

Charity Exemption

Tax exemption for charities under sections 207 and 208 Taxes Consolidation Act 1997

Part 07-01-06

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1 What constitutes a charity?

There is no comprehensive definition of the terms “charity” or “charitable purposes” in the Taxes Consolidation Act 1997 (TCA). The definition of “charity” in both sections 208 and 208A TCA states:

“charity” means any body of persons or trust established for charitable purposes only.

The modern interpretation of the term “charitable purposes” stems from Lord Macnaghten's judgement on the Pemsel case in 1891 (3 TC 53).

The Charities Act 2009, introduced to make provisions for the registration, regulation and protection of charitable organisations and trusts, has broadly adopted the definition of charitable purposes outlined in the Pemsel case, namely:

1. the prevention or relief of poverty or economic hardship;
2. the advancement of education;
3. the advancement of religion; or
4. any other purpose that is of benefit to the community.

It is Revenue practice to use these categories for assessing the eligibility of applicants for charitable tax exemption in the first instance.

Where an application falls into one of the required categories, the next test which must be satisfied is whether the income and property of the applicant body is applied for charitable purposes only.

These general principles underpin Revenue's approach to dealing with applications for exemption from tax by bodies which claim to be established for charitable purposes only.

A body which is refused charitable tax exemption, or a charity whose exemption is withdrawn, has a legal right to appeal that decision to the Tax Appeal Commission (which is independent of Revenue).

Before an appeal can be heard, however, there must be evidence that a charge to tax has, in fact, been incurred by the body seeking the exemption or the charity seeking to have its tax exemption reinstated, as the case may be.

2 Regulation of charities

The general regulation of charities, including monitoring of the activities of individual charities, is a matter for the Charities Regulator, which is an independent body set up under the terms of the Charities Act 2009.

For information in relation to the regulation of charities, please contact the Charities Regulator, whose contact details are:

Address: 3 George's Dock, IFSC, Dublin 1, D01 X5X0.

Phone: 01 633 1500

Email: info@charitiesregulator.ie

3 Exemptions from tax and other relevant provisions

Tax exemptions are available to charities in respect of

Income Tax: Sections 207 and 208 TCA 1997

Corporation Tax: Sections 76 and 78 TCA 1997

Capital Gains Tax: Section 609 TCA 1997

Deposit Interest Retention Tax: Section 266 TCA 1997

Capital Acquisitions Tax: Sections 17, 22 and 76 Capital Acquisitions Tax Consolidation Act 2003

Stamp Duty (on a transfer or lease of land): Section 82 Stamp Duties Consolidation Act 1999

Other tax issue relevant to charities are detailed below.

Dividend Withholding Tax: is provided for in Part 6 Chapter 8A TCA. DWT does not have to be deducted from distributions to charities in certain circumstances. Please see Tax and Duty Manual [Part 06-08A-01](#) for further details.

Local Property Tax: under sections 7 and 7A Finance (Local Property Tax) Act 2012, residential properties of certain charitable trusts may, in specific defined circumstances, be exempt from Local Property Tax.

PAYE/PRSI/USC: Charities that are employers must operate the PAYE system when paying emoluments to their employees and are treated in the same manner as any other employer.

VAT: While there is no general VAT exemption for charities, some VAT reliefs may apply to charitable bodies. Please see [VAT Compensation Scheme](#) on the Revenue website for further information on these reliefs.

When tax exemption is granted, the charity is issued with a reference number beginning with the letters CHY followed by a number of digits. This reference should be quoted in all correspondence with Revenue.

4 Applying for charitable tax exemption

Applications for charitable tax exemption must be made on Form [CHY 1](#). The form outlines the application procedure and also sets out the supporting documentation required (see checklist on form). It is important that all of the documentation, as set out on the checklist, is forwarded with the completed application form.

As part of the application process, an applicant is required to submit a formal "Governing Instrument" for examination. The Governing Instrument, which may take the form of a Deed of Trust, a Memorandum and Articles of Association or a Constitution, may be submitted in draft form to the Charities Section of Revenue for an opinion on the appropriateness, or otherwise, of the Instrument for the charitable purpose proposed.

The applicant must ensure that proper systems are in place for the keeping of adequate accounts and records and, if necessary, that it is registered for PAYE and VAT purposes.

A charity is subject to Revenue audit in the same manner as any other body. Revenue has noted, in some instances, that bodies with charitable tax exemption may not be fully aware of their obligations regarding the operation of the PAYE system for employees. As noted above, the exemptions from income tax under section 207 or 208 TCA does not affect the PAYE, PRSI or USC obligations of any body or trust as an employer.

5 Trading profits exemption - section 208 TCA

Section 208 TCA exempts trading profits from income tax arising to charities. There are two important requirements attaching to the trading exemption.

First, the income must be applied solely to the purposes of the charity.

Second, one of the following conditions must be satisfied:

1. The trade must be exercised in the carrying on of a primary purpose of the charity. (An example of this type of arrangement would be a religious organisation which sells religious books and magazines, i.e. where the main object of the organisation is the promotion of religion and the sale of books and magazines is a facility to achieve that object.)

or

2. The work in connection with the trade is carried on mainly by beneficiaries of the charity. (An example of this would be the sale of goods produced by people with a disability through a shop or mail order catalogue.)

6 Charitable donations scheme – section 848A and Schedule 26A TCA

Section 848A and Schedule 26A TCA provide for a scheme of tax relief for qualifying donations to certain “eligible charities” and other “approved bodies”. Under Part 3 of Schedule 26A, the scheme may be availed of by charities established in

- the State that have been granted tax exemption under section 207 for a period of at least 2 years and,
- an EEA state (other than Ireland) or an EFTA state, that have received a notice of determination from Revenue in accordance with section 208A at least two years prior to the date of the application for authorisation to operate as an eligible charity.

7 List of bodies with charitable tax exemption

Lists of eligible charities and approved bodies for the charitable donations scheme are published on the Revenue website at the following links:

- [LIST A](#): Resident charities authorised under the “Scheme of Tax Relief for Donations to Eligible Charities and other Approved Bodies” under the terms of section 848A TCA.
- [LIST B](#): Non-resident charities authorised under the “Scheme of Tax Relief for Donations to Eligible Charities” under the terms of section 848A TCA.

For further information on the charitable donations scheme, please refer to Tax and Duty Manual [Part 36-00-17](#).

8 Contact details for Revenue Charities Section

Office of the Revenue Commissioners
Charity Claims Unit
Government Offices
Nenagh
Co. Tipperary
E45 T611

Phone: 067 63377

Email: Please use the MyEnquiries service available in myaccount or ROS