

Relief for gifts to third-level institutions. FA97 s16 485.—(1) In this section—

“approved institution” means an institution in the State in receipt of public funding which provides courses to which a scheme approved by the Minister under the Local Authorities (Higher Education Grants) Acts, 1968 to 1992, applies, or any body established in the State for the sole purpose of raising funds for such an institution;

“approved project” means a project in respect of which the Minister has given a certificate under subsection (2) which certificate has not been revoked under that subsection;

“project” means one or more of the following—

(a) the undertaking of research,

(b) the acquisition of equipment,

(c) infrastructural development in institutions specified in the guidelines referred to in subsection (2)(a)(i), and

(d) the provision of facilities designed to increase student numbers in areas of skills needs;

“Minister” means the Minister for Education and Science;

“relevant gift” means a gift of money which—

(a) on or after the 6th day of April, 1997, is made to an approved institution for the sole purpose of funding an approved project,

(b) is or will be applied by the approved institution for that purpose, and

(c) apart from this section is not deductible in computing for the purposes of tax the profits or gains of a trade or profession, or is not income to which section 792 applies or is not a gift of money to which section 484 applies.

(2) (a) (i) The Minister, on the making of an application by an approved institution, may, in accordance with guidelines laid down by the Minister with the consent of the Minister for Finance, give a certificate to that institution stating that a project may be treated as an approved project for the purposes of this section.

(ii) An application under this subsection shall be in such form as the Minister may direct and shall contain such information as may be specified in the guidelines referred to in subparagraph (i).

(iii) The Minister shall consult the Higher Education Authority in relation to an application under this

subsection.

(b) (i) A certificate given by the Minister under paragraph (a) shall be subject to such conditions as the Minister may consider proper and specifies in the certificate (including a condition as to the amount or the percentage amount of the total cost of the approved project which shall be met by relevant gifts).

(ii) The Minister may amend or revoke any condition specified in a certificate given under paragraph (a), or add to such conditions, by giving notice in writing to the approved institution of the amendment, revocation or addition, and this section shall apply as if—

(I) a condition so amended or added by the notice was specified in the certificate, and

(II) a condition so revoked was not specified in the notice.

(c) Where an approved institution fails to comply with any of the conditions to which a certificate given to it under paragraph (a) is subject by virtue of paragraph (b), the Minister may, by notice in writing given to the institution, revoke the certificate and the project shall cease to be an approved project as respects any gifts made to the institution after the date of the Minister's notice.

(3) Where it is proved to the satisfaction of the Revenue Commissioners that a person has made a relevant gift and the person claims relief from tax by reference to that gift, subsection (6) or, as the case may be, subsection (7) shall apply.

(4) Where a relevant gift is made by a chargeable person within the meaning of Part 41, a claim under this section shall be made with the return required to be delivered by that person under section 951 for the chargeable period in which the gift is made.

(5) In determining the net amount of the gift for the purposes of subsection (6) or (7), the amount or value of any consideration received by the person concerned as a result of making the gift, whether received directly or indirectly from the approved institution to which the gift was made or otherwise, shall be deducted from the amount of the gift.

(6) For the purposes of income tax for the year of assessment in which a person makes a gift to which this section applies, the net amount of the gift shall be deducted from or set off against any income of the person chargeable to income tax for that year and tax shall where necessary be discharged or repaid accordingly, and the total income of the person or, where the person's spouse is assessed to income tax in accordance with section 1017, the total income of the spouse shall be calculated accordingly.

(7) Where a relevant gift is made by a company, the net amount of the gift shall for the purposes of corporation tax be deemed to be a loss incurred by the company in a separate trade in the accounting period of the company in which the gift is made.

(8) Relief under this section shall not be given to a person for any year of assessment or accounting period, as the case may be, if the net amount of the gift (or the aggregate of the net amounts of gifts) made by such person in that year or accounting period, as the case may be, is less than £1,000.

(9) Every approved institution, when required to do so by notice from the Minister, shall within the time limited by the notice prepare and deliver to the Minister a return containing particulars of the aggregate amount of relevant gifts received by the institution in respect of each approved project.

(10) Where any question arises as to whether for the purposes of this section—

(a) an institution is an approved institution,

(b) a project is an approved project, or

(c) a gift is a relevant gift,

the Revenue Commissioners may consult with the Minister.

(11) For the purposes of a claim to relief under this section, an approved institution shall, on acceptance of a relevant gift, give to the person making the relevant gift a receipt which shall—

(a) contain a statement that—

(i) it is a receipt for the purposes of this section,

(ii) the institution is an approved institution for the purposes of this section,

(iii) the gift in respect of which the receipt is given is a relevant gift for the purposes of this section, and

(iv) the project in respect of which the relevant gift has been made is an approved project,

(b) show—

(i) the name and address of the person making the relevant gift,

(ii) the amount of the relevant gift in both figures and words,

(iii) the date of the relevant gift,

(iv) the full name of the approved institution,

(v) the date on which the receipt was issued, and

(vi) particulars of the approved project in respect of which the relevant gift has been made,

and

(c) be signed by a duly authorised official of the approved institution.