

# **Gifts of shares, securities and land to charity**

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## **Gifts of shares, securities and land to charity**

Income tax relief is available in respect of gifts and sales at an undervalue of certain qualifying investments to UK charities.

The following are qualifying investments:

- listed shares and securities (including AIM listed shares)
- units in an authorised unit trust
- shares in an OEIC
- interests in offshore funds
- interests in UK land.

## **Relief**

Relief is given on the market value of the investment that is given away. Where the investment is sold to a charity at less than its market value, relief is given on the gift element, i.e. on the difference between the market value and the sale price. The relief also takes into account the incidental costs incurred by the donor in making the gift and in respect of certain (but not all) sales.

The relief is given by deducting the amount of the gift from the donor's total income before deducting personal allowances and reliefs etc. So a donor should consider limiting the donation to the donor's total taxable income or (to maximise the tax advantage) total taxable income subject to higher rate tax.

Taxpayers who own qualifying investments should also consider whether it may be more tax efficient to give them to their spouse before they are given to charity.

## **Capital gains tax**

The relief can only be set against a donor's income and not against chargeable gains, but any gain arising on the gift or sale of the investment to the charity is exempt from capital gains tax.

Gifts and sales at an undervalue are also exempt from inheritance tax and both gifts and sales of land to a charity are generally exempt from stamp duty land tax (depending on the use the charity makes of the property).

## **Gifts of land**

Gifts of freehold or leasehold land qualify for income tax relief, but relief can only be claimed if the donor receives a certificate from the charity identifying the land, specifying the date of the gift and containing a statement that the charity has acquired it.

Joint owners of land must all agree to give it to a charity if the relief is to apply; they cannot simply give away their shares in it. But they can agree between them how to share the relief, irrespective of the shares in which they actually own the land.

## **Optimum relief**

Donors will need to consider carefully whether it is better to sell investments and give away the cash proceeds or to give away the assets themselves:

- gifts of cash qualify for gift aid, with 22% of the tax saving passing to the charity and up to 18% to the donor (although from April 2008 the basic rate of tax changed to 20%, charities can continue to claim the additional 2% until 5 April 2011)
- a sale of investments to generate cash for a gift aid donation may give rise to capital gains (or losses)
- for some donors, optimum relief can be achieved by selling investments to charity at a value which does not give rise to a gain or a loss.

## **Record keeping**

Donors should ensure that they retain written records of the gifts they make, including share or property transfer documents, the certificate a charity must produce in relation to donated property and any gift aid declarations.

In certain circumstances it may make sense for a donor to give away assets to a charity without transferring legal title to them so that the donor can sell the assets on behalf of the charity without incurring the cost of transferring title. This can be done in a tax efficient way provided arrangements are carefully documented and clear written records retained.

## **Substantial donor rules**

There are anti-avoidance measures which are designed to catch certain types of transactions between charities and donors who make tax-relieved donations with a value of more than £25,000 in one year (or £150,000 over the space of six years). Although it is the charity which will lose its tax exemption on funds that fall foul of these rules, taxpayers should be aware that certain transactions with charities to which they have donated significant sums or valuable assets in the past may pose problems for that charity in the future.

## **Further advice**

This note provides general guidance only. You should not rely or act upon it without taking advice on your specific circumstances.

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