



# GUIDELINES ON THE TAX TREATMENT OF APPEAL FUNDS

*ISSUED BY*

Inland Revenue

Customs & Excise

May 2001

# GUIDELINES ON THE TAX TREATMENT OF APPEAL FUNDS

## Introduction

1. When an accident, disaster or other misfortune happens, people often want to offer practical assistance. They may contribute or raise money to help those affected, perhaps the injured or bereaved. These notes are to help people organising such appeals.
2. Where a number of people are likely to benefit, the appeal funds will normally need to be held in a trust. Donations of money to the appeal will be completely free of income tax and capital gains tax. However, investment income, some other sorts of income, and payments made out of the trust, may in certain circumstances be subject to tax. There are also occasions when inheritance tax and VAT may be due.
3. These notes:
  - highlight the sort of tax issues which can arise in relation to appeal funds;
  - suggest ways in which they might be handled;
  - explain how further help and information about tax can be obtained.
4. The notes are divided into two sections that provide further detail about the tax position:
  - [Section A](#) explains the income tax, capital gains tax and inheritance tax implications;
  - [Section B](#) gives some information about VAT, including the treatment of fund-raising events.
5. They also:
  - supplement the guidelines issued for England & Wales by the Attorney-General ([Annex 1](#)) and the similar guidelines issued for Scotland by the Lord Advocate ([Annex 2](#)). The guidance in those Annexes does **not** apply to Northern Ireland;
  - provide details of [how to comment](#) about the way the tax affairs of an appeal fund have been dealt with by the Inland Revenue and Customs and Excise. This includes contact details for the [Adjudicator's Office](#) and the [Parliamentary Commissioner for Administration](#).

6. This guide is also available on the Internet on the Inland Revenue's website at:

[www.inlandrevenue.gov.uk/afg/index.htm](http://www.inlandrevenue.gov.uk/afg/index.htm)

## General

7. Anyone arranging appeal funds should always seek legal and accountancy advice right at the outset. This should be as soon as possible, and **before** launching any formal appeal.
8. It is also a good idea to tell the Inland Revenue and Customs and Excise about the appeal at once, to avoid any unexpected problems later on. Both departments will be happy to help.
9. Initial requests for further information on income tax, capital gains tax, inheritance tax and VAT matters should be made through the special [Inland Revenue Appeal Funds helpdesk](#) who will either deal with your request or put you in contact with another specialist who can help.

## Main points

10. The main points you should bear in mind when setting up an appeal fund are:
- The usual way to organise an appeal is by setting up a **trust fund**.
  - A trust fund can be set up either as:
    - a charitable trust; or
    - a non-charitable discretionary trust.
  - As an alternative the appeal may state that all the donations will go to an existing charity or charities. If the terms of the appeal specify at the outset:
    - which charity or charities the donations will go to; and
    - how the donations will be divided between the charities.

any income generated by the donations before they are passed to the charity or charities will be treated for tax purposes as income of the charity.
  - It is important to decide which of these alternatives to use, and to think carefully about how the funds will be applied **before** making any appeal to the public.

- If the appeal states for example that the funds will be distributed among particular groups affected by a disaster, this in itself may create a trust. You may not be able to change the terms of the trust later.
- If the appeal states that a charitable trust is to be set up the funds must be applied for charitable purposes. These purposes are set out at [paragraph 19](#) below. The trustees will need to apply for charitable status for the trust.
- A charitable trust has tax advantages, but charity law means that there can be limits on what is done with the money.
- In England and Wales, you should consult the Charity Commission before setting up a charitable trust at the [Charity Commission address](#) shown at the end of this guide. It will probably have to be registered with them as a charity. A trust registered with the Charity Commission is accepted as a charity for tax purposes. The trust should not claim to be a charity until it has been recognised as a charity by the Charity Commission.
- In Scotland, you should consult the Inland Revenue before setting up a charitable trust. Enquiries for Scottish charitable trusts should be made to [Inland Revenue Charities Edinburgh](#) at the address shown at the end of this guide. The trust should not claim to be a charity until it has been recognised as a charity for tax purposes by the Inland Revenue.
- In Northern Ireland, you should consult the Inland Revenue before setting up a charitable trust. Enquiries for Northern Ireland charitable trusts should be made to the Charity Title section in [Inland Revenue Charities Bootle](#) at the address shown at the end of this guide. You can obtain further guidance from the [Department for Social Development, Charities Branch](#), in Northern Ireland, and also from the [Northern Ireland Council for Voluntary Action](#). The Northern Ireland Council for Voluntary Action's Charities Advice Service provides guidance on how to set up an organisation, choose an appropriate legal structure and obtain charitable status. Information is also available on charity and fundraising law. The trust should not claim to be a charity for tax purposes until it has been recognised as such by the Inland Revenue.
- A non-charitable discretionary trust has no particular tax benefits, but it gives the trustees greater freedom on how to use the money.

- An appeal which uses two trusts - one charitable, the other non-charitable - can combine the tax advantages of the first with the flexibility of the second.
- Fund-raising events can give rise to VAT or other tax liability consequences. So you should take professional advice as quickly as possible, to ensure that the right arrangements are in place to prevent any unnecessary tax liabilities.

### **Charitable trust or non-charitable trust?**

11. Appeal funds are often either charitable trusts or non-charitable discretionary trusts. A trust legally obliges trustees to deal with property or income in a particular way. This is for the benefit of a class of persons, known as beneficiaries.
  - There are special rules about how charitable trusts are run. The trust's purposes must all be charitable in law. [Paragraph 19](#) has further details. Charitable trusts are normally exempt from tax.
  - In contrast, the trustees of a discretionary trust generally have "discretion" to use the trust income as they see fit. Usually it has to be for the benefit of particular beneficiaries or a class of beneficiaries. Trustees can decide how much they pay, and how they make the payment.
12. It is important to make an early decision on what kind of fund to establish. It will determine:
  - the uses to which the appeal funds can be put, and
  - the fund's tax position.

### **Summary of the tax position for donations of money**

13. The following gives a brief overview of the trustees', donors' and beneficiaries' tax positions:

#### **14. *Income tax, capital gains tax, and inheritance tax***

##### *Donors*

- Donations of money into the fund are completely free of income tax and capital gains tax. Inheritance tax would only be payable if the donor's nil rate band (£242,000 for 2001-02) has already been used and the gift is not to a charitable trust.

### *Trustees*

- Trustees do not pay any tax on donations of money;
- This applies to both charitable and non-charitable types of trust.

## 15. **VAT**

### *Donors*

- Donations and other voluntary contributions from the public are normally outside the scope of VAT. This is conditional on the donor receiving no direct benefit in return other than a basic acknowledgement such as a letter of thanks, a lapel badge or an item which would also be provided without charge to a non-donor.

### *Trustees*

- The trustees are responsible for paying any VAT due on other items.

## 16. **Tax credits**

### *Beneficiaries*

- In some circumstances, a person's entitlement to **Working Families' Tax Credit** and / or **Disabled Person's Tax Credit** may be affected by receipt of an award from an appeal fund;
- Similarly, for **Children's Tax Credit**, income payments from an appeal fund applied for the benefit of a child or children might affect the entitlement of the parent making a claim;
- Further help on claims for [Working Families Tax Credit](#), [Disabled Person's Tax Credit](#) and [Children's Tax Credit](#) is available from the helplines shown at the end of this guide.

## SECTION A

### INCOME TAX, CAPITAL GAINS TAX AND INHERITANCE TAX

#### Charitable trusts

17. Charitable trusts have some **tax advantages**:

- **Investment income** arising to the trustees (for example interest from the investment of the funds) is exempt from income tax if this income is used for charitable purposes.
- **Grants to beneficiaries** are not normally treated as the income of the beneficiary for tax purposes. But they may be treated as income if a beneficiary is given a regular income on a continuing basis.
- **Companies** can obtain a tax deduction for **donations** made to the trust.
- Individuals and unincorporated businesses can claim relief on the difference between basic and higher rates of income tax for gifts made to the trust under the Gift Aid scheme.
- The trust can reclaim tax on donations received under the Gift Aid scheme.
- Any **capital gains** made by the trustees are exempt from capital gains tax if the money is used for charitable purposes.
- The donor will not have any capital gains tax charge on donations of assets. Donors can also get income tax relief for the value of gifts of qualifying shares and securities.
- **Gifts and bequests** to the trust are exempt from inheritance tax.
- There is no inheritance tax charge on the trust fund held for the purposes of the charity or on the application of the fund for charitable purposes.
- Other charities will be able to make donations to the trust.

18. Help and advice is available from a number of sources about charitable trusts:

- In England and Wales, the [Charity Commission](#) are able to advise and to assist trustees in England and Wales about many aspects of the

performance of their charitable trusts, and the Commission's advice is given free. They are always willing to discuss particular matters with trustees urgently and on an informal basis, which is often helpful immediately after a serious disaster.

- In Scotland, [Inland Revenue Charities Edinburgh](#) will discuss matters with trustees on an urgent and informal basis in the aftermath of a serious disaster.
  - In Northern Ireland, the [Department for Social Development, Charities Branch](#) and the [Northern Ireland Council for Voluntary Action](#) will similarly provide help to trustees where they can.
19. Charitable trusts also have some **limitations** worth bearing in mind. The charitable status limits the discretion of the trustees to purposes that are charitable in law:
- the relief of poverty,
  - the advancement of education,
  - the advancement of religion,
  - other purposes beneficial to the community, which do not come under any of the three previous purposes.
20. So charitable funds may not be used to help victims and their families if their needs do not fall within these four purposes. Trustees may find these constraints difficult to resolve.
21. The tax advantages of using a charitable trust rather than a non-charitable trusts may be less significant if the intention is for most of the appeal fund to be distributed quickly.

### **Non-charitable trusts**

22. It is common for appeals to feature parallel charitable and non-charitable discretionary trust funds.
23. The **advantage** of non-charitable trusts is flexibility. Trustees can take advantage of this when applying funds for the benefit of victims and their families.
24. The main **disadvantage** of non-charitable trusts is that they do not attract any special tax reliefs.

25. Tax liabilities can be small if the fund's arrangements are set up carefully from the start. Paragraphs 26 to 31 have a summary of the main tax points covering income tax, capital gains tax ([paragraph 27](#)), Self Assessment for income and capital gains tax ([paragraphs 28 to 30](#)) and inheritance tax points ([paragraph 31](#)).

26. For the purposes of **income tax**:

#### *Trustees*

- The trustees do **not** pay tax on **donations** to the fund;
- The trustees pay tax on **income** they receive from investing the appeal funds. Liability is at:
  - the rate applicable to trusts (34 per cent in 2001-02) on income other than dividends; or
  - the dividend trust rate (25 per cent in 2001-02) on dividends and other distributions.
- The trustees may be liable to tax on the income from certain **fund-raising** events. There are further details at [paragraphs 32 to 36](#). Liability is at the rate applicable to trusts.
- Trustees should try to **identify income** included in payments they make to beneficiaries. This will enable them to pay income where it will attract least tax liability. It helps if they have a separate bank account for income. Sometimes trustees make payments from an account that includes both income and capital. Each distribution from that account will be partly income and partly capital. The split is based on the proportion of income and capital in the account at that time.
- Each income payment that trustees make carries a credit for tax. The total of these credits can be more than the tax that the trustees have paid. In that event, the trustees will have to pay the difference to the Revenue.
- Trustees of a discretionary trust may have the **power to accumulate income**. Accumulation converts income to capital. It enables the trustees to control the nature of the payments they make to beneficiaries. They may be able to use this to the best advantage of the beneficiaries. Trustees should seek professional advice as this is a complex area.

## *Beneficiaries*

- **Income that the trustees pay out** is the beneficiaries' income for tax purposes. It carries credit for tax at the rate applicable to trusts. Beneficiaries can claim repayment of some, or all, of this tax if it exceeds their personal liability. Higher rate taxpayers will pay some additional tax. Whether or not a payment is "income" or not for tax purposes is a complex area and trustees may need professional advice.
- **Other payments** that the trustees make are not usually the beneficiaries' income for income tax purposes.
- **Payments out of capital** may exceptionally be beneficiaries' income for income tax purposes, if the trustees:
  - created an annuity for the beneficiary, **or**
  - give the beneficiary a similar right to receive income on a regular and continuing basis.

For example, the trustees may agree to bring a beneficiary's earnings up to a defined level. Often they would base this on previous earnings. Or they may commit themselves to meet a beneficiary's recurrent expense.

In both these cases the payments of capital made by the trustees are treated as the beneficiary's income for tax purposes.

## 27. For the purposes of **capital gains tax**:

### *Donors*

- There is no capital gains tax charge on donations of money.
- The **donor** will normally have to pay capital gains tax on the donation of any asset other than money as if the asset were disposed of at its market value. In certain cases the donor can defer the tax liability, but then the trustees may have a larger tax liability when the fund disposes of the asset. Further guidance on this aspect can be obtained via the special [Inland Revenue Appeal Funds helpdesk](#).

## *Trustees*

- Trustees must pay capital gains tax on any gains that they make from the sale of investments. There is no capital gains tax due if the total gains in a year are less than a certain amount. For 2001-02 the amount allowed for most trusts is £3,600.
- Trustees do not pay capital gains tax when they receive donations of other assets although they may have a tax liability to pay when the asset is disposed of and this may include any deferred liability of the donor. Further guidance on this aspect can be obtained via the special [Inland Revenue Appeal Funds helpdesk](#).

## **Self Assessment for income tax and capital gains tax purposes**

### *Trustees*

28. Self Assessment is the method for calculating and paying tax. Trustees are responsible for making a return and paying the tax on time. Failure to do so may result in automatic interest, surcharges and penalties. When completing the tax return, as trustee you can choose whether to calculate the actual tax due or ask us to do the calculation for you. Self Assessment tax returns are generally issued each year in April, and ask for details of income and capital gains for the year ended on 5 April. You must complete and return the trust tax return:
- by 30 September, if you want us to calculate the tax due; or
  - by 31 January in the following year if you intend calculating your own liability.
29. If you need further information about tax returns, assessments and payments please contact one of the appropriate [Inland Revenue Trusts offices](#) shown at the end of this guide.
30. A copy of the Self Assessment return can be found at [www.inlandrevenue.gov.uk/sa/text/newstyle/net\\_00-01.htm](http://www.inlandrevenue.gov.uk/sa/text/newstyle/net_00-01.htm)

A copy of the Trust return can be found at

[www.inlandrevenue.gov.uk/pdfs/2000\\_01/trusts\\_and\\_estates/SA900.pdf](http://www.inlandrevenue.gov.uk/pdfs/2000_01/trusts_and_estates/SA900.pdf)

31. For **inheritance tax**:

- Individual donations to the fund that do not exceed the annual exemption of £3,000 will normally be exempt from inheritance tax. But even for donations over £3,000, it is **unlikely** that tax will actually be payable by a donor.
- Trustees might have to pay inheritance tax on a payment out of the fund **only** if the donor has to pay inheritance tax on the equivalent donation.
- Trustees do not have to ask the donor about his or her tax position. For donations over £3,000, trustees need only let **Inland Revenue Capital Taxes** know the amounts donated and relevant details about the donors. Inland Revenue Capital Taxes will advise the trustees of any inheritance tax implications as appropriate. The address for the [Capital Taxes contact point for this purpose](#) is shown at the end of this guide.
- The trustees can prevent any inheritance tax liability arising by distributing large donations within 3 months of receiving them.

### **Fund-raising enterprises**

32. Profits from events such as sales, concerts, galas, football matches and other sporting events and enterprises such as record releases (including copyright royalties), publications, etc., which are organised to raise funds are sometimes taxable. This depends upon the arrangements and whether the trust can benefit from an Inland Revenue concession for charitable trusts.
33. The organisers of such events may have to pay tax on the profits before the proceeds reach the fund. By concession, however, Inland Revenue Extra Statutory Concession, [ESC C4](#) exempts the proceeds of such events from tax where the event is organised by a charity or a voluntary organisation to raise funds for a charity provided, that;
- the event is of a kind which falls within the exemption from VAT under Group 12 of Schedule 9 to the VAT Act 1994;

**and**

- the profits do in fact go to charity or are used for charitable purposes.
34. Whether the profits from a fund-raising event qualify for exemption from income and corporation tax under ESC C4 will depend upon whether the event is regarded by Customs and Excise to be a VAT exempt fund-raising event. The text of the concession is reproduced in [Annex 3](#). The Inland Revenue will be bound by Customs' rulings on this matter. Detailed guidance is contained in the joint Inland Revenue and Customs and Excise leaflet [CWL4](#) "Fund-raising events: Exemption for charities and other qualifying bodies" You can also get this leaflet from the special [Inland Revenue Appeal Funds helpdesk](#) or your local [Customs and Excise Business Advice Centre](#).
35. The concession is not available for funds raised by or for a non-charitable trust. If the trustees of non-charitable trusts organise events they are taxed on the profits.

All such receipts will normally be taxable, but where a basic minimum charge is set, any additional free-will donations will not count towards taxable profits if they are;

- given by persons attending the event;

**and**

- collected on behalf of, and passed on to, the trustees of the non-charitable trust.
36. The concession is not available for trading events organised by a company (whether or not part of that company's existing trade) and the proceeds of the fund-raising event will potentially be taxable on the company. However a company may claim a deduction against its corporation tax liability where the proceeds are paid to a charity.
37. We suggest that organisers of fund-raising events are made aware of these points so that they can seek professional advice before making any arrangements.

### **A practical solution**

38. As outlined above, charitable trusts and non-charitable trusts each have their own advantages and disadvantages. Organisers of appeal funds will need to keep these in mind when deciding which kind of trust to set up.

39. Organisers of many appeal funds use both types of trust, by setting up two parallel funds; a non-charitable discretionary trust and a charitable discretionary trust. When that happens:

- the organisers should make it clear in the terms of the appeal that donors have the right to choose the fund to which they want their contribution to go. Some donors – e.g. other charities - will only be able to contribute to the charitable fund, but the option to contribute to the charitable fund should be available generally. In that way:
  - fund-raisers can take advantage of the concession described above to exempt profits where their activities amount to a trade;
  - the charitable trust can reclaim basic rate tax on Gift Aid donations;
  - some reliefs are available to companies;
  - contributors of large amounts can take advantage of the inheritance tax reliefs.
- the appeal should make it clear to which fund unallocated donations will go;
- the appeal should make it clear that the charity will be one of the objects of the trustees' discretion in the non-charitable discretionary trust, along with the individual victims. This will allow the trustees to consider distributing income, including trading income, to the charitable trust. The charitable trust would be able to recover the tax suffered by the trustees where it might not otherwise be recoverable by individual beneficiaries. However, considerable care needs to be taken in the drafting of the non-charitable discretionary trust deed to ensure that the charitable trust is a proper beneficiary along with the individual victims. You will need to take legal advice on this subject;
- the property of the charitable and non-charitable funds should not be mixed, e.g. in a single bank account;
- payments which can properly be considered to be for charitable purposes - such as the relief of poverty, etc. (see [paragraph 19](#)) can be met first from the charitable fund.

40 This is a complex area and we recommend that appeal organisers discuss the final form of the appeal with professional advisers.

## SECTION B

### VALUE ADDED TAX (VAT)

#### Donations

41. Donations, bequests or other voluntary contributions from the public are outside the scope of VAT, provided the donors receive no direct benefit in return.
42. Charges for admission to fund-raising events which are not eligible for VAT exemption (see paragraphs 43-47 below) arranged by supporters of a appeal are liable to VAT if they are the proceeds of normal trading activity. But voluntary donations made on top of a basic minimum charge for a fund-raising event will be outside the scope of VAT if **all** the following conditions are met (the minimum basic charge remains subject to VAT):
  - it is clearly stated on all publicity material including tickets that anyone paying only the minimum charge will be admitted without further payment;
  - the additional payment does not secure any particular benefit (for example admission to a better position in the stadium or auditorium);
  - the extent of further contributions is ultimately left to ticket holders to decide, even if the organiser indicates a desired level of donation;
  - for film or theatre performances, concerts, sporting fixtures, etc the minimum charge is not less than the usual price for the particular seats at a normal commercial event of the same type;
  - the minimum total sum upon which the organisers will be liable to account for VAT will not be less than their total costs incurred in arranging the event.

#### Fund-raising events organised by appeal funds with charitable status

43. Goods and services supplied by charities in connection with their fund-raising events are exempt from VAT, subject to not more than fifteen events being held in the same location in any financial year. This means that the sales of entrance tickets and any other supplies made by the charity for events that they promote as fund-raising will not be liable to VAT. Full details are contained in the joint Inland Revenue and Customs and Excise leaflet [CWL4](#) "Fund-raising events: Exemption for charities and other qualifying bodies", which can be obtained from the special [Inland Revenue Appeal Funds helpdesk](#) or your local [Customs and Excise Business Advice Centre](#).

44. Relief is restricted by number and location of events to ensure that charities' fund-raising activities are not given an unfair tax advantage over commercial organisations that are liable to pay VAT.
45. Appeals funds with charitable status will not need to register for VAT unless they engage in any taxable activities, such as regular trading in goods or organising a series of events in excess of the number permitted. If a charity does need to register for VAT for taxable activities, it will not be able to reclaim VAT incurred in arranging any exempt events.

### **Fund-raising events organised on behalf of appeal funds**

46. A fund-raising event can, in some circumstances, qualify for exemption when organised by a non-charitable body. Certain philanthropic bodies will be able to benefit from the exemption in their own right. Other bodies can apply the exemption provided they are acting as agents for appeal funds that have charitable status. The trust fund must have formally agreed that the organiser is acting as its agent. It must also remember that as the event will be treated as the trust fund's own it must count any such event arranged on its behalf toward the limit of fifteen. The arrangements for supplies made by and to agents are set out in section 10 of the VAT Guide or it can be obtained from the special [Inland Revenue Appeal Funds helpdesk](#) or your local [Customs and Excise Business Advice Centre](#). Any charge which a VAT registered organiser makes to a trust will be subject to VAT at the standard rate of 17.5 per cent.
47. It may be that no fund with charitable status has been set up to act as beneficiary of fund-raising activities, or the trustees are reluctant to channel anything other than small amounts into a fund with charitable status. In these circumstances the best option may be to set a basic minimum charge for the event and encourage those attending to make additional contributions - see [paragraph 42](#). The business will have to account for output tax on the total of the basic admission charge, but it will also be able to recover input tax on the relevant overhead expenses.

### **Purchases with charity funds**

48. General goods purchased with charitable funds will be liable to VAT at the standard rate. This will include tents, blankets, pumps and water treatment plants. Some specialised equipment that is purchased by certain specialist charities or for donation to such charities, might be able to be purchased VAT free. Included in this are medical equipment and search and rescue equipment. Further details are contained in Customs and Excise Notice

701/6, which can be obtained from the special [Inland Revenue Appeal Funds helpdesk](#) or your local [Customs and Excise Business Advice Centre](#)

49. Goods purchased in the United Kingdom by charities and then exported to a destination outside the European Community (EC) can be treated as a business activity for VAT. Thus a charity sending goods to a disaster area outside the EC is eligible to register for VAT and reclaim VAT paid on the goods which it exports.
50. Unless an item can be purchased VAT free there is no relief for goods sent to disaster areas in the UK or the EC.

#### **Further information on VAT**

51. HM Customs and Excise will be glad to give such further help as they can. Copies of the VAT Guide and VAT Notices mentioned can also be obtained from the special [Inland Revenue Appeal Funds helpdesk](#) or your local [Customs and Excise Business Advice Centre](#).

## **ATTORNEY-GENERAL'S GUIDELINES FOR ENGLAND AND WALES**

Action to set up a public appeal following some tragic accident, or disaster or an occasion on which some special misfortune is brought to the public eye, is generally taken with little time to prepare the ground. The community may well feel an urgent need to give practical expression to its sorrow and respect, and the response may well exceed expectations.

In these circumstances it is not unnatural that questions should arise over the precise status of appeals after they have been set up; and events following past tragedies have shown how much unhappiness can be caused by these questions.

The Attorney-General is anxious that doubts about the nature of appeals should be avoided if at all possible, and that those who answer an appeal should know that their generosity will have the results which they intend.

Accordingly, the Attorney-General, after consultation, has prepared the following guidelines which might usefully be taken into account by those faced with the responsibility of making appeals in the future.

### **A. The making of the appeal**

1. Those who use these guidelines must remember that no two appeals can ever be quite the same, and should do all that they can to ensure that their own appeal is appropriate to the particular circumstances of their case, and runs into no unforeseen difficulties, whether personal, administrative, or fiscal.
2. Amongst the most important and urgent decisions which must be made will be whether or not a charitable appeal is called for, and it may well be desirable to take advice on such questions before the appeal is issued. Generally speaking, the terms of the appeal will be all-important in deciding the status and ultimate application of the fund.
3. Once the terms are agreed, it will generally be desirable to publish the appeal as soon as possible, and as widely as appropriate in the circumstances.
4. Sometimes gifts may be sent before publication of the appeal. If there are more than can be acknowledged individually, the published appeal should indicate that gifts already made will be added to the appeal fund unless the donors notify the organisers (say within ten days) that this is not their wish.

## B. Pros and cons of the types of appeal

1. **Charitable funds** attract generous tax reliefs; donations to them may do so, especially through the Gift Aid Scheme, details of which are available from your local tax office. In particular donations will also for the most part be exempt from inheritance tax.
2. But charitable funds, being essentially public in their nature, cannot be used to give individuals benefits over and above those appropriate to their needs; and the operation of a charitable trust will be subject to the scrutiny of the Charity Commissioners.
3. **Non-charitable funds** attract no particular tax reliefs. However, for example, for inheritance tax it is unlikely in practice that tax will actually be payable, either on donations to, or payments out of, the trust fund.
4. But under a non-charitable trust there is no limit on the amount which can be paid to individual beneficiaries if none has been imposed by the appeal; and only the Court acting on behalf of the beneficiaries will have control over the trust, which will not be subject to scrutiny by the Charity Commissioners.
5. The terms of the non-charitable appeal must be prepared with particular care to ensure that there is no doubt who is to benefit, whether or not their benefit is to be at the discretion of the trustees, and whether or not the entire benefit is to go to the beneficiaries, and if not, for example because specific purposes are laid down and the funds may be more than is required for those purposes, or because the beneficiaries are only to take as much as the trustees think appropriate, what is to happen to any surplus.
6. If specific purposes are laid down, and after they have been fulfilled a surplus remains for which no use has been specified, the surplus will belong to the donors, which may lead to expensive and wasteful problems of administration.

## C. Forms of appeal

1. If a **charitable** fund is intended then the appeal could take the following form:

“This appeal is to set up a charitable fund to relieve distress caused by the accident/disaster at.....  
on..... The purpose is to use the funds to relieve those who may be in need of help (whether now or in the future) as a result of this tragedy in accordance with charity law.

Any surplus after their needs have been met will be used for charitable purposes in one or more of the following ways:

- i. to help those who suffer in similar tragedies
- ii. to benefit charities with related purposes
- iii. to help the locality affected by the accident/disaster.”

2. If a **non-charitable** fund is intended and those affected are to take the entirety of the fund in such shares as the trustees think fit the appeal could take the following form:

“This appeal is to set up a fund, the entire benefit of which will be used for those injured or bereaved in the accident/disaster at.....on.....Or their families and dependants as the trustees think fit. This fund will not be a charity.”

3. A non-charitable fund in which the trustees would have a discretion to give as much as they think fit to those who have suffered with any surplus going to charity could be set up on the basis of the following form:

“This appeal is to set up a fund for those injured or bereaved in the accident/disaster at..... on..... and their families and dependants. The trustees will have a discretion how and to what extent to benefit individual claimants: the fund will not itself be a charity but any surplus will be applied for such charitable purposes as the trustees think most appropriate to commemorate those who died.”

#### **D. Appeals for individuals**

1. It sometimes happens that publicity given to individual suffering moves people to give. In such a case it is particularly desirable for those who make appeals to indicate whether or not the appeal is for a charitable fund.

2. It is also desirable for those who give to say whether their gift is meant for the benefit of the individual, or for charitable purposes including helping the individual so far as that is charitable; if no such intention is stated, then the donation should be acknowledged with an indication how it will be used if the donor does not dissent.

3. Those who make appeals should bear in mind the possibility that generous response may produce more than is appropriate for the needs of

the individual, and should be sure to ask themselves what should be done with any surplus.

4. Thus, if a child suffers from a disease, there are two alternatives, to appeal for the benefit of the child, or to appeal for charitable purposes relating to the suffering of the child, such as may help him and others in the same misfortune, for example by helping find a cure.

5. It may be that the child will not live long, and so may not be able to enjoy generosity to him as an individual; alternatively, he may be intended to receive as much as possible, because he faces a lifetime's suffering.

6. Once again, the pros and cons of setting up a charitable fund or a non-charitable fund should be considered before the appeal is made and the appeal should indicate which alternative is intended; once again, even if a non-charitable appeal is made, it may be thought right to make it on terms that any surplus can be used for charity.

## **E. Generally**

1. The suggestions made in this memorandum are only examples of forms that can be used; and before making an appeal it is always wise to seek advice on what form to use.

2. The Charity Commissioners will always be ready as a matter of urgency to advise on the terms of any intended charitable appeal, or to consider whether a proposed appeal is likely to be charitable, and if so to advise on the likely consequences.

3. In conclusion, the Attorney-General would like to emphasise that those organising an appeal should do all they can to make sure that the purpose of the appeal is clear and that donors know how their gifts will be used.

4. This will do much to reduce the risk of confusion and distress. It is considered undesirable to make a general appeal postponing, until the size of the fund is known, decisions whether the fund ought to be charitable and whether those affected should take the entire benefit; this can all too easily lead both donors and beneficiaries to form the view that the ultimate result is not what was intended, as well as giving rise to legal problems.

## **LORD ADVOCATE'S GUIDELINES – FOR SCOTLAND**

Action to set up a public appeal following some tragic accident, or disaster or an occasion on which some special misfortune is brought to the public eye, is generally taken with little time to prepare the ground. The community may well feel an urgent need to give practical expression to its sorrow and respect, and the response may well exceed expectations.

In these circumstances it is not unnatural that questions should arise over the precise status of appeals after they have been set up; and events following past tragedies have shown how much unhappiness can be caused by these questions.

The Lord Advocate is anxious that doubts about the nature of appeals should be avoided if at all possible, and that those who answer an appeal should know that their generosity will have the results which they intend.

Accordingly, the Lord Advocate, after consultation, has prepared the following guidelines that might usefully be taken into account by those faced with the responsibility of making appeals in the future.

The following advice relates only to appeals to which the law of Scotland applies.

### **A. The making of the appeal**

1. Those who use these guidelines must remember that no two appeals can ever be quite the same, and should do all that they can to ensure that their own appeal is appropriate to the particular circumstances of their case, and runs into no unforeseen difficulties, whether personal, administrative, or fiscal.
2. Amongst the most important and urgent decisions that must be made are the precise terms of the appeal as, generally speaking, these will be important in relation to the question of whether the Inland Revenue regard the fund as charitable or non-charitable. This question is determined in the same way as under the law of England. It may well be desirable to take legal advice before the appeal is issued.
3. Once the terms are agreed, it will generally be desirable to publish the appeal as soon as possible, and as widely as appropriate in the circumstances.
4. Sometimes gifts may be sent before publication of the appeal. If there are more than can be acknowledged individually, the published appeal should indicate that gifts already made will be added to the appeal

fund unless the donors notify the organisers (say within ten days) that this is not their wish.

## **B. Advantages and disadvantages of the types of trust fund**

### **Charitable trusts**

1. Trusts which are accepted by the Inland Revenue as charitable attract generous tax reliefs. Donations to them may do so, especially through the Gift Aid Scheme, details of which are available from your local tax office. In particular, donations will also for the most part be exempt from inheritance tax.

2. In Scotland, the law of trusts is more complex, because there are in effect two systems of trust law. The law in matters of tax relating to charitable trusts is similar to that of England. If the purposes of the trust are charitable and the powers of the trustees do not exceed charitable purposes, then the Inland Revenue will normally accept that donations and payments are exempt from inheritance tax.

3. Charities are exempted from capital gains tax on gains accruing to them are applicable and are applied for charitable purposes. If, on the other hand, any application of the trust fund does not so qualify, then this may lead not only to reconsideration of the charitable status of the trust and of the benefits which flow therefrom but also to reconsideration of the legality of further actings under the trust.

4. Moneys from such a charitable trust may not be used to give individuals benefits over and above those appropriate to their needs. However, it would be desirable to have a provision dealing with the situation where the funds is greater than can properly be used for the particular charitable purpose for which it was established. Otherwise, application would require to be made to the court for a scheme dealing with the surplus.

### **Non-charitable trusts**

5. Trusts which do not qualify as charities from the point of view of taxation attract no particular tax relief. However, for example, for inheritance tax it is unlikely in practice that tax will actually be payable, either on donations to, or payments out of, the trust fund.

6. But under a non-charitable trust there is no limit on the amount that can be paid to individual beneficiaries if none has been imposed by the appeal.

7. The terms of the non-charitable appeal must be prepared with particular care to ensure that there is no doubt who is to benefit, whether or not their benefit is to be at the discretion of the trustees, and whether or not the entire benefit is to go to the beneficiaries, and if not, for example because specific purposes are laid down and the funds may be more than is required for those purposes, or because the beneficiaries are only to take as much as the trustees think appropriate, what is to happen to any surplus.

8. If specific purposes are laid down, and after they have been fulfilled a surplus remains, then, depending on the terms of the trust, the surplus may have to be returned to the donors unless express provision has been made for distribution of the surplus.

### C. Forms of appeal

1. If a **charitable** trust fund is intended then the appeal could take the following form:

“This appeal is to set up a charitable trust fund to relieve distress caused by the accident/disaster at.....  
on.....

The purpose is to use the funds to relieve those who may be in need of help (whether now or in the future) as a result of this tragedy in accordance with the conditions laid down by the tax law relating to charity. Any surplus after their needs have been met will be used for charitable purposes in one or more of the following ways:

- i. to help those who suffer in similar tragedies
- ii. to benefit charities with related purposes
- iii. to help the locality affected by the accident/disaster.”

2. If a **non-charitable** trust fund is intended and those affected are to take the entirety of the fund in such shares as the trustees think fit the appeal could take the following form:

“This appeal is to set up a trust fund, the entire benefit of which will be used for those injured and the [specify relatives or classes] other dependants of whose injured or killed in the accident/disaster at.....on....., as the trustees think fit. This trust will not be a charity.”

3. A non-charitable trust in which the trustees would have a discretion to give as much as they think fit to those who have suffered with any surplus going to charity could be set up on the basis of the following form:

“This appeal is to set up a trust fund for those injured and the [specify relatives or classes] other dependants of those injured or killed in the accident/disaster at..... on....., as the trustees think fit. The trustees will have a discretion how and to what extent to benefit individual claimants; the trust will not itself be a charity but any surplus will be applied for such charitable purposes as the trustees think most appropriate to commemorate those who died.”

#### **D. Appeals for individuals**

1. It sometimes happens that publicity given to individual suffering moves people to give. In such a case it is particularly desirable for those who make appeals to indicate whether or not the appeal is for a charitable trust.

2. It is also desirable for those who give to say whether their gift is meant for the benefit of the individual, or for charitable purposes including helping the individual so far as that is charitable; if no such intention is stated, then the donation should be acknowledged with an indication how it will be used if the donor does not dissent.

3. Those who make appeals should bear in mind the possibility that generous response may produce more than is appropriate for the needs of the individual, and should be sure to ask themselves what should be done with any surplus.

4. Thus, if a child suffers from a disease, alternatives are to appeal for the benefit of the child, or to appeal for charitable purposes relating to the suffering of the child such as may help him and others in the same misfortune, for example by helping find a cure.

5. It may be that the child will not live long, and so may not be able to enjoy generosity to him as an individual; alternatively, he may be intended to receive as much as possible, because he faces a lifetime's suffering.

6. Once again, the pros and cons of setting up a charitable trust or a non-charitable trust should be considered before the appeal is made and the appeal should indicate which alternative is intended. Even if a non-charitable appeal is made, it may be thought right to make it on terms that any surplus can be used for charity.

## **E. Generally**

The suggestions made in this memorandum are only examples of forms which can be used; before making an appeal it is always wise to seek advice on what form to use.

**INLAND REVENUE EXTRA-STATUTORY CONCESSION C4**

Certain events arranged by voluntary organisations or charities for the purpose of raising funds for charity may fall within the definition of "trade" in Section 832 ICTA 1988, with the result that any profits will be liable to income tax or corporation tax. Tax will not be charged on such profits provided:

- a. the event is of a kind which falls within the exemption from VAT under Group 12 of Schedule 9 to the VAT Act 1994 and
- b. the profits are transferred to charities or otherwise applied for charitable purposes.

## **How to comment about the way the tax affairs of an appeal fund have been dealt with**

The Inland Revenue and Customs and Excise always value any comments on the service people have received from us. We welcome any suggestions that could improve the service we provide for the public.

In the case of a complaint relating to the way the Inland Revenue have handled matters, first write to the Manager of the office or unit concerned. His or her name is on every letter we send out. Should the complaint concern the way Customs and Excise have handled matters you should write to the officer in charge of the local VAT Business Advice Centre or unit concerned. In our experience, most issues are settled quickly and satisfactorily in this way.

Where the Manager of the Inland Revenue Tax Office or the Customs and Excise Office cannot settle a complaint, you should contact the relevant Inland Revenue or Customs and Excise Regional Director responsible for the area dealing with the tax affairs of the fund. Our leaflets IR120 "You and the Inland Revenue" and Customs and Excise Notice 1000 "Complaints and putting things right" set out how to do that. IR120 is available from any Inland Revenue Office, and Notice 1000 is available from any Customs and Excise Business Advice Centre.

If you are not satisfied with the Inland Revenue or Customs Director's response, you can ask the Adjudicator to review your complaint. The Adjudicator is an impartial referee who will look at both sides of the complaint and, if it cannot be resolved, will recommend appropriate action. The Adjudicator's recommendations are independent.

The address is:

### **The Adjudicator's Office**

Haymarket House  
28 Haymarket  
London SW1Y 4SP

**Tel.:** 0207 930 2292

**Fax.:** 0207 930 2298

**Internet:** [www.open.gov.uk/adjoff/aodemo1.htm](http://www.open.gov.uk/adjoff/aodemo1.htm)

**Email:** [adjudicators@gtnet.gov.uk](mailto:adjudicators@gtnet.gov.uk)

It is also open to the public to ask a Member of Parliament to refer a complaint to the independent Parliamentary Commissioner for Administration, commonly known as the Ombudsman. Further information is available from:

## **Office of the Parliamentary Commissioner for Administration**

Millbank Tower  
Millbank  
London SW1P 4QP

**Tel.:** 0845 015 4033

**Fax.:** 0207 217 4160

**Internet:** [www.ombudsman.org.uk](http://www.ombudsman.org.uk)

**Email:** [opca-enqu@ombudsman.org.uk](mailto:opca-enqu@ombudsman.org.uk)

## **OTHER USEFUL ADDRESSES AND CONTACT DETAILS**

### **Inland Revenue Trusts**

#### **Appeal Funds Helpdesk**

Room 200  
Wing 1  
2<sup>nd</sup> Floor  
St John's House  
Merton Road  
BOOTLE  
Merseyside  
L69 9BB

**Tel.:** 0151 472 6061

**E-mail:** [appealfund.helpdesk@inlandrevenue.gov.uk](mailto:appealfund.helpdesk@inlandrevenue.gov.uk)

### **Inland Revenue Capital Taxes**

Ferrers House  
PO Box 38  
Castle Meadow Road  
Nottingham NG2 1BB

For members of the Document Exchange system the address is

DX 701201  
Nottingham 4

**Tel.:** 0115 974 2941

***Please note that this Capital Taxes contact is only for the procedure described in [paragraph 31](#) above and should not be used for general appeal fund enquiries.***

### **Inland Revenue Charities**

***Edinburgh address***

Meldrum House  
15 Drumsheugh Gardens  
Edinburgh EH3 7UL

For members of the Document Exchange system the address is  
DX 542003  
Edinburgh 14

**Tel.:** 0131 777 4040

### **Inland Revenue Charities**

#### ***Bootle address***

Charity Title  
St John's House  
Merton Road  
Bootle  
Merseyside L69 9BB

**Tel.:** 0151 472 6053

***Please note that this Bootle contact is only for questions of charity title in Northern Ireland and should not be used for appeal fund enquiries***

### **Inland Revenue Tax Credit Office**

*For advice and information on **Working Families' Tax Credit** claims:*

**Helpline:** 0845 609 5000, Monday to Thursday 7.30am - 8.00pm, Friday 7.30am - 7.00pm, Weekends 10.00am – 4.00pm

**Textphone:** 0845 606 6668 (for hard of hearing applicants)

*For advice on **Disabled Person's Tax Credit** claims:*

**Helpline:** 0845 605 5858, Monday to Friday 7.30am - 6.30pm

**Textphone:** 0845 608 8844 (for hard of hearing applicants)

(For WFTC & DPTC only) **Northern Ireland:** 0845 609 7000, Monday to Friday 9.00am - 5.00pm

*For enquiries about **Children's Tax Credit** claims:*

**Helpline:** 0845 300 1036, open 7 days a week 8:00am to 10:00pm

## **Customs and Excise**

For telephone enquiries phone the National Advice Service on 0845 010 9000 – open weekdays 08:00am to 20:00pm.

For written enquiries, the addresses for the local VAT Business Advice Centre can be found in the phone book under “Customs and Excise”.

## **The Charity Commission**

### ***London address:***

Harmsworth House  
13-15 Bouverie Street  
London EC4Y 8DP

### ***Liverpool address:***

2<sup>nd</sup> Floor  
20 Kings Parade  
Queens Dock  
Liverpool L3 4DQ

### ***Taunton address:***

Woodfield House  
Tangier  
Taunton  
Somerset TA1 4BL

**Central tel.:** 0870 333 0123 Open 9:00am to 5:00pm weekdays

**Internet:** [www.charity-commission.gov.uk](http://www.charity-commission.gov.uk)

**E-mail:** [feedback@charity-commission.gov.uk](mailto:feedback@charity-commission.gov.uk)

Please note that the Charity Commission office responsible for dealing with organisers seeking registration of the charity is determined by the address of the person seeking the registration and the charity’s area of benefit and operation (e.g. local, national, and or overseas). Details of which areas are covered by which office are included in the Commission’s Registration Application Form (APP 1). For ease, this is reproduced below:

London Office	Taunton Office	Liverpool Office
<p>National and Overseas charities based in all the Boroughs in the Greater London area.</p> <p><b>Local Charities based in:</b></p> <p>Bedfordshire Brighton &amp; Hove Buckinghamshire Cambridgeshire East Essex Essex Greater London Hertfordshire Kent Luton Milton Keynes Norfolk Northamptonshire Suffolk Surrey West Sussex</p>	<p>National and Overseas charities based in:</p> <p>Bedfordshire                      Kent Buckinghamshire                  Surrey East Sussex                          West Sussex</p> <p><b>Local National and Overseas charities based in:</b></p> <p>Bath                                      Monmouthshire NE Somerset                          Neath Port Talbot Berkshire                                  Newport Blaenau Gwent                          North Somerset Bournemouth                          Oxfordshire Bridgend                                  Pembrokeshire Caerphilly                                  Poole Cardiff                                      Portsmouth Carmarthenshire                          Rhondda Cynon Taff Ceredigion                                  Somerset Bristol City                                  Southampton Cornwall                                   Sth Gloucestershire Devon                                        Swansea Dorset                                        Swindon Gloucestershire                          Torlaen Gwent                                        Wiltshire Hampshire                                  Worcestershire Herefordshire                              Vale of Glamorgan Isle of Wight Merthyr Tydfil</p>	<p>National and Overseas charities based in:</p> <p>Cambridgeshire                      Northamptonshire Essex                                        Suffolk Norfolk</p> <p><b>Local National and Overseas charities based in:</b></p> <p>Cheshire                                  Merseyside City of York                              Middlesbrough Conwy                                        North Lincolnshire Cumbria                                    NE Lincolnshire Darlington                                  North Yorkshire Denbighshire                              Northumberland Derby                                        Nottinghamshire Derbyshire                                  Powys Durham                                      Redcar &amp; Cleveland East Riding of Yorkshire              Rutland Flintshire                                  Shropshire Gtr Manchester                            South Yorkshire Gwynedd                                    Staffordshire Hartlepool Borough                      Stockton-on-Tees Isle of Anglesey                          Borough Kingston Upon Hull City                  Stoke on Trent Lancashire                                  Tyne &amp; Wear Leicester                                    Warwickshire Leicestershire                              West Midlands Lincolnshire                                West Yorkshire Wrexham</p>

Responsibility for dealing with **organisations seeking registrations as National or Overseas charities** is determined by the address of the person seeking registration of the charity.

All **Welsh** general charities – operating throughout Wales but not elsewhere – are dealt with in the Liverpool office.

All **charities administered by the National Health Service** are dealt with by the NHS Charities Review Section in the Liverpool office.

All charities in connection with the **Armed Forces** are dealt with by the Service Charities section within Charity Support Division in the Taunton Office.

**Department for Social Development**  
Charities Branch  
5<sup>th</sup> Floor  
Churchill house  
Victoria Square

Belfast  
Northern Ireland  
BT1 4SD

**Tel.:** 028 90569314  
**Fax.:** 028 90569327

**Northern Ireland Council for Voluntary Action (NICVA)**

61 Duncairn Gardens  
Belfast  
Northern Ireland  
BT15 2GB

**Tel.:** 028 9087 7777  
**Fax.:** 028 9087 7799

Area dealt with	Inland Revenue Trusts Offices
<p>All trusts established under <b>Scottish law</b> or administered from an address in Scotland.</p>	<p>Inland Revenue Trusts  Meldrum House  15 Drumsheugh Gardens  Edinburgh  EH3 7UL</p> <p>Tel: 0131 777 4343</p>
<p>UK resident trusts administered from addresses within the <b>Greater London</b> area (broadly within the M25).</p>	<p>Inland Revenue Trusts  Charles House  375 Kensington High Street  London  W14 8QS</p> <p>Tel: 020 7605 9933</p>
<p>UK resident trusts administered from addresses broadly within the <b>Greater Manchester</b> area and trusts with corporate trustees.</p>	<p>Inland Revenue Trusts  Albert Bridge House  1 Bridge Street  Manchester  M60 9AF</p> <p>Tel: 0161 288 6747</p>
<p>UK resident trusts administered from addresses in the <b>South West of England</b>.</p>	<p>Inland Revenue Trusts  Lysnoweth  Infirmary Hill  Truro  Cornwall  TR1 2JD</p> <p>Tel: 01872 245403</p>
<p>UK resident trusts not dealt with by Edinburgh, London, Manchester, or Truro. Including trusts administered in <b>Northern Ireland and Wales</b>.</p>	<p>Inland Revenue Trusts  Huntingdon Court  90-94 Mansfield Road  Nottingham  NG1 3HG</p> <p>Tel: 0115 911 6500</p>

Please note that when our offices are closed, you can get general advice on Self Assessment by calling our Helpline, in the evenings or at weekends, on **0845 9000 444**.