



Small Charitable Donations Act 2012

2012 CHAPTER 23

Miscellaneous

13 Charity mergers: new charity taking over activities of several charities

- (1) This section applies if, on an application made by a charity (“the new charity”), HMRC certify that in their opinion—
 - (a) the new charity was created with a view to taking over all of the activities of more than one other charity (the “old charities”),
 - (b) the new charity has taken over those activities,
 - (c) the purposes of the new charity are substantially similar to the purposes of the old charities (taken together), and
 - (d) more than half of the managers of the new charity were old charity managers.
- (2) For the purposes of determining whether a charity is eligible under section 2 for a relevant tax year—
 - (a) things done (or treated as having been done) by or in relation to the relevant old charity before the time of the merger (or after that time but in connection with things done before that time) are to be treated as if they had instead been done by or in relation to the new charity;
 - (b) the new charity is to be treated as if it had been a charity (as defined by section 18(1)) at any time, before the time of the merger, when the relevant old charity was (or is treated as having been) a charity.
- (3) “Relevant tax year” means—
 - (a) if none of the old charities makes a successful top-up claim in respect of small donations made in the year of the merger, that year or any later tax year;
 - (b) otherwise, any tax year after the year of the merger.
- (4) Which of the old charities is the “relevant old charity” is determined as follows—
 - (a) if each of the old charities was an eligible charity for the year of the merger, the relevant old charity is whichever of those charities would first cease to be an eligible charity, assuming that none of them were to make a successful gift aid exemption claim in the year of the merger or any later tax year;

- (b) if only one of the old charities was not an eligible charity for the year of the merger, the relevant old charity is that charity;
 - (c) if more than one of the old charities was not an eligible charity for the year of the merger, the relevant old charity is whichever of those charities would last become an eligible charity, assuming that each of them were to make a successful gift aid exemption claim in the year of the merger and every later tax year;
 - (d) if two or more old charities would otherwise be the relevant old charity under paragraph (a) or (c), the new charity must elect which of those charities is the relevant old charity.
- (5) In deciding whether to issue a certificate under this section, HMRC must have regard in particular to the extent to which the property of the old charities has been transferred to the new charity.
- (6) HMRC must issue such guidance as they consider appropriate about the exercise of their functions under this section.
- (7) Regulations under section 11 may in particular make provision—
- (a) about the form and contents of applications under this section;
 - (b) imposing a time limit for the making of an application;
 - (c) for an application to require the consent of each old charity that is in existence at the time of the application;
 - (d) about elections under subsection (4)(d);
 - (e) for appeals against a refusal to issue a certificate under this section.
- (8) In this section—
- “managers” means the persons having the general control and management of the administration of a charity;
 - “old charity manager” means a person who was a manager of an old charity immediately before the last of the activities of the old charity were transferred to the new charity;
 - “time of the merger” means the time when the new charity took over the activities of the old charities (or, if that occurred over a period of time, the end of that period);
 - “year of the merger” means the tax year in which the time of the merger fell.