



STATUTORY INSTRUMENTS.

S.I. No. 580 of 2018

VALUE-ADDED TAX (REFUND OF TAX) (CHARITIES
COMPENSATION SCHEME) ORDER 2018

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COMPENSATION SCHEME) ORDER 2018

I, PASCHAL DONOHOE, Minister for Finance, in exercise of the powers conferred on me by section 103 of the Value-Added Tax Consolidation Act 2010 (No. 31 of 2010), having had regard to the requirements in subsection (2A) of that section, hereby order as follows:

Citation, commencement and scope

1. (1) This Order may be cited as the Value-Added Tax (Refund of Tax) (Charities Compensation Scheme) Order 2018.

(2) Subject to paragraph (3), this Order shall have effect from 1 January 2018.

(3) This Order applies to tax paid on expenditure on or after 1 January 2018 by a qualifying charity.

Definitions

2. (1) In this Order—

“Act of 2009” means the Charities Act 2009 (No. 6 of 2009);

“Act of 2010” means the Value-Added Tax Consolidation Act 2010 (No. 31 of 2010);

“charitable purpose” shall be construed in accordance with section 2(1) of the Act of 2009;

“eligible tax” for the calendar year to which the claim relates, means an amount determined by the following formula:

$$\text{qualifying tax } X \text{ (qualifying income / total income);}$$

“qualifying charity” means an organisation, which is, and which was at the time the qualifying expenditure was paid, a ‘registered charitable organisation’ within the meaning of section 2(1) of the Act of 2009 and which has obtained exemption under section 207 of the Taxes Consolidation Act 1997 (No. 39 of 1997);

“qualifying expenditure” means expenditure, on which tax was paid in the State, which expenditure the qualifying charity establishes to the satisfaction of the Revenue Commissioners, was paid directly by that qualifying charity in the calendar year to which the claim for a refund relates, on goods and services applied only to its charitable purpose and in respect of which the qualifying charity is not entitled to a deduction, relief, repayment or refund—

*Notice of the making of this Statutory Instrument was published in
“Iris Oifigiúil” of 4th January, 2019.*

- (a) by any other provision of the Act of 2010 or any other instrument made under that Act, or
- (b) under any other enactment administered by the Revenue Commissioners,

of all, or any portion, of the qualifying tax.

“qualifying income” means total income received by the qualifying charity during the calendar year to which the claim relates, excluding—

- (a) educational fees received by a qualifying charity being a school, a university, an institute of technology or an educational establishment,
- (b) income from shops, restaurants and retail outlets operated by the qualifying charity,
- (c) refunds and reliefs received directly or indirectly by the qualifying charity—
 - (i) by any other provision of the Act of 2010 or any other instrument made under that Act, or
 - (ii) under any other enactment administered by the Revenue Commissioners,
 and
- (d) any funding, refunds or reliefs received directly or indirectly from—
 - (i) the State or from a public body or from a body of the State or from a body established by statute or from a body which received that funding directly or indirectly from the State,
 - (ii) the European Union or from a body of the European Union, or from a body which received that funding directly or indirectly from the European Union,
 - (iii) the public funding of any Member State, or from a body which received that funding directly or indirectly from the public funding of a Member State,
 - (iv) any international organisation which received that funding directly or indirectly from the public funds of any country, or from a body which received from an international organisation, funds which it had previously received directly or indirectly from the public funds of any country, or
 - (v) from another qualifying charity,

which were received by the qualifying charity in the calendar year to which the claim for a refund relates;

“qualifying tax” means tax paid in respect of qualifying expenditure;

“tax” means value-added tax as defined in section 2(1) of the Act of 2010;

“total income” means the total income received by the qualifying charity in the calendar year to which the claim for a refund relates.

Claim for refund of eligible tax

3. (1) A qualifying charity shall be entitled to submit a claim for a refund of eligible tax, and where a claim is submitted the qualifying charity shall fulfil the conditions specified in this Order and shall submit that claim in accordance with the requirements specified by the Revenue Commissioners from time to time.

(2) A claim for a refund of eligible tax—

- (a) may only be made annually in respect of eligible tax relating to the previous calendar year,
- (b) may only be made where the amount of eligible tax is €500 or more, and
- (c) shall be made not later than 30 June of the year following the calendar year to which the claim for a refund of that eligible tax relates.

(3) The Revenue Commissioners, having had regard to Articles 4 and 5, may not refund the full amount or any amount for which a qualifying charity is entitled to make a claim under this Order.

Amount of eligible tax

4. The amount of eligible tax which may be refunded to a qualifying charity under this Order shall—

- (a) be based on the amount of tax which that charity is entitled to claim,
- (b) be calculated by the Revenue Commissioners having regard to—
 - (i) the annual amount available under the Charities Compensation Scheme as determined by the Minister for Finance, and
 - (ii) the value of eligible claims received by the Revenue Commissioners from all applicants,and
- (c) not exceed the amount calculated by the Revenue Commissioners in accordance with subparagraph (b).

Requirements for claim

5. A qualifying charity which submits a claim under this Order, shall fulfil the conditions specified in this Order and shall submit the claim in accordance with the requirements specified by the Revenue Commissioners, including the requirements to—

- (a) establish to the satisfaction of the Revenue Commissioners, by the production of documentary evidence or otherwise, that it is a qualifying charity,
- (b) establish to the satisfaction of the Revenue Commissioners, by the production of documentary evidence or otherwise, that the goods and services in respect of which qualifying expenditure was paid were applied by the charity only to its charitable purpose,
- (c) establish to the satisfaction of the Revenue Commissioners that it has paid the qualifying tax on which the claim is based,
- (d) calculate the amount of eligible tax being claimed and provide the figures and information on which that claim is based,
- (e) claim a refund by completing such form as may be provided for that purpose by the Revenue Commissioners,
- (f) submit the claim and any required information in the format specified by the Revenue Commissioners,
- (g) submit the claim and any required information in accordance with any deadlines specified by the Revenue Commissioners, including any information required before or after any deadlines following the submission of that claim to the Revenue Commissioners,
- (h) if requested to do so by the Revenue Commissioners, produce to the satisfaction of the Revenue Commissioners, documentary evidence, including invoices or other documents, which establish the income, expenditure and tax on which basis the claim for a refund of eligible tax is being made,
- (i) declare and certify that all information provided for the purposes of the claim is correct,
- (j) have complied with all the obligations imposed by the Act of 2010, the Taxes Consolidation Act 1997, the Stamp Duties Consolidation Act 1999, and any instrument made under any of them in relation to—
 - (i) the payment or remittance of those taxes, interest and penalties required to be paid or remitted thereunder, and
 - (ii) the delivery of returns,
- (k) if requested to do so by the Revenue Commissioners, produce the most recently completed audited accounts being for a financial year of the charity, which year ends no earlier than in the calendar year to which the claim for a refund relates, and
- (l) if requested to do so by the Revenue Commissioners, establish to the satisfaction of the Revenue Commissioners in relation to the tax to

which this claim relates, that it is not entitled to a deduction of that tax under section 59 of the Act of 2010 or to a repayment of the tax, under—

- (i) any other provision of the Act of 2010,
- (ii) any instrument made under the Act of 2010,
- (iii) any Act administered by the Revenue Commissioners, or
- (iv) any instrument made under an Act administered by the Revenue Commissioners.

Rejection of, and changes to, claims

6. The Revenue Commissioners may—

- (a) reject claims submitted, or
- (b) make any changes they consider necessary to any claim, including changes to the amount of eligible tax being claimed by a qualifying charity.

Officers of charity making claim

7. Where a claim for a refund of tax to a qualifying charity is made under this Order, the secretary, or other officer acting as secretary, or, where relevant, the charity trustee as defined in section 2(1) of the Act of 2009, who makes that claim on behalf of the qualifying charity, shall be answerable in addition to the qualifying charity for doing all such acts as are required to be done by that qualifying charity in relation to the making of such a claim.

Refund of tax refunded

8. If the Revenue Commissioners are of the view, following the making of a refund under this Order, that the recipient has failed to comply with the terms of this Order or was not entitled to the full or any part of, the refund made, the Revenue Commissioners may—

- (a) seek a refund of all or any part of the tax refunded, or
- (b) deduct that refund or any part of the tax refunded from any future payments due to the charity under this Order, the Act of 2010, any instrument made under the Act of 2010 or under any other enactment administered by the Revenue Commissioners.



GIVEN under my Official Seal,
18 December 2018.

PASCHAL DONOHOE,
Minister for Finance.

EXPLANATORY NOTE

(This note is not part of the Statutory Instrument and does not purport to be a legal interpretation)

This Order provides for a scheme to partially compensate charities for VAT paid on expenditure in their charitable operations. The Order sets out the criteria with which a charity must comply in order to qualify to make a claim under the scheme. It provides for the conditions which attach to the calculation of a claim, and the income, expenditure and VAT relevant to that calculation. It also sets out the requirements and obligations for a charity to make a claim. The Order also provides that the scheme operates on the basis of claims being made up to 30 June in a particular year in relation to the previous calendar year.

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