

Designated charities: repayment of tax in respect of donations. FA95 s8(1) (a) and (c) and (2) to (7)  
848.—(1) (a) In this section—

“appropriate certificate”, in relation to a donation to a designated charity, means a certificate which is in such form as the Revenue Commissioners may prescribe and which contains—

(i) statements to the effect that—

(I) the donation satisfies the requirements of subsection (6), and

(II) the donor has paid or will pay to the Revenue Commissioners income tax of an amount equal to income tax at the standard rate for the relevant year of assessment on the grossed up amount of the donation, but not being—

(A) income tax which the donor is entitled to charge against any other person or to deduct, retain or satisfy out of any payment which the donor is liable to make to any other person, or

(B) appropriate tax within the meaning of Chapter 4 of Part 8,

and

(ii) the identifying number, known as the Revenue and Social Insurance (RSI) Number, of the donor;

“designated charity” means any body or institution in the State which, following application by it to the Minister in such form and containing such information as the Minister may require, is designated for the purposes of this section by the Minister with the consent of the Minister for Finance;

“the Minister” means the Minister for Foreign Affairs;

“qualifying donation” shall be construed in accordance with subsection (5);

“relevant year of assessment”, in relation to a qualifying donation, means the year of assessment in which the qualifying donation is made.

(b) For the purposes of this section, references, in relation to a donation, to the grossed up amount are to the amount which after deducting income tax at the standard rate for the relevant year of assessment leaves the amount of the donation.

(2) A body or institution shall not be designated by the Minister for the purposes of this section unless it shows to the satisfaction of the Minister that—

(a) it is a body of persons or trust established for charitable purposes only,

(b) it has been granted exemption from tax for the purposes of section 207 for a period of not less than 3 years before the date of the making of the application,

(c) the person concerned in the management or control of the body or institution ensures that in respect of each financial year of the body or institution there is prepared and furnished to the Minister—

(i) audited accounts comprising—

(I) an income and expenditure account or a profit and loss account, as appropriate, for its most recent financial year, and

(II) a balance sheet as at the last day of that financial year,

and

(ii) a report as to the activities of the body or institution, having regard to its charitable purposes, and

(d) it has as its sole object, relief and development in a country or countries where the country or countries concerned is or are for the time being on the List of Aid Recipients (Part 1: Aid to Developing Countries and Territories) produced by the Development Aid Committee of the Organisation for Economic Co-operation and Development.

(3) The Minister shall—

(a) maintain a list of the bodies and institutions designated for the purposes of this section, and

(b) from time to time as the Minister sees fit cause such list to be published in Iris Oifigiúil.

(4) Where the Minister is satisfied that a body or institution ceases to comply with subsection (2), the Minister shall, with the consent of the Minister for Finance—

(a) withdraw the designation previously granted and such withdrawal shall apply from the beginning of the year of assessment in which notice in accordance with paragraph (b) is given, and

(b) cause notice of such withdrawal to be published in Iris Oifigiúil within one month of such withdrawal.

(5) For the purposes of this section, a donation to a designated charity shall be a qualifying donation if—

(a) it is made by an individual (in this section referred to as “the donor”),

(b) it satisfies the requirements of subsection (6), and

(c) the donor—

(i) has given an appropriate certificate in relation to the donation to the designated charity, and

(ii) has paid the tax referred to in such appropriate certificate and is not entitled to claim a repayment of that tax or any part of that tax.

(6) A donation shall satisfy the requirements of this subsection if—

(a) it takes the form of the payment of a sum or sums of money,

(b) it is not subject to a condition as to repayment,

(c) neither the donor nor any person connected with the donor receives a benefit in consequence of making it,

(d) it is not conditional on or associated with, or part of an arrangement involving, the acquisition of property by the designated charity, otherwise than by means of gift, from the donor or a person connected with the donor,

(e) the sum or the aggregate of the sums paid in the relevant year of assessment to the designated charity is not less than £200,

(f) the sum or the aggregate of the sums paid does not, when aggregated with any other qualifying donation or qualifying donations made by the donor in the relevant year of assessment, exceed £750, and

(g) the donor is resident in the State for the relevant year of assessment.

(7) Where a donation is a qualifying donation, the Tax Acts shall apply in relation to the designated charity as if—

(a) the grossed up amount of the donation were an annual payment which was the income of the designated charity received by it under deduction of tax at the standard rate for the relevant year of assessment, and

(b) the provisions of those Acts which apply in relation to a claim to repayment of tax applied in relation to any claim to repayment of such tax by a designated charity;

but, if the total amount of the tax referred to in paragraph (i) (II) of the definition of “appropriate certificate” is not paid, the amount of any repayment which would otherwise be made to a designated charity in accordance with this section shall not exceed the amount of tax actually paid by the donor.

## MANAGEMENT PROVISIONS