These notes refer to the Corporation Tax Act 2010 (c.4) which received Royal Assent on 3 March 2010

CORPORATION TAX ACT 2010

EXPLANATORY NOTES

INTRODUCTION

Part 11: Charitable companies etc

Chapter 2: Gifts and other payments

Overview

1439. This Chapter provides the rules on grossing up and exemptions for gifts and other payments paid by individuals and companies to charities and other bodies within this Part.

Section 471: Gifts qualifying for gift aid relief: income tax treated as paid

1440. This section deals with the income tax treated as paid when a charitable company receives gift aid donations from individuals. It is based on section 25(10) and (12) of FA 1990. The corresponding rule for income tax is in sections 520 of ITA.

1441. The company is treated as receiving a grossed up amount, and the tax treated as deducted from the gift is treated as paid by the charitable company.

Section 472: Gifts qualifying for gift aid relief: corporation tax liability and exemption

1442. This section sets out the charge to tax and exemption that can arise on gift aid payments received by a charitable company. It is based on section 505(1) of ICTA, section 25(10) and (12) of FA 1990 and section 83(4) of FA 2004. The corresponding rule for income tax is in section 521 of ITA save that this section incorporates the requirement to make a claim.

1443. The section imposes a freestanding charge to corporation tax on gift aid payments, unlike the source legislation which operates by treating the gifts as annual payments. The charge is on the grossed up amount. The section also sets out the exemption which normally applies if the charitable company uses the gifts for charitable purposes.

1444. *Subsection (4)* provides that a claim is necessary for an exemption.

1445. Claims are made either as required during the accounting period, for example to secure repayments of income tax treated as paid in relation to gift aid payments, or in a corporation tax self-assessment return. The need to make a claim ensures that there is a mechanism for appeals in the event of any dispute about the availability or amount of any exemption.

1446. The corporation tax self-assessment procedure means that a charitable company only need complete a tax return, and make the associated claims, if the charitable company is chargeable to tax or is required to do so by HMRC.

1447. The reference in section 505(1) of ICTA to claims being to the Board of Inland Revenue has been changed. Claims are simply to an officer of Revenue and Customs. See *Change 5* in Annex 1.

1448. *Subsection (5)* provides that if an individual makes a direction in a self-assessment return for a tax repayment to be paid as a gift to a charitable company, the company is treated as having made a claim.

Section 473: Gifts of money from companies: corporation tax liability and exemption

1449. This section sets out the charge to tax that can arise on gifts received by a charitable company from other companies which are not charities. It is based on section 339(4) and 505(1) of ICTA. The corresponding rule for income tax is in section 522 of ITAsave that the requirement to make a claim has been incorporated into the section.

1450. As with section 472, this section imposes a freestanding charge to corporation tax on gifts.

Section 474: Payments from other charities: corporation tax liability and exemption

1451. This section prevents avoidance by charities of the restrictions on exemptions by routing non-charitable expenditure through other charities. It is based on section 505(1) and (2) of ICTA. The corresponding rule for income tax is in section 523 of ITA save that the requirement to make a claim has been incorporated into the section.

1452. The section operates by imposing a charge to tax on certain payments made by a charity to a charitable company. It also sets out the exemption which normally applies if the charitable company uses the payments for charitable purposes.

1453. Earlier drafts of *subsection (1)* added to the conditions (now paragraphs (a) to (c)) a further condition (paragraph (d)) that payment should not arise from a source outside the United Kingdom. This requirement has now been removed. It was unnecessary and subsection (1) now rewrites the law accurately as it stands. CTA 2009 replaced the reference to Schedule D Case III in section 505(2) of ICTA with a reference to the charge to corporation tax on income. The amendment made it clearer that the charge under section 505(2) is not limited to payments from a source in the United Kingdom.

1454. *Subsection (4)* makes it clear that section 494 of ITA, which deals with the grossing up of discretionary payments from trusts, takes precedence over this section where applicable.

Section 475: Gifts qualifying for gift aid relief: income tax treated as paid and exemption

1455. This section gives the treatment that applies when an eligible body receives gift aid donations from individuals. It is based on section 25(10) and (12) of FA 1990 and sections 505(1) and 507(1) of ICTA. The corresponding rule for income tax is in section 520 of ITA save that the exemption and the requirement to make a claim has been incorporated into the section.

1456. The company is treated as receiving a grossed up amount, and the tax treated as deducted from the gift is treated as paid by the charitable company.

1457. Subsection (7) treats eligible bodies as having made a claim for exemption in respect of gifts made under section 429(2) of ITA which are treated as qualifying donations under that Act. See *Change 31* in Annex 1.

Section 476: Gifts of money from companies: exemption

1458. This section gives the exemption that applies where an eligible body receives a gift of money from a company. It is based on sections 339(4), 505(1) and 507(1) of ICTA.

Section 477: Gifts of money from companies: exemption

1459. This section gives the exemption that applies where a scientific research association receives a gift of money from a company. It is based on sections 339(4), 505(1) and 508(1) of ICTA.