

Connected charities and Employment Allowance: detailed technical guidance for employers and their agents

If you are a charity or charitable trust, here is detailed technical guidance to help you decide if you are connected to other charities or charitable trusts, or if your charity is connected to a business.

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Exemptions from entitlement to claiming the Employment Allowance for connected charities

If, at the start of the tax year, two or more charities (including Community Amateur Sports Clubs) are connected with each other, and those charities would otherwise each qualify for the Employment Allowance, only one of those charities can qualify for the Employment Allowance for that year. It is up to the charities concerned to decide which one of them will qualify for the Employment Allowance.

The rules in place for determining whether charities are connected with each other are similar to the 'connected charities' provisions in section 5 of the Small Charitable Donations Act 2012.

Charities will be connected with each other for the purpose of the Employment Allowance only if their purposes and activities are the same or substantially similar and they are controlled by the same or connected persons.

Example

At the start of the tax year, two separate charities are established in different parts of the country, with different personnel but the same aim of funding research into a particular medical condition. The charities are not connected as they do not share personnel and therefore neither charity has control of the other. Each charity is entitled to the Employment Allowance. However, if one charity controlled the other they would be connected and entitled to only one Employment Allowance. The charities would be connected if, for example, a

husband and wife controlled one charity and their children controlled the other.

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My charity controls a company. Are the company and the charity connected?

If a charity controls a company which is not a charity, that company is treated as if it were a charity and the two are connected with each other for the purpose of the Employment Allowance. There will only be entitlement to one Employment Allowance. In choosing whether the charity or the company claims the Employment Allowance you should consider choosing the organisation that is likely to generate the highest amount of employer Class 1 NICs in the tax year. This is because there will be no entitlement to any unclaimed balance due (up to the annual maximum of £2,000) based on the other connected organisation's employer Class 1 NICs liabilities. See the example below.

Example

Charity WCB organises fundraising activities to maintain and staff community venues including provision of facilities and activities with a view to promoting social cohesion. In order to increase the level of donations, charity WCB has set up a trading company, WCB Ltd. with a separate PAYE scheme. WCB Ltd. and charity WCB are connected and will only have entitlement to one Employment Allowance. A decision will have to be made whether the Employment Allowance is claimed against a PAYE scheme of charity WCB or WCB Ltd.

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My organisation has set up two separate charities with different activities. Are they connected?

No. Each charity will be entitled to the Employment Allowance.

Example

At the start of the tax year, a church sets up a food bank as a charity. The principle objective of a church is the advancement of religion. The principle objective of the food bank is to provide relief to the poor. Therefore the church and food bank are not connected and both are entitled to the Employment Allowance.

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Treatment of charitable trusts

A charitable trust is treated as being a company. Determining whether charitable trusts are connected is applied in broadly the same way for charitable trusts and charitable companies. There is also a definition of control applicable to charitable trusts, for example where a person has the power to appoint or remove trustees or the power to control the way in which the trustees carry out their functions.

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When would two charitable trusts be connected?

A charitable trust is connected with another charitable trust if at least half the trustees of one charity are trustees of the other charity or are connected with persons who are trustees of that other charity.

Examples

Half of the trustees of my charitable trust are also the trustees of another charitable trust with substantially the same activities. Are these charitable trusts connected?

Yes. At the start of the tax year, charitable trust A has six trustees. If at least half (three) trustees are also trustees of charitable trust B and provided that the charities activities are the same or substantially similar, charitable trusts A and B are connected and will only be entitled to one Employment Allowance.

Half of the trustees of my charitable trust are connected with the trustees of another charitable trust with substantially the same activities. Are these charitable trusts connected?

Yes. At the start of the tax year, charitable trust A has six trustees. If at least half (three) trustees are trustees of charitable trust B or are connected with trustees of charitable trust B (for example two trustees of charitable trust A are trustees of charitable trust B and one trustee of charitable trust A is the mother of the civil partner of a trustee of charitable trust B) and provided that the charities activities are the same or substantially similar, charitable trusts A and B are connected and will only be entitled to one Employment Allowance.

Less than half of the trustees of my charitable trust are also the trustees of another charitable trust with substantially the same activities. Are these charitable trusts connected?

No. These charitable trusts are not connected and are entitled to an Employment Allowance each. This is because less than half of the trustees are connected with the other charitable trust and, therefore, do not have control of both charitable trusts.

Half of the trustees of my charitable trust are connected with the trustees of another charitable trust with different activities. Are these charitable trusts connected?

No. These charitable trusts are not connected as the charitable trusts are not carrying out similar activities.

More than half of the trustees of my charitable trust have been appointed by another charitable trust. The trustees of the other charitable trust can also affect decisions made by my charitable trust. Are these trusts connected?

These charitable trusts may be connected, dependent on their activities. At the start of the tax year, charitable trust A has five trustees but three of them are appointed by the trustees of charitable trust B (who can also veto any decisions made by the trustees of charitable trust A), charitable trust A is controlled by charitable trust B. The two charitable trusts are therefore connected and, if the charities purposes and activities are the same, will only be entitled to one Employment Allowance. However, if the charities purposes and activities are different each trust will be entitled to the Employment Allowance.

One of the trustees of another charitable trust can control my charitable trust. Are these charitable trusts connected?

These charitable trusts may be connected, dependent on their activities. At the start of the tax year, charitable trust X has four trustees. One of the trustees has control of charitable trust Y. Charitable trust X and charitable trust Y are connected and will only be entitled to one Employment Allowance if their purposes and activities are the same or substantially similar. However, if the charities purposes and activities are different each trust will be entitled to the Employment Allowance.

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Can trustees control more than one charitable trust? How will this affect entitlement to the Employment Allowance?

One of the trustees of my charitable trust controls my charitable trust. Can this trustee control any other charitable trust?

Yes. At the start of the tax year, charitable trust D has six trustees. One of the trustees of charitable trust D acting alone can exercise some or all of the powers that the trustees of the charitable trust have. This one trustee has control of charitable trust D. If this person fulfils the connected rules in respect of being able to control another charity, charitable trust E, then charitable trusts D and E are connected. If the purposes and activities of charitable trusts D and E are the same or substantially similar they will only be entitled to one Employment Allowance.

One trustee acting with other trustees to whom they are connected can control my charitable trust. Can these trustees control another charitable trust?

Yes. At the start of the tax year, charitable trust F has six trustees. Two of the trustees are connected by virtue of marriage/civil partnership, or by a relative or by a relative through marriage/civil partnership. These two trustees can exercise some or all of the powers that the trustees of the charitable trust have. These two trustees have control of charitable trust F. If these people fulfil the connected rules in respect of being able to control another charitable trust, charitable trust G, then charitable trusts F and G are connected. If the purposes and activities of charitable trusts F and G are the same or substantially similar they will only be entitled to one Employment Allowance.

One of the trustees of my charitable trust has the power to appoint or remove trustees of my charitable trust. Can this trustee control another charitable trust?

Yes. At the start of the tax year, trustee A can appoint or remove a trustee of charitable trust B. Trustee A has control of charitable trust B. If trustee A fulfils the connected rules in respect of being able to control another charitable trust, charitable trust G, then charitable trusts B and G are connected. If the purposes and activities of charitable trusts B and G are the same or substantially similar they will only be entitled to one Employment Allowance.

Three of the trustees of my charitable trust have the power to appoint or remove trustees of my charitable trust. Can these trustees control another charitable trust?

Yes. At the start of the tax year, trustees A, B and C can appoint or remove a trustee of charitable trust B. Trustees A, B and C have control of charitable trust B. If these trustees fulfil the connected rules in respect of being able to control another charitable trust, charitable trust P, then charitable trusts B and P are connected. If the purposes and activities of charitable trusts B and P are the same or substantially similar they will only be entitled to one Employment Allowance.

One trustee of my charitable trust can direct the other trustees as to how to carry out their functions. Can this trustee have control of another charitable trust?

Yes. At the start of the tax year, trustee A can direct the other trustees of charitable trust B as to how to carry out their functions. Trustee A has control of charitable trust B. If trustee A fulfils the connected rules in respect of being able to control another charitable trust, charitable trust G, then charitable trusts B and

G are connected. If the purposes and activities of charitable trusts B and G are the same or substantially similar they will only be entitled to one Employment Allowance.

Three of the trustees of my charitable trust have the power to direct the other trustees as to how to carry out their functions. Can these trustees control another charitable trust?

Yes. At the start of the tax year, trustees A, B and C can direct the other trustees of charitable trust B as to how to carry out their functions. Trustees A, B and C have control of charitable trust B. If these trustees fulfil the connected rules in respect of being able to control another charitable trust, charitable trust P, then charitable trusts B and P are connected. If the purposes and activities of charitable trusts B and P are the same or substantially similar they will only be entitled to one Employment Allowance.

Control of my charitable trust is by a trustee appointed by the charity regulator. Can control by this trustee be used to determine connections to other charitable trusts?

No. At the start of the tax year, charitable trust K is controlled by a trustee appointed by the charity regulator. The position of this trustee is not considered when determining connection between charitable trusts based on the control held by trustees.

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