

Amount of donation	Benefit value limit
£0 -100	25% of the donation
£101 - £1,000	£25
£1,001 +	5% of the donation

- 9.1. For any gifts in excess of £1000 made after 6th April 2011 the benefit remains at 5% but the maximum benefit has increased to £2500. So for any Theatre lucky enough to have a Gift of over £50,000 the maximum benefit is set at £2500 whatever the size of the gift.
- 9.2. Should the benefit nullify the Gift Aid then it is possible to split the donation so as to maximise the Gift Aid benefit. If a theatre ran a patron's scheme where in return for a donation of say £1000 they received 20 tickets during the season at a value of £10 each then the benefit received by the donor is £200. The maximum benefit the donor can receive for a donation of £1000 is £25, so the whole donation is ineligible for Gift Aid. It will be necessary to put the ticket sales through books for £200 and then show a separate donation of £800.
- 9.3. It therefore follows that when considering increases in charges bear in mind the Gift Aid impact, some increases may be more valuable than others.

9.4. Gift Aid can be claimed back using Form No R 68(i)

10. Rescinding Charitable status

- 10.1. Should any Theatre decide to rescind their charitable status, for whatever reason, they would be advised to check the small print of any donations they have received in the past. Some donations may have been made on the basis of the Theatre remaining a charity and repayment of those donations may become an issue.
- 10.2. There may well be further changes to the Rules governing charitable giving, consultation is ongoing, updates will be issued as appropriate.

Brian Stoner
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