



TAXREP 27/13

(ICAEW REP 60/13)

ICAEW TAX REPRESENTATION

PAYROLL GIVING

Comments submitted on 19 April 2013 by ICAEW Tax Faculty in response to the HM Treasury consultation *Payroll Giving* published on 24 January 2013

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INTRODUCTION

1. ICAEW welcomes the opportunity to comment on the consultation document *Payroll Giving* published by HM Treasury on 24 January 2013 at http://www.hm-treasury.gov.uk/consult_payroll_giving.htm.
2. Information about the Tax Faculty and ICAEW is given below. We have also set out, in Appendix 1, the Tax Faculty's Ten Tenets for a Better Tax System by which we benchmark proposals to change the tax system.

WHO WE ARE

3. ICAEW is a professional membership organisation, supporting over 140,000 chartered accountants around the world. Through our technical knowledge, skills and expertise, we provide insight and leadership to the global accountancy and finance profession.
4. Our members provide financial knowledge and guidance based on the highest professional, technical and ethical standards. We develop and support individuals, organisations and communities to help them achieve long-term, sustainable economic value.
5. The Tax Faculty is the voice of tax within ICAEW and is a leading authority on taxation. Internationally recognised as a source of expertise, the faculty is responsible for submissions to tax authorities on behalf of ICAEW as a whole. It also provides a range of tax services, including TAXline, a monthly journal sent to more than 8,000 members, a weekly newswire and a referral scheme.

MAJOR POINTS

6. Although reviewing the payroll giving regime might appear timely given the current squeezes on incomes of charities and of individuals who might be giving or who could give to charity whether via payroll or directly, we are not aware of widespread problems with payroll giving. Employers either do or do not want to offer payroll giving to their employees. It is a question of mindset, and we think that changing the payroll giving regime will in most cases not affect employers' decisions about whether to make the facility available.
7. Having said that, we welcome the approach of the consultation, in that it is encouraging blue-sky thought rather than putting forward developed ideas.
8. We do not support the idea that employees should automatically transfer their GAYE donation from one employer to the next, as this would create administration and security issues.

RESPONSES TO CONSULTATION QUESTIONS

Q1: Do you agree that there is scope to improve Payroll Giving to increase the number of:

- employers offering a Payroll Giving scheme
- donors using Payroll Giving

to lead to additional giving overall, without affecting other forms of giving, such as donations made under Gift Aid?

What would you recommend to increase these numbers?

9. As a starting point we believe that employers either do or do not want to offer payroll giving to their employees. It is a question of mindset, and we think that changing the payroll giving

regime will in most cases not affect employers' decisions about whether to make the facility available

10. If take up of payroll giving could be increased then this would increase the amount being given to charity. However, at present, low pay increases compared to cost of living inflation means that most employees have less spare cash than in the past and if they are still giving to charity are less likely to want to commit to a set figure every month.
11. For most employers it is more attractive to have a few headline corporate donations rather than a raft of smaller ones designated by employees. Also, employers need to ensure any gift aid claimed is not tainted by any relationship with the recipient. With a small number of corporate donations this can be managed relatively easily but a large number does add to the administration.
12. We suggest that direct links between employers and charities be encouraged. We acknowledge that there is a risk of adverse pressure being applied (intentionally or otherwise) so clear regulatory rules and procedures would be needed, but tangible links between employers and charities are likely to make giving to charity, in cash and in kind, more attractive to both employers and employees.

Q2: Do you agree that non-charitable organisations should be allowed to enter the Payroll Giving Agency market to improve the supply side of the sector?

If non-charities are allowed to enter, how do we ensure a level playing field between participants?

13. We do not agree with the apparent assumption in the condoc that removing the requirement for a payroll giving agency to be a charity would be the panacea to cure all evils. The main concerns of employers and employees are charges deducted from donations and the length of time it takes for the cash to be passed to the charity. What is needed is effective control and oversight of any organisation which is a payroll giving agency, with all payroll giving agencies subject to a rigorous and effective quality control regime regardless of whether or not they are charities.

Q3: Do you agree that the maximum time between the PGA receiving the money or the notification from the employer / pension scheme administrator and the PGA paying the money to the charity should be reduced from 60 to 30 days?

Is 30 days the right target to aim for and do you see any disadvantages in reducing the time limit?

14. We agree that the time between deduction from pay and receipt of donations by the charity should be as short as possible and that reducing the aforementioned time limit to 30 days would be a practical way of speeding up the process.

Q4: Do you believe that Payroll Giving forms for donors and employers should be standardised?

Within 30 days of a PGA receiving notice that an employee has left a company, or when a PGA hasn't received a donation from a regular donor, should the PGA write out to the donor with:

- a standardised new enrolment form for Payroll Giving for them to complete and pass to their new employer?
- a direct debit / Gift Aid form made out to their existing charity?

In the absence of any notification of leaving, how long should a PGA wait before writing out to the donor? Would a period of three months be appropriate?

Should the PGA also contact the charity informing them of the employee and their pending, or assumed, departure, allowing the charity to contact them directly (where donor has given consent for their details being passed)?

What else can charities, PGAs and other stakeholders do to ensure that when a donor moves job they maintain their charitable giving relationship?

15. All the proposals are worth further consideration, but we should mention that adding more duties to employers and payroll giving agencies when employees move jobs will impose additional costs on those who are expected to implement them and may discourage employers from participating.
16. We do not support the idea that employees should automatically transfer their GAYE donation from one employer to the next, as this would create administration and security issues.

Q5: Whilst respecting confidentiality, how can we require agencies to be more open and transparent in relation to their data on participation of employers, donations, fees and length of processing times?

What other information would be most useful to employers, charities and donors in relation to Payroll Giving Agencies?

How can this information be made most accessible to interested parties?

17. We assume that employers obtain details of charges and processing times from the payroll giving agency that they are considering using. However, employers may need protection from future excessive increases in charges once their schemes are up and running. Perhaps the relevant regulator of payroll giving agencies/Charity Commission could keep a league table for public access.

Q6: What activities of PGAs would be suitable for self-regulation and what activities, if any, should be subject to statutory regulation?

Do you have any views on the assessment of impacts made at Annex A? How do you think reforms to the regulations around Payroll Giving will affect the take-up?

18. We believe that regulating payroll giving agencies should be considered in the wider context of regulation of the charitable sector generally rather than just focused piecemeal on payroll giving.
19. To improve take up it is necessary to make it easy for employers to administer and easy for employees to give. Employees and employers need to perceive that donations are not reduced by excessive fees. However, as noted above, for many employees recent small or no pay rises and an increasing cost of living preclude new or increasing or even continuing existing charitable donations.

Q7: Do you agree that HMRC specifically and HMG in general should re-phrase its advice on Payroll Giving to emphasise the increased gift to charities rather than the decreased cost to the donor?

20. We think both should be emphasised in HMRC's/HMG's advice.

Do you agree that HMG should encourage PGAs, PFOs and charities to present this scheme in the same manner to ensure a consistent message?

21. We believe a consistent message is helpful.

Do you have any suggestions about what more Government can do to promote Payroll Giving?

22. We have no comments over and above what we have said in our replies to other questions.

Q8: How else can we increase amounts of charitable involvement in the workplace outside of Payroll Giving?

Mindful that other approaches could distract from Payroll Giving, how do we ensure that overall charitable giving increases?

23. If it is decided to use tax to influence behaviour, then we think consideration should be given to making tax relief for charitable donations capable of being carried forward by the individual where relief cannot be obtained in the year, and to incentivise employers to promote payroll giving, treat donations that they make when augmenting employees' donations as trading deductions/management expenses.

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APPENDIX 1

ICAEW TAX FACULTY'S TEN TENETS FOR A BETTER TAX SYSTEM

The tax system should be:

1. Statutory: tax legislation should be enacted by statute and subject to proper democratic scrutiny by Parliament.
2. Certain: in virtually all circumstances the application of the tax rules should be certain. It should not normally be necessary for anyone to resort to the courts in order to resolve how the rules operate in relation to his or her tax affairs.
3. Simple: the tax rules should aim to be simple, understandable and clear in their objectives.
4. Easy to collect and to calculate: a person's tax liability should be easy to calculate and straightforward and cheap to collect.
5. Properly targeted: when anti-avoidance legislation is passed, due regard should be had to maintaining the simplicity and certainty of the tax system by targeting it to close specific loopholes.
6. Constant: Changes to the underlying rules should be kept to a minimum. There should be a justifiable economic and/or social basis for any change to the tax rules and this justification should be made public and the underlying policy made clear.
7. Subject to proper consultation: other than in exceptional circumstances, the Government should allow adequate time for both the drafting of tax legislation and full consultation on it.
8. Regularly reviewed: the tax rules should be subject to a regular public review to determine their continuing relevance and whether their original justification has been realised. If a tax rule is no longer relevant, then it should be repealed.
9. Fair and reasonable: the revenue authorities have a duty to exercise their powers reasonably. There should be a right of appeal to an independent tribunal against all their decisions.
10. Competitive: tax rules and rates should be framed so as to encourage investment, capital and trade in and with the UK.

These are explained in more detail in our discussion document published in October 1999 as TAXGUIDE 4/99 (see icaew.com/en/technical/tax/tax-faculty/-/media/Files/Technical/Tax/Tax%20news/TaxGuides/TAXGUIDE-4-99-Towards-a-Better-tax-system.ashx)