How charitable organisations are taxed

A Revenue-approved charity is normally exempt from the following taxes provided its income and gains are applied for its approved charitable purposes:

- Income Tax (if trading activities carried on this may require separate Revenue approval)
- Corporation Tax (if trading activities carried on this may require separate Revenue approval)
- Capital Gains Tax
- Capital Acquisitions Tax
- Deposit Interest Retention Tax (DIRT)
- Stamp Duty (for gifts of land which will be used for charitable purposes)
- Dividend Withholding Tax
- Discretionary Trust Tax

A charity is not exempt from the following taxes:

- VAT (except in some specific circumstances)
- PRSI and PAYE

The role of the Revenue Commissioners in tax relief on donations for charities

The Revenue Commissioners are responsible for deciding whether charitable organisations are eligible for tax relief on donations.

The simple way of finding out whether a charitable organisation is eligible for tax relief is to check whether it has a CHY number. This number is provided by the Revenue Commissioners to organisations which are eligible for tax relief, and the Revenue maintain a list of all CHY numbers on their website. The Revenue also maintain a list of 'eligible charities' which contains the names of charities with approval for the tax relief on donations scheme.

For individuals setting up their own philanthropic organisation, it is important to note that the tax relief on donations scheme does not apply until two years after the Revenue Commissioners have provided a CHY number and that a separate application must be made to become an 'eligible charity'. The philanthropic organisation can however, avail of other tax exemptions such as those listed above, as soon asthe CHY number is granted.

Further information on the criteria applied in granting a CHY number is detailed in the legal section of this guide.

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Tax-efficient philanthropy

2.

The Irish tax system recognises the value of charitable and philanthropic giving to Irish society. This section seeks to explain some of the tax reliefs available when engaging in philanthropy, and we would like to thank PricewaterhouseCoopers for their assistance in producing this section.

The information contained in this section is meant to serve as a guide, and to the best of our knowledge is correct at the time of going to print. We recommend that individuals seek advice from an independent tax advisor, especially as some of the tax reliefs on donations can affect other non-charity-related tax reliefs, and given that tax reliefs are likely to be amended in future finance acts.

Tax and philanthropic vehicles

The fourth part of the 'framework for philanthropic giving' explained the options of:

- donating directly to charity;
- donating through an existing philanthropic organisation;
- setting up your own philanthropic organisation.

The advice in this section applies equally to all three philanthropic vehicles, assuming that the Revenue Commissioners have approved them as an eligible charity (explained at the end of this section).

Donating an asset

When you sell an asset, you are normally liable for Capital Gains Tax (CGT), which is applied on the profit that you have made on the asset. If you donate this asset to charity or to your philanthropic organisation, you are treated as if you did not make a profit or loss on the transfer of the asset.

As long as the proceeds are used for charitable purposes, the recipient charity will not have to pay either CGT when it sells the asset, or any form of Capital Acquisition Tax (ie, Gift or Inheritance Tax) on the original gift of the asset.

> Example: *Anna bought 20 acres of investment land in 1991 for €25,000. The land is now worth €300,000. She donates it to her charitable foundation which has gained chari table tax exemption. Anna is not liable for CGT in this instance, and the charity will not be liable for Gift or Inheritance Tax. If the foundation subsequently sells the asset and uses the proceeds for charitable purposes, no CGT will be payable.*

Leaving money or assets in your will

As mentioned above, charities are not liable for Gift/Inheritance Tax provided the gift or inheritance is used for charitable purposes. If you leave money or assets to a charity in your will, the charity will not have to pay inheritance tax.

> Example: *Brendan leaves €1 million to a previously established donor-advised fund in his will. The organisation administering the donor-advised fund will not have to pay inheritance tax on Brendan's bequest, as long as it has charitable tax exemption status and uses the funds for its charitable activities.*

Income tax relief on donations

Donations of money to a charitable organisation can attract income tax relief, as long as the cumulative donation per charity is at least €250 in a tax year.

If you are a PAYE taxpayer, the charity claims the income tax relief. If you are self-assessed for tax, you claim the tax relief yourself.

There are two restrictions to the income tax relief scheme:

1. If you are a member of a charity or closely associated with it (eg, board member, employee), income tax relief in any year will only be available in respect of donations totalling a maximum of 10% of your income for that year.

2. Donations to charities are 'specified reliefs' and may, in certain circumstances, be subject to the restriction which applies to such reliefs. For example, if you earn over €500,000 a year, you can only reduce your total taxable income by a maximum of 50%. This restriction applies not only to charitable donations, but to other reliefs as well (eg, property-based reliefs): the total reliefs under all the schemes cannot exceed 50% of your income. You can carry over any excess in reliefs to the following year. This restriction applies only to donations made by individuals who are self-assessed for tax purposes. If you fall into this category you should take specific tax advice to cover your particular circumstances.

> Example: *Catherine is a higher-rate taxpayer. She donates €30,000 to a donor-advised fund. Assuming that she is paying the higher 41% rate of tax on more than €30,000 of her income, the donation is worth €50,487 (€30,000 x (100/59)) to the donor-advised fund. The donor-advised fund can claim €20,487 (€50,487 - €30,000) from the Revenue Commissioners*

> Example: *Deirdre is self-assessed for tax. She donates €10,000 directly to a charity. Deirdre can then reduce her taxable income by €10,000 when she completes her tax return. Assuming that Deirdre pays the 41% higher rate of tax on more than €10,000 of her income, this represents a tax saving of €4,100 (€10,000 x 41%), and reduces the total cost of the €10,000 donation to €5,900.*

Donating shares

The donation of shares in a quoted PLC is a special case, as donors can choose to either avail of CGT relief, as with any other asset, or instead to avail of income tax relief. If you avail of income tax relief, the value of the donated shares when they are sold is treated as a cash gift, as detailed above. Note that you cannot avail of both CGT and income tax relief on a donation of shares, you must choose between the reliefs.

> Example: *Eoin buys shares in a quoted PLC for €10,000 in 2003. They are now worth €30,000, and he donates them to his family charitable trust. He is self-assessed for tax. Eoin chooses to avail of income tax relief on his donation. He receives a letter from his stockbroker indicating the market value of the shares on the day he transferred them (€30,000), and can then reduce his taxable income by €30,000 - which, at a higher rate of income tax, represents a saving of €12,600 (€30,000 x 41%). He is liable for CGT on the increase in value of the shares at 20%: a value of €4,000 (€20,000 x 20%). The total saving for Eoin is therefore €8,600 (€12,600 - €4,000).*

Donating through your company

If a company donates to an approved charity, the donation can be treated as a trading expense (subject to a minimum donation per charity of €250 as above), and so will be deductible for corporation tax.

> Example: *Freda owns and operates her own business through a company. The company donates €1 million to a separate charitable foundation. The company can then write this donation off as a legitimate trading expense. This will mean a corporation tax saving of €125,000 (at a tax rate of 12?%).*

Special forms of tax relief

The tax code contains provisions for other types of donations, details of which can be obtained from the Revenue Commissioners. The list includes:

- donation of 'heritage items' to national collections;
- funding of scientific research.