

Gift Aid and refunds of advance entry fees

The COVID-19 pandemic has prompted charities to consider refunding donations that allow entry to visitor attractions. Gift Aid rules mean that this needs to be handled carefully.

Bill Lewis and Susan Shi explain the finer points of entry refunds.



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I advise on all aspects of taxation affecting charities (VAT, PAYE, corporation tax) using my experience from a 34-year career that has included HMRC, big 4 accountants and industry. For the last 21 years I have specialised in charities.



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I am a solicitor in Bates Wells' Charity and Social Enterprise team. I completed my training contract and qualified into a tax department in another city firm in September 2016, before moving to Bates Wells in February 2018. I work on a mix of charity and charity tax matters.

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Fees charged for viewing charity property (such as a day entry fee of £10), are not gifts and do not qualify for Gift Aid. However an entry fee can be converted into a donation by either of the following routes:

- the visitor is asked to pay at least an extra 10% above the normal admission fee (so £10 + £1). The visitor must be given clear information and a clear choice whether or not to make the additional donation; or
- the visitor is paying for an annual ticket, which allows admission for at least 12 months.

In both instances the full amount paid by the visitor can become a donation eligible for Gift Aid. The charity will need a Gift Aid declaration from the visitor. The right to view charity property is ignored as a benefit for Gift Aid purposes. These options create pricing structures that are separate from the standard entry fee.

If your charity has received advance payment of the entry fee for viewing a property, which is no longer possible due to the COVID-19 outbreak, you may be considering making refunds of the entry fees collected. This is possible for any entry fees that were not converted into donations. However, if any of the fees were converted into Gift Aid donations, then it will not be possible to refund the payments. Gift Aid donations must not be paid under any condition of repayment.

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HMRC takes this point very seriously. If refunds are made this could provide HMRC with an opportunity to pounce and seek to deny Gift Aid on all donations made – they could take the view that all donations must have been made under a condition of repayment.

A charity might be able to fend off HMRC if it can prove there were no terms and conditions that explained refunds would be made in adverse or any other circumstances.

As an alternative to a full refund, you might want to consider other options, such as keeping the payment and allowing visitors to come back in future, at a date of their choice. This will help the charity's cash flow and many visitors may be keen to support charities at this exceptionally difficult time. This can be sweetened by providing the visitors concerned with another benefit that does not affect Gift Aid, such as a book/literature concerning the charity's work.

FIND OUT MORE

If you would like any advice on tax, including Gift Aid, or VAT, then please get in touch with Bill Lewis at b.lewis@bateswells.co.uk.

