**Minutes of the Donor benefits guidance review working group meeting on 25 October 2017**

**List of attendees:**

Hasmukh Dodia HMRC (Chair)

Adrian Coates HMRC

Tom Parsons HMRC

Lisa Sugarman HMRC

Linda Wheeler HMRC

Daniel Pease HMT

Graham Elliott City and Cambridge consultancy

Richard Baldwin Sport & Recreation Alliance

Paul Bater Charity Law Association

Trevor James Association of Church Accountants and Treasurers

Chris Lane Charity Tax Group

Charles Pascoe BDO LLP

John Pepin Philanthropy Impact

Kevin Russell Stewardship

Paul Winyard National Council for Voluntary Organisations

Emily Deane STEP

Apologies: Stephanie Siddall – Institute of Fundraising; Tony Johnson, HMRC

1. **Welcome and Introductions**
   1. The Chair welcomed the group to its first meeting. Agenda for the meeting was circulated prior to the meeting and no new items were suggested.
2. **Discuss and agree terms of reference (TOR)**
   1. HMRC distributed and invited comments on the draft TOR prior to the meeting. Three comments were received.
   2. One was to extend the TOR to also consider paragraph 3.37 of the Gift Aid guidance which deals with membership subscriptions. There is concern the guidance at 3.39 Gift Aid on donations that attract a right of free admission to charity property could be clearer. This was agreed to be put into the TOR.
   3. Second was a request to have a substantive discussion on the correct interpretation and practical application of the ‘in consequence’ rule to real-life examples. The draft TOR already makes reference to looking at the meaning of this rule. HMRC suggested members provide real-life examples as part of the work to improve the guidance.
   4. Third to include the ‘averaging rule’ as there was concern it was not being applied correctly by some charities. This was agreed to be put into the TOR.
   5. It was suggested that this working group should also consider revisions to guidance where there was a disagreement over the correct interpretation of the legislation. HMRC made clear the purpose of this working group is to make sure that the guidance helps charities to understand HMRC’s view of the legislation, and not to challenge HMRC’s view. However, as the working group progresses there may be some room for policy discussions.
   6. HMRC asked for any other areas or examples to be included in the guidance work by this group. Suggestions were made to include donations made by wealthy donors for specific causes, provision of third party benefits whether solicited or not, and valuing benefits ordinarily available for free elsewhere. HMRC agreed to include these suggestions in the TOR and asked the group to develop real-life examples and how the current guidance can be amended/extended to cover these examples.
   7. It was also suggested that it would be useful for the working group to know the types of donor benefits queries HMRC receives so that the group can consider if some of these were appropriate for this guidance review.

**Action Point** **1** – TOR to be amended and circulated as final by HMRC.

**Action Point 2 –** HMRC to provide a list of common donor benefit queries and share it with the working group.

1. **Discuss and agree a timeline for delivery of final product**
   1. The TOR refer to final product from this group to be delivered by end of 2018, but this will be driven primarily by the working group.
   2. Based on this, HMRC proposed a timeline for the delivery of the final product as follows:

* Stage 1 – working group to review the guidance in Chapters identified in TOR. This may involve getting input from members of representative bodies, writing real-life examples, expanding or re-writing the guidance. Ideally this should be presented as a single product to the group in advance of the next meeting.
* Stage 2 – HMRC need to see the draft product in advance of our next meeting – to be held near end of February 2018. To allow sufficient time for HMRC to consider the draft it needs to be shared with HMRC at least 2 weeks in advance of February 2018 meeting. At this meeting we can go through the proposed changes to the guidance focussing on those revisions that we would like to discuss further.
* Stage 3 – working group to consider HMRC comments/suggestions on their proposed revisions and taking into account their members feedback either agree with HMRC or come back with alternative revisions. We will re-consider the product and give our views at the next meeting to be held in May 2018.
* Stage 4 – we would expect at this stage to have a near final product. We may consider sharing this version with specific charities, who contributed to the consultation on donor benefits, to seek their views on it. We will share any views they express with this working group. So the final meeting would be around August-September 2018.
  1. There was concern that the delivery timetable appeared too long. HMRC suggested it was a realistic timetable to allow a reasonable amount of time for review of the guidance by the working group and their members and for HMRC to obtain the necessary clearances for the final product to be published.
  2. Working group members suggested Charity Tax Group (CTG) co-ordinate circulation of drafts using Google drive which CTG has kindly agreed. It was proposed by the members that they could hold their own meeting in December to discuss the draft guidance. HMRC will be invited to that meeting although it was not required to attend.

**Action Point 3** – working group members to arrange circulation group which the Charity Tax Group has kindly offered to co-ordinate and share existing guidance for comment and revisions to deliver Stage 1 of the timeline.

**Action Point 4** – Working group members to they have their own meeting in December 2017 to discuss the guidance

**Action Point 5** – working group members to provide the revised draft product with examples to HMRC by the end of January 2018.

1. **Discuss and agree process for how the group is to work**
   1. Discussion on the timetable for the work also covered the process. HMRC did not wish to be prescriptive about how the working group members reviews the guidance and it is for the members to develop their draft revisions into a single product for consideration by HMRC.
   2. HMRC suggested that the members should put forward as many real-life examples as possible for HMRC to consider. It would also be helpful for HMRC to have real-life examples to illustrate the parts of guidance that could be clearer.
2. **AOB**
   1. The next meeting to be organised by HMRC and held in February 2018.