

## Gifts of land to charity

### Income Tax Relief

Income Tax relief is available where an individual disposes of the whole of his beneficial interest in land to a charity either by way of an outright gift or by a sale at an intentional undervalue.

Relief, which has to be claimed either in a self-assessment Tax Return if one is completed or otherwise by contacting HMRC, is given by deducting the 'relievable amount' from the individual's income for the tax year in which the disposal is made.

The 'relievable amount' is the value of the land at the time of the disposal or immediately afterwards, whichever produces the lowest value, plus the incidental costs of making the gift, for example professional fees incurred in obtaining a valuation and in conveying the land to the charity, less the value of any benefits received by the donor or a person connected with him as a consequence of the disposal.

In order to obtain tax relief an individual needs to obtain from the charity a certificate describing the land, specifying the date of disposal and confirming that it has acquired the interest in the land.

If a donor owns property jointly, or in common, with one or more other people, relief will only be due if all of the joint owners dispose of the whole of their interest in the property to the charity at the same time. The relief allowed to each of them should be agreed upon by all of the owners. If no agreement is reached then no relief will be given.

### Capital Gains Tax Relief

Capital Gains Tax is normally payable when land is given away but on an outright gift to a charity, an individual is treated as making no gain or loss for Capital Gains Tax purposes.

Tax relief may be withdrawn if, within five years of the end of the tax year in which the gift was made, the individual or his family becomes entitled to any interest or right in relation to all or part of the land or property again.

### Examples

***1. An individual gives a piece of land to a charity with no planning permission, but with the planners having indicated that it is likely to be granted. The planning permission is then obtained by the charity. The donor is likely to realise a capital gain on the gift even without any planning permission.***

In this case, the gift will give rise to no gain or loss for Capital Gains Tax purposes. Income Tax relief will be available on the open market value of the land as at the date of the gift.

***2. An individual gives land on which he has himself got planning permission to a charity. He has incurred costs in obtaining the planning permission.***

For Capital Gains Tax purposes the gift is treated as giving rise to no gain or loss. Income Tax relief will be available on the open market value of the land as at the date of the gift. The amount of Income Tax relief will presumably be higher than in the first example as the value of the land with planning permission will generally be higher than without it.

Note that HMRC recognise that some donors may wish to give investments or land to a charity, but are asked by the charity to sell them on the charity's behalf, with the proceeds going to the charity. In order for the gift of the sale proceeds to be eligible for the same relief as a direct gift of land to a charity, there must be clear evidence that the donor had given the land to the charity irrevocably before selling it and that the sale was made at the request of and on behalf of the charity, with the donor simply acting as agent for the charity.

***3. An individual obtains planning permission on a piece of land, sells it and gives the proceeds to a charity.***

Such a disposal would normally be treated as a straightforward sale giving rise to a Capital Gain (or loss).

For income Tax purposes, the gift of the sale proceeds to charity may be made under the Gift Aid provisions enabling the value of the gift to be "grossed up" with the charity able to claim the basic rate tax credit.

For an individual, whether it is better to gift the cash proceeds or the land itself depends on your circumstances and whether you wish the charity or yourself to gain the greater benefit from the tax relief. A charity can claim Gift Aid on a qualifying gift of money but cannot make any claims in respect of the gift of an asset.

Generally, giving the land to charity will be simpler, both in terms of the paperwork on the disposal and in completing your tax return, than selling the land yourself and giving the cash to the charity.

NB. For companies, relief for cash gifts is given in the same way as relief for gifts of qualifying investments and in most cases the relief will be the same whichever method of donating is chosen.

Before taking any action it is advisable to seek appropriate professional advice. Please contact Danny Clifford (on 01473 220022 or email [danny.clifford@ensors.co.uk](mailto:danny.clifford@ensors.co.uk)) if you would like Ensors to advise you on this matter.

[www.ensors.co.uk](http://www.ensors.co.uk)

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