

CHY 1

April 2009

APPLYING FOR RELIEF FROM TAX

ON THE INCOME AND PROPERTY

OF CHARITIES

Revenue 

1. INTRODUCTION

This booklet has been produced in order to:

- list the tax exemptions which are available for charities
- explain what constitutes a ‘charity’ for exemption purposes
- describe how a charity may apply for tax exemption
- provide guidance on completing the application form
- set out the conditions attaching to exemption from tax.

2. WHAT RELIEFS FROM TAX ARE AVAILABLE ON THE INCOME AND PROPERTY OF CHARITIES?

The tax code provides exemptions for charities as follows:

- Income Tax - Sections 207 and 208, Taxes Consolidation Act, 1997
- Corporation Tax (in the case of companies) - Sections 76 and 78 Taxes Consolidation Act, 1997
- Capital Gains Tax - Section 609, Taxes Consolidation Act, 1997
- Deposit Interest Retention Tax (DIRT) - Section 266 Taxes Consolidation Act, 1997
- Capital Acquisitions Tax – Sections 17, 22 and 76 of the Capital Acquisitions Taxes Consolidation Act 2003
- Stamp Duty - Section 82, Stamp Duties Consolidation Act, 1999
- Dividend Withholding Tax - Chapter 8A, Part 6, Taxes Consolidation Act, 1997

Section 848A of the Taxes Consolidation Act, 1997 provides for a scheme of tax relief for certain “eligible charities” and other “approved bodies” in respect of donations received on or after 6th April, 2001. A charity may apply for authorisation as an “eligible charity” under the provisions of this scheme after it has been granted exemption from tax (i.e. assigned a CHY number) by the Revenue Commissioners for a period of not less than 2 years.

It should be noted that:

- (i) There is no general exemption in respect of Value Added Tax for organisations which are granted charitable tax exemption. (*Specific reliefs from VAT may however apply in certain circumstances e.g. humanitarian aid, medical equipment etc. - see leaflet CHY 10*)**
- and**
- (ii) Employees of a charity are liable to income tax in the ordinary course under the PAYE system.**

3. WHAT BODIES ARE ELIGIBLE TO APPLY FOR CHARITABLE TAX EXEMPTION?

The Revenue Commissioners are responsible for the administration of the relevant tax exemptions and for this purpose determine whether a body of persons or a trust claiming the benefit of any exemption is established for charitable purposes only. An applicant body who is refused exemption has a legal right to appeal such refusal to the Appeal Commissioners who are independent of the Revenue Commissioners.

In the first instance, applications for exemption are examined having regard to whether the body concerned is engaged in an activity under either one or more of the following headings:-

- Relief of Poverty
- Advancement of Education
- Advancement of Religion
- Other works of a charitable nature beneficial to the community. (**N.B.**

Not all

purposes which may be beneficial to the community are charitable in law e.g. the promotion of sport and amateur games is not accepted as being legally charitable. However, approved athletic or amateur games or sports bodies may obtain exemption from Income Tax and Corporation Tax by contacting the Games and Sports Section and a separate leaflet is available in relation to 'Sporting Bodies').

In addition, Revenue requires that the body:

- must be legally established in the State and have its centre of management and control therein. There should be a minimum of three directors/officers/trustees the majority of whom must be resident within the State and the organisation must have a permanent establishment and some operations therein, and
- must ensure that its objects and powers are so framed that every object to which its income or property can be applied is charitable, and
- must be bound, as to its main object(s) and the application of its income or property, by a
Governing Instrument, e.g. Memorandum and Articles of Association in the case of an
incorporated body or Deed of Trust, Constitution or Rules in the case of an unincorporated body.

A body which is granted charitable tax exemption will be issued a charity reference number e.g. CHY 1111 and this CHY number should be quoted in all future correspondence with Revenue.

4. APPLYING FOR EXEMPTION FROM TAX

a. Income Tax, Corporation Tax, Capital Gains Tax or DIRT

Where a charitable organisation wishes to apply for exemption, **it must submit a completed application form. (An application form is included with this booklet).** Paragraph 5 following contains detailed instructions on how to complete the application form. In addition to the completed application form, the body must submit for examination a copy of its formal Governing Instrument. i.e. either Deed of Trust, Memorandum and Articles of Association or Constitution/Rules, as appropriate. For bodies who are not yet formally constituted a draft copy of the

Governing Instrument should be submitted in the first instance as certain amendments and additions may be sought by Revenue.

An outline of a Governing Instrument which shows the preferred layout and the clauses required is available on the Revenue website at <http://www.revenue.ie> or may be obtained by contacting Charities Section.

b. Stamp Duty

Exemption from **stamp duty** only arises where a transfer or lease has been made for charitable purposes in the State or Northern Ireland to a body of persons or a trust established for charitable purposes only. A claim for exemption from stamp duty cannot be considered in advance of the execution of the transfer or lease.

To obtain exemption the relevant instrument should be lodged for adjudication with the Revenue Commissioners quoting the appropriate charity (CHY) number, where exemption has already been granted by the Charities Section. The location of the Solicitor representing the body liable for the payment of Stamp Duty determines which Revenue Office deals with the case. Galway Revenue Office at Hibernian House, Eyre Square, Galway deals with Galway, Donegal, Mayo, Sligo, Leitrim and Roscommon. Cork Revenue Office at Assumption Road, Blackpool, Cork deals with Cork, Kerry, Clare and Limerick and all other counties are dealt with at the Revenue Office at Dublin Castle.

c. Capital Acquisitions Tax

A gift or an inheritance which is taken for a charitable purpose will be exempted from Capital Acquisitions Tax to the extent that Revenue are satisfied that it has been, or will be, applied to purposes which are charitable in law.

To obtain exemption, details of the gift/inheritance for Dublin Applications should be sent to the Dublin Regional Office Arus Brugha, 9/10 O'Connell St., Dublin 1. For all other counties please contact the relevant Tax District for the charity in question quoting the appropriate charity (CHY) number where exemption has already been granted by Charities Section. If charitable exemption has not previously been obtained, the application form attached should first be completed and forwarded to Charities Section. When charitable exemption is granted the relevant charity (CHY) number should be quoted when making application for Capital Acquisitions Tax exemption.

d. Dividend Withholding Tax

A Charity which has been granted exemption under *Section 207 of the Taxes Consolidation Act, 1997*, may receive relevant distributions from companies resident in Ireland without the deduction of Dividend Withholding Tax where that Charity is beneficially entitled to the relevant distributions and where a declaration of their entitlement to exemption has been made.

A declaration of exemption may be made by completing the appropriate section of the Composite Resident Form and lodging it with the “relevant person”. A “relevant person” is defined as

- a company resident in Ireland which makes a relevant distribution directly to the person beneficially entitled to the distribution;
- a qualifying intermediary, where the relevant distribution has been made indirectly to the person beneficially entitled to the distribution via that qualifying intermediary;
- in addition, where relevant distributions are made via an authorised withholding agent, that agent effectively steps into the shoes of the company and is the “relevant person” in relation to the distributions.

The Composite Resident Form is available on the Revenue web-site at www.revenue.ie or directly from the DWT Section, Government Offices, Nenagh – Telephone 067-63400

5. NOTES FOR GUIDANCE ON HOW TO COMPLETE THE APPLICATION FORM FOR CHARITABLE TAX EXEMPTION

Please read these instructions carefully before you complete the application form attached. **We have numbered each paragraph below to correspond with the number of each item on the application form.** You must answer all the questions on the form and submit it, when completed, with the information and documentation requested. **Omissions and errors can lead to delays in the processing of the application.**

The term “body” is used throughout these notes and is applicable to companies, trusts and unincorporated organisations.

If you need any help in completing this form, please contact Charities Section, Government Offices, Nenagh Telephone: 067-63400 Local 1890 666333.

Part A - IDENTIFICATION

1. Name of the body applying for exemption - This refers to the legal name of the organisation, association, corporation, trust, etc. that is seeking exemption. The name entered on the form should be identical to the name of the body as it appears on its Governing Instrument (see Part B below). Exemption is normally only granted in this name.

2. Any other name e.g. a trade name - If the organisation operates under another name, please attach a statement indicating why this is necessary.

3 & 4 Name and Role of Corrspondent – Name of Applicant on behalf of the body and position held i.e. secretary, chairperson, solicitor, accountant etc.

5, 6,7,8 & 9 Permanent addresses, phone and fax numbers for future contact - These should reflect where the organisation is based and/or operates from. A post box number is not sufficient.

10. Tax reference number - If a tax reference number has been allocated to the body this should be stated. Such a number would have been obtained from the local Tax Office. If a body does not have a tax reference number already, it should get one at

the local Tax Office. This is a separate requirement over and above the granting of exemption from tax. However the body may apply for charitable exemption in advance of acquiring a tax reference number.

11. Correspondence address – only complete this if the address for correspondence is different to that given at no. 5.

12. Employees – Please indicate whether the Charity has employees.

13 Charitable Activity -

(a) Please indicate under which of the charitable headings - *Relief of Poverty, Advancement of Education, Advancement of Religion, Other purpose of Benefit to the*

Community, the application is being made

(b) Give a brief summary of the activities which are or will be carried on by the body to further the main object as set out in its governing instrument.

Part B - DETAILS OF OFFICERS/TRUSTEES/DIRECTORS

The full name and address of every officer /trustee/director should be stated clearly. Also, any involvement or connection by any such person with another charity should be specified. It should be noted that there should be a minimum of three officers /trustees/directors and who are not related.

Part C - OBJECTIVES AND ACTIVITIES - SUPPORTING INFORMATION

1. Governing Instrument - A body seeking exemption from tax as a charity must be established formally by a Governing Instrument. (In the case of a charity about to be newly formed it must propose to adopt a Governing Instrument). To apply for exemption, a body can either be incorporated (i.e. formed as a company) or be unincorporated (i.e. established by a constitution, rules or trust.)

A copy of the standard clauses required in the governing instrument of a body seeking charitable tax exemption is attached at Page 7

You should provide an official copy of your Governing Instrument as follows:

In the case of an incorporated body, you need to provide a copy of the Certificate of Incorporation and the Memorandum and Articles of Association. In the case of a body not yet incorporated, a copy of the draft Memorandum and Articles of Association will suffice. It should be noted however, that an application for exemption will not be examined on the basis of a Memorandum and Articles of Association alone (See 'F' Enclosure Checklist). A copy of a standard Memorandum and Articles of Association for companies seeking charitable tax exemption is available on the Revenue website at <http://www.revenue.ie/en/business/charities.html>

- or may be obtained by contacting Charities Section.

In the case of an **unincorporated body**, an **official** copy or photocopy of the constitution, rules or trust document must be signed by the current officers or

trustees. The document should also show the date from which it is effective. If an **unincorporated body** does not currently have a Governing Instrument, it will need to draw up the appropriate document. A copy of a sample Constitution for unincorporated bodies seeking charitable tax exemption is available on the Revenue website at <http://www.revenue.ie/en/business/charities.html>

- or may be obtained by contacting Charities Section

If the Governing Instrument has been amended at any stage e.g. by supplementary deed(s) or by Special Resolution(s), copies of those amending documents should also be provided.

2.Statement of activities to date and of activities proposed - This statement must fully describe all aspects of the operation or intended operation of the body applying for exemption. If the description of the body's activities is vague or incomplete, or only a reiteration of the objects or purpose, this will delay the processing of the application as we will need to contact the body for more details. The statement should refer to the objects or purposes set out in the Governing Instrument (see number 1) and explain in full how the body intends to accomplish each of these objects or purposes. If the body has brochures, advertising or other published material, samples should be attached, as directed on the application form.

Part D - FINANCE AND FUNDING

1. (a) Financial Statements - Financial statements normally include a Statement of Income and Expenditure as well as a Statement of Assets and Liabilities. These statements should relate to the most recent complete accounting period. **Where the annual income exceeds €100,000, accounts must be audited.** If the body is not yet operating, or has not been in existence for a full year, a proposed budget or estimate of income and expenditure and assets and liabilities will suffice. The statements or estimate should indicate the proposed sources of income and should also account for the entire operations of the body.

(b) Please provide details of the accounts where charitable funds are held i.e. name, number and type of account

(c) If the body engages professional fundraisers please provide details of same i.e. names, addresses and P.P.S. numbers

2. Where the body has not commenced activity please provide details of projected income and expenditure and indicate the main sources of income i.e. Government or other Public Funded Grants.

3. Trading - A separate exemption is available under Section 208, Taxes Consolidation Act, 1997 in respect of trading income derived by a charity in pursuit of its objects. Trading exemption is not granted automatically with charitable exemption and must be applied for specifically if the body is either currently or may, in the future, be engaged in trading.

Trading by charities can take a number of different forms but must fall into one of two broad categories:

- a. trades which are exercised in the course of the actual carrying out of a primary purpose of the charity, or
- b. trades carried on by the beneficiaries of the charity.

In either case the profit of the trade must be applied solely for the purpose of the charity.

Part E - PROPERTY

Provide details of of property owned by the body i.e. House/Office etc.

Part F – ENCLOSURE CHECKLIST

This checklist is provided for your assistance to ensure that all of the details required are provided with the initial application. Please remember that incomplete applications can lead to delays and further correspondence.

Part G - DECLARATION

The Revenue Commissioners need accurate information to carry out their functions. Please take care to ensure that the information you are giving is correct. The provision to the Revenue Commissioners of information which you know or suspect to be false in a material way may be an offence.

Part H - ADDRESS FOR COMPLETED APPLICATION FORMS

Completed application forms should be forwarded to the Charities Section at the address provided.

6. CONDITIONS ATTACHING TO EXEMPTION FROM TAX

- The income and property of the charity must be applied solely towards the promotion of its main object as set out in its Governing Instrument.
- In all instances a copy of the first years financial accounts together with a report on activities must be submitted to Charities Section within 18 months of the date that exemption was granted.
Furthermore, it should be noted that a body holding exemption may be reviewed periodically towards ensuring that the income of that body continues to be applied for charitable purposes only.

- If it is proposed to make any changes to the Governing Instrument of the organisation, advance notice in writing of the proposed changes must be given to the Revenue Commissioners for their approval.
- If upon the winding up of the organisation there remains any funds or property the same must be transferred to some charitable body having similar main objects, or failing that, to some other charitable body. Notification of winding up should be forwarded to the Revenue Commissioners together with a final set of accounts and details of how any residual funds at the time of dissolution were distributed.
- Prior permission must be obtained from the Revenue Commissioners where it is intended to accumulate funds over a period in excess of two (2) years specifying the reason(s) why such funds are being accumulated rather than applied for charitable purposes.
- No Director/Trustee/Officer shall receive any remuneration or other benefit in money or money's worth from the exempted body.
- The Revenue Commissioners can make available to any person the name and address of any charity which has been granted exemption from tax.
- The Revenue Commissioners to be notified in writing of any change of address of the organisation

ADDRESSES FOR CONTACT

Exemption from Income Tax, Corporation Tax, Capital Gains Tax, DIRT and Dividend Withholding Tax.

Office of the Revenue Commissioners
Charities Section
Government Offices
Nenagh
Co. Tipperary

Tel: 067 63400 or (direct dial): 067 63377

Low call 1890 66 63 33 Fax: 067-32916 email: charities@revenue.ie

Stamp Duty : Issues relating to Stamp Duty are dealt with by three Revenue Offices

Dublin Office of the Revenue Commissioners

Adjudication Section
Stamp Duty Customer Service Unit
Capital Taxes Division
Dublin Castle
Dublin 2

Tel: 01- 6792777 Extns. 48552/3, 48556, 48558/9, 48560. Fax: 01-6790636

Cork Revenue Office, Revenue House, Assumption Road, Blackpool, Cork. Telephone ; 021 6027000

Galway: (Galway Revenue Office) Hibernian House, Eyre Square, Galway. Tel; 091 536000

Capital Acquisitions Tax Customer Service Unit

Office of the Revenue Commissioners, Arus Brugh, 9/10 O'Connell Street, Dublin 1.

All other Counties should contact their local Revenue Office

STANDARD CLAUSES REQUIRED IN THE GOVERNING INSTRUMENT OF A BODY SEEKING EXEMPTION FROM TAX AS BEING ESTABLISHED FOR CHARITABLE PURPOSES ONLY

Income and Property

The income and property of the company/trust/body shall be applied solely towards the promotion of its main object(s) as set forth in this Memorandum of Association / Deed of Trust / Constitution / Rules. No portion of the company/trust/body's income and property shall be paid or transferred directly or indirectly by way of dividend, bonus or otherwise howsoever by way of profit to members of the company/trust/body. No Director/Trustee/Officer shall be appointed to any office of the Company/trust/body paid by salary or fees, or receive any remuneration or other benefit in money or money's worth from the company/trust/body. However, nothing shall prevent any payment in good faith by the company/trust/body of:

- a. reasonable and proper remuneration to any member or servant of the company/trust/body (not being a Director/Trustee/Officer) for any services rendered to the company/trust/body;
- b. interest at a rate not exceeding 5% per annum on money lent by Directors/Trustees/Officers or other members of the company/trust/body to the company/trust/body;
- c. reasonable and proper rent for premises demised and let by any member of the company/trust/body (including any Director/Trustee/Officer) to the company/trust/body;
- d. reasonable and proper out-of-pocket expenses incurred by any Director/Trustee/Officer in connection with their attendance to any matter affecting the company/trust/body;
- e. fees, remuneration or other benefit in money or money's worth to any Company of which a Director/Trustee/Officer may be a member holding not more than one hundredth part of the issued capital of such Company.

Additions, alterations or amendments

No addition, alteration or amendments shall be made to or in the provisions of the Memorandum of Association/Deed of Trust/Constitution/Rules for the time being in force unless the same shall have been previously submitted to and approved in writing by the Revenue Commissioners.

Winding-up

If upon the winding up or dissolution of the company/trust/body there remains, after satisfaction of all its debts and liabilities, any property whatsoever, it shall not be paid to or distributed among the members of the company/trust/body. Instead, such property shall be given or transferred to some other charitable institution or institutions having main objects similar to the main objects of the company/trust/body. The institution or institutions to which the property is to be given or transferred shall prohibit the distribution of its or their income and property among its or their members to an extent at least as great as is imposed on the company/trust/body under or by virtue of Clause hereof. Members of the company/trust/body shall select the relevant institution or institutions at or before the time of dissolution, and if and so far as effect cannot be given to such provisions, then the property shall be given or transferred to some charitable object.

Keeping of Accounts

Annual accounts shall be kept and made available to the Revenue Commissioners on request.

While every effort is made to ensure that the information given in this leaflet is accurate, it is not a legal document. Responsibility cannot be accepted for any liability incurred or loss suffered as a consequence of relying on any matter published herein.

November 2005

APPLICATION FOR EXEMPTION FROM TAX - CHARITIES

BEFORE COMPLETING THIS FORM PLEASE READ CAREFULLY THE ATTACHED NOTES FOR GUIDANCE

A. IDENTIFICATION

1. Name of Body

2. Any other name if applicable
e.g. a trade name

3. Name of Correspondent

4. Role of Correspondent e.g. chair,
secretary, accountant, solicitor etc

5. Main address of Charity
N.B. Please note that a post box number is not sufficient

6. Main Phone number

7. Fax number

8. Email address (where available)

9. Website address (where available)

10. If a tax reference number has been allocated to the body please provide it.

11 Correspondence Address
(if different from 5 above)

12. Does the organisation have Employees Y No

13. (a) Which charitable heading(s) best describes the activities either being, or to be, undertaken by the applicant body? (See Note 3, Page 2 on Information Leaflet)

- Relief of Poverty
- Advancement of Education

- Advancement of Religion
- Other purposes of Benefit to the Community.

(b) Please provide a brief summary or attach a report describing the activities which are/will be carried on by the organisation to further its main objects and as set out in its Governing Instrument i.e. Memorandum of Association, Deed of Trust/Constitution/Rules

(c) Is the body aware of any other organisation/charity which is engaged in similar activities. If 'Yes' please specify the name and address of such body including any links therewith formal or otherwise.

B. DETAILS OF OFFICERS/TRUSTEES/DIRECTORS

Please list the individuals who will be responsible for running the body e.g. trustees, officers, directors. (If more than 6 please provide details on separate page) If any of the persons listed has an involvement or connection, either current or in the past, with another charity please provide details.

Name	
Address	
Occupation	
P.P.S.No.	

Name	
Address	
Occupation	
P.P.S.No.	

Name	
Address	

Name	
Address	

Occupation		Occupation	
P.P.S.No.		P.P.S.No.	
Name		Name	
Address		Address	
Occupation		Occupation	
P.P.S.No.		P.P.S.No.	

C. OBJECTIVES AND ACTIVITIES

Please **attach** a copy of the body's Governing Instrument, e.g. Memorandum and Articles of Association, Deed of Trust/Constitution/Rules. For bodies being newly formed please note that a copy of a draft standard Constitution/Memorandum and Articles of Association, as appropriate, are available on the Revenue website at <http://www.revenue.ie/>

- Please **attach** a detailed statement of activities, if any, which have been carried out by the body to date and of the activities, which will be carried out during the next 12 months.
- Please **attach** any publications available which will help explain the work of the body or indicate the activities undertaken by it including any annual reports, leaflets for fundraising or newspaper cuttings.

D. FINANCE AND FUNDING

- (a) If the organisation has been in existence for more than a year please attach a copy of the latest set of financial accounts including a detailed breakdown of income and expenditure. Please indicate the main source(s) of income and provide details regarding any Government or other Public Funded Grants receivable.

(b) Please provide details of bank accounts where the organisation's funds are held

Name and Address of Financial Institution	Type of	Account
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	Account	Number

(c) Indicate whether professional fundraisers are engaged by the body. If “yes”, please provide details i.e. Name, address and P.P..S. numbers.

2. If the organisation is at start-up stage please indicate how the organisation will be funded and

provide details of projected income and expenditure. Will the organisation be in receipt of

Government or other Public Funded Grants? If so, provide details.

3. Trading

(a) A separate exemption is required in connection with trading activities. If you wish to apply for

such exemption, please **attach** a statement showing how it will advance the objectives of the body.

(b) If the body has already engaged in any trading activities please **attach** details.

E. PROPERTY

Does the organisation own property? If so provide details

Type of Property	Address	Value
House/Office/Factory/ other		

F. ENCLOSURE CHECKLIST

Please examine the following checklist to ensure that you have included all of the material required in support of your application.

- Copy of the Governing Instrument.
- Statement of activities to date and plans for next 12 months, including any trading activities undertaken/proposed.
- Annual reports, other documentation, if applicable.

- Latest Financial Statements
-

G. DECLARATION

I certify that the information given is correct to the best of my knowledge and belief.

Signed on behalf of the body by:

e.g. Chairperson/Secretary/Agent

H. ADDRESS FOR APPLICATION FORM

This form and all relevant enclosures should be sent to:

Office of the Revenue Commissioners
Charities Section
Government Offices
Nenagh
Co. Tipperary

Tel. 067 63400 Fax 067 32916 Lo call 1890 66 63 33 Email:
charities@revenue.ie

It should be noted that the Revenue Commissioners can make available to any person the name and address of any charity which has been granted exemption from tax.