

## **Charity Exemption**

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

#### **Part 07-01-06**

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## Table of Contents

|   |   |   |
|---|---|---|
| 1 | What constitutes a charity? .....                                     | 3 |
| 2 | Regulation of charities .....   | 3 |
| 3 | Exemptions from tax and other relevant provisions .....               | 4 |
| 4 | Applying for charitable tax exemption .....                           | 5 |
| 5 | Rent of properties exemption – section 207 TCA .....                  | 5 |
| 6 | Trading profits exemption - section 208 TCA .....                     | 5 |
| 7 | Charitable donations scheme – section 848A and Schedule 26A TCA ..... | 6 |
| 8 | List of bodies with charitable tax exemption .....                    | 6 |
| 9 | Contact details for Revenue Charities Section .....                   | 6 |

## 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 in **Commissioners for the Special Purposes of the Income Tax v Pemsel 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.

A body which is refused charitable tax exemption, or a charity whose exemption is withdrawn, has a legal right to appeal that decision to the Tax Appeal Commission (which is independent of Revenue).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

Since the establishment of the Charities Regulator, all applications to register as a charity must now be submitted to the Charities Regulator under Section 39 of the Charities Act 2009. Once charities have been registered with the Charities Regulator they can apply to Revenue's Charities and Sports Exemptions Unit for charitable tax exemption.

For information in relation to the registration and 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](mailto: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 Taxes Consolidation Act 1997 (TCA)

**Corporation Tax:** Sections 76 and 78 TCA

**Capital Gains Tax:** Section 609 TCA

**Deposit Interest Retention Tax:** Section 266 TCA

**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

**Professional Services Withholding Tax:** Section 520 TCA 1997

Other tax issues relevant to charities are detailed below.

**Dividend Withholding Tax (DWT):** 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 the [VAT Compensation Scheme](#) page 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 through ROS. The online application form outlines the application procedure and sets out the supporting documentation which must be submitted with the application. 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 or other compliance intervention 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 stated above, the exemptions from income tax under section 207 or 208 TCA do not affect the PAYE, PRSI or USC obligations of any body or trust in its capacity as an employer.

## 5 Rent of properties exemption – section 207 TCA

Section 207 TCA grants exemptions from income tax on:

- rents and profits of any property belonging to a hospital, public school or almshouse, or vested in trusts for charitable purposes, in so far as the rents and profits are applied to charitable purposes only
- interest, annuities, dividends or shares of annuities taxable under Schedule C; yearly interest or other annual payment chargeable under Schedule D; and on any distribution chargeable under Schedule F, forming the income of any body of persons established for charitable purposes, in so far as the income is applied to charitable purposes only; and
- any interest annuities, dividends or share of annuities in the names of trustees applicable towards the repair of buildings “used solely for the purposes of divine worship”, insofar as the income is applied to such purposes.

## 6 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, that is, 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/online catalogue.)

## 7 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 two 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.

## 8 List of bodies with charitable tax exemption

Details of charities which have been granted tax exemption and charities which are authorised for the charitable donations scheme are published on the Revenue website at the following links:

- [LIST A](#): Resident charities which have been granted charitable tax exemption under section 207 TCA.
- [LIST B](#): 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 C](#): Non-Irish 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](#).

## 9 Contact details for Revenue Charities Section

All written correspondence should be sent through the MyEnquiries service available in myAccount or ROS.

Phone: 01 7383680