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STATUTORY INSTRUMENTS

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**2005 No. 2790**

**The Donations to Charity by Individuals (Appropriate Declarations) (Amendment) Regulations 2005**

**Amendment of the Donations to Charity by Individuals (Appropriate Declarations) Regulations 2000**

5. For regulations 4 to 7 substitute—

**“Giving appropriate declarations**

4.—(1) An appropriate declaration must—

- (a) contain the name and home address of the donor,
- (b) name the charity (or be made in circumstances where the charity is identified),
- (c) identify the gift or gifts to which the declaration relates, and
- (d) confirm that the identified gift or gifts are to be qualifying donations for the purposes of section 25 of the Finance Act 1990 (Donations to charity by individuals).

(2) The explanation of section 25(8) of the Finance Act 1990 referred to in regulation 5(2)(b) or (4)(b), as the case may be, must be given to the donor in order for an appropriate declaration to have effect (subject to regulation 6).

**Recording and audit of appropriate declarations**

5.—(1) A charity must either—

- (a) maintain an auditable record of appropriate declarations given to it, or
- (b) comply with paragraphs (4) to (6) in relation to each declaration.

This is subject to paragraph (3).

(2) An auditable record is a record of evidence—

- (a) of appropriate declarations and the making of them, and
- (b) that (whether or not separate from the declaration) statements explaining the effect of section 25(8) of the Finance Act 1990 were given to donors at the time the declarations were made,

in a form, and to a standard, which can be inspected and audited by the Commissioners.

(3) If the Commissioners notify the charity that the record, or the records relating to particular declarations or classes of declarations, do not meet with their satisfaction, the charity must comply with paragraphs (4) to (6) in relation to the declarations in question.

(4) Where paragraph (1)(b) or (3) applies, the charity shall in each case send the donor a statement in writing (“written statement”) containing—

- (a) the information required by regulation 4(1)(a) to (d),
- (b) an explanation of the effect of section 25(8) of the Finance Act 1990,

- (c) the date on which the charity sends the statement to the donor, and
- (d) a statement that the donor is entitled to cancel his declaration by giving notice in writing to the charity not later than 30 days following the date in subparagraph (c).

(5) Where paragraph (4) applies, the donor is entitled to cancel the declaration by giving notice of cancellation to the charity in accordance with paragraph (4)(d).

(6) The charity shall maintain an auditable record of—

- (a) written statements, and
- (b) any cancellation notices,

in a form, and to a standard, which can be inspected and audited by the Commissioners.

(7) Where a donor who has given an appropriate declaration to a charity notifies the charity of any change to his name or home address, the charity must keep a record of those changes with the declaration.

**Prescribed circumstances in which appropriate declarations are deemed never to have had effect**

6. An appropriate declaration shall be treated for the purposes of the Taxes Acts as never having had effect where—

- (a) the charity has not sent the written statement to the donor in a case where it is required to do so by regulation 5(4);
- (b) the donor cancels the declaration by giving notice in accordance with regulation 5(5); or
- (c) the Commissioners notify the charity that the records relating to that declaration under regulation 5(6) do not meet with their satisfaction.

**Prescribed circumstances in which appropriate declarations cease to have effect**

7. An appropriate declaration shall cease to have effect for the purposes of the Taxes Acts where—

- (a) the donor notifies the charity of the cancellation of his declaration (other than in accordance with regulation 5(5)), and
- (b) the cancellation takes effect from (or after) the date of its receipt by the charity.”.