

CAN ‘DONATIONS’ TO THE ROMAN CATHOLIC CHURCH FOR SAYING MASSES FOR PARTICULAR INTENTIONS BE GIFT AIDED?

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The aim of this article is to demonstrate that ‘donations’ for saying Masses for particular intentions can be gift aided, using both Civil and Canon law in support of the proposition.²

First, what is meant by ‘saying a Mass for a particular intention’? Typically, when a Catholic person dies, friends and family will request a priest to say Mass for the repose of their soul. Cards are usually available to send to those bereaving to comfort them.

Second, what is a ‘qualifying donation’ for the purposes of Gift Aid? First the donation must be to a charity,³ second, any benefits received by the donor must be within the following de minimis limits:⁴

- 25% of the amount of the gift, if the amount of the gift is £100 or less; or
- £25 if the amount of the gift is more than £100 but not more than £1,000; or
- 5% of the amount of the gift, if the amount of the gift is more than £1,000; or

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2 At the time of writing the author was in discussions with HMRC about this issue.

3 For the definition of a ‘charity’ see Charities Act 2006, s 1(1) but note that Income Tax Act 2007, s 430 brings certain exempt bodies within the scope of the gift aid scheme. For the purposes of income tax reliefs, the definition of ‘charity’ in Finance Act 2010, Schedule 6 must also be satisfied.

4 Income Tax Act 2007, s 418. See Income Tax Act 2007, s 419 for provisions relating to limits on the receipt of these benefits within a period of 12 months.

- The total value of the benefits associated with the gift, and the total value of the benefits (if any) associated with each relevant prior gift, is £2,500 or less.

Her Majesty's Revenue and Customs' ('HMRC's') current position on gift aiding Mass donations is as follows:⁵

Provided the priest will say a Mass for anyone without obligation for a payment, offering or donation to be made, then a voluntary free will gift to the Church will qualify for Gift Aid tax repayment.

Where a payment is made in respect of a Mass being said for an individual, that payment is a payment for services, not a free will donation and the payment will not be eligible for Gift Aid.

HMRC's second proposition seems to contradict its first proposition. Further it is not supported by Civil law or Canon law or by practice.

1. It is charitable in law to make a donation for the saying of a Roman Catholic Mass for a particular intention so long as that Mass is said in public. Further those donations can be used for the maintenance of the clergy.⁶
2. The only basis upon which the saying of Mass can be charitable is where it is said in public. Usually, a Mass will be said in public and will involve the whole congregation joined in prayer for the intention. It is therefore an exercise of public worship and not just for the benefit of the donor. A Mass said in public is a charitable purpose in law.⁷ Any private benefit to the donor could not be proved and would not therefore affect charitable status and therefore Gift Aid.
3. Roman Catholic Canon law makes it clear⁸ that any offering given for the celebration of a Mass is to be freely given and that the poor are never to be denied the celebration of a Mass for their intentions because of their inability to provide a customary offering. Canon law⁹ forbids even the semblance of trafficking or trading being associated with Mass offerings.

⁵ As set out in correspondence with *The Tablet* on 23 August 2011.

⁶ *Re Hetherington* [1990] Ch 1.

⁷ *Ibid.*

⁸ Canon 945 of the *Codes Iuris Canonici* 1983.

⁹ *Ibid.*, Canon 947.

4. The Canon law accords with practice where a Catholic priest would never, in practice, refuse to say Mass because a donation is not made.¹⁰
5. A Mass for a particular intention cannot breach the allowable benefits limits because the benefits of a Mass are incapable of proof.¹¹
6. Occasionally, a priest will be asked to say Mass for a particular intention and he will say the Mass in private. Such a Mass will not be in furtherance of a charitable purpose in law¹² and will not qualify for Gift Aid.¹³ The distinction between private and public Masses and 'qualifying donations' is an area where HMRC could issue useful guidance.
7. An analogy can be drawn with funds donated to school charities.¹⁴ HMRC, in its published guidance, gives the example of a charitable appeal to raise funds for extra books or extra lessons in addition to the National Curriculum. HMRC says:

So long as there is no connection between who gets access to the books or free lessons and which parents donate, the amounts parents give will probably be charitable donations.
8. The position is similar to Mass donations for particular intentions where the Catholic priest is obliged in Canon law, and does in practice, say Masses regardless of whether a donation is made.¹⁵
9. It might be argued by HMRC that the culture within the Catholic Church of making a donation for the saying of a particular Mass is so strong that, in reality, a payment must be made and therefore the payment is not voluntary and involves a contract to provide benefits. Even if that was the case, can a monetary value be put on an intangible benefit recognised by faith and not by law?¹⁶ How would HMRC be able to claim that the benefits exceeded the allowable limits for Gift Aid?

10 The author consulted priests in the RC Dioceses of East Anglia and Southwark.

11 *Gilmour v Coates* [1949] AC 426.

12 *Gilmour v Coates* [1949] AC 426; *Yeap Cheah Neo v Ong Cheng Neo* (1875) LR 6 PC 381 and *Hoare v Hoare* (1886) 56 LT 147.

13 Above at footnote 3.

14 HMRC, 'Gift Aid and Payroll Giving: A reference guide for charitable schools' August 2011.

15 See paragraphs 1 & 2.

16 *Gilmour v Coates* [1949] AC 426.

10. Many Catholics may feel a moral obligation to make a donation (as in the case of parents with children at schools where appeals are made) but this is also true of offertory collections where it is accepted that donations can be gift aided.¹⁷ If this is a stumbling block for HMRC then again guidance could be provided to ensure procedures are in place to make it clear that Masses will be said regardless of whether a donation is made.

By way of conclusion, donations made for the saying of Masses for particular purposes can be gift aided according to Civil and Canon law although guidance from HMRC on the operation of Gift Aid in this area would be helpful particularly on the distinction between public and private Masses and on how to ensure that the people requesting Masses for particular intentions are aware that they can request a Mass without having to make a donation.

This issue can be put in a wider context. Other faiths may benefit from clear guidance in relation to similar practices. It would also be useful to see guidance on donations in other contexts such as weddings, baptisms and funerals.

¹⁷ See 'Church Collections' available at:
http://www.hmrc.gov.uk/charities/gift_aid/rules/church-coll.htm