

# Impact of 'Fit and Proper Persons' Test on Gift Aid and other Charitable Reliefs

November 2010



HMRC has introduced a 'fit and proper persons' test to those who have the general control and management of the administration of charities, this includes some employees and may create employment issues for charities.

Where HMRC finds a manager of a charity is not a 'fit and proper person', a charity may lose its entitlement to charity tax reliefs. This applies to Gift Aid with effect from 1 April 2010 and is due to be extended to other charity tax reliefs later in 2010. The 'fit and proper persons' test applies to the 'managers' of the charity. The term 'manager' is defined in the legislation as having the general control and management of the charity. Significantly this is not limited to the trustees of a charity and could include employees.

The following examples of individuals who would be subject to the 'fit and proper persons' test are taken from HMRC's guidance:

- In a typical small local charity a manager for the purposes of the 'fit and proper persons' test could include the Chairperson, Treasurer, Secretary and the rest of the management committee who would have control over expenditure.
- In a larger charity a manager for the purposes of the 'fit and proper persons' test would include all trustees or directors of a corporate charity but may also extend to certain employees who are able to determine how a significant proportion of the charity's funds are spent. For example, most large charities have a Board of Trustees and an Executive Board of senior employees. In such a case the trustees and members of the Executive Board would be managers of the charity.

This is significant as a senior employee who is deemed not to be a 'fit and proper person' may jeopardise a charity's tax reliefs and exemptions. This could create financial difficulties for charities if gift aid income is put at risk due to the involvement of one individual trustee or employee. This could also have employment implications if a charity needs to deal with an employee who may fail the 'fit and proper person' test.

HMRC's current guidance is available at <http://www.hmrc.gov.uk/charities/guidance-notes/chapter2/fp--test.htm>.

*Please note: The content of this article is for information purposes only and further advice should be sought from a professional advisor before any action is taken.*