Final draft CTG response on [Consultation on the VAT treatment of business donations of goods to charity](https://www.gov.uk/government/consultations/consultation-on-the-vat-treatment-of-business-donations-of-goods-to-charity)

Questions 1-4 deal with identifying who are the respondents- so type of organisation, size, location, and whether currently receiving or donating goods

**Insert CTG details**

Question 5: Asks those charities currently either donating goods or receiving donations to provide details of their operating model

* How many and what types of organisation are involved in the end-to-end process of donating and giving out goods?
* What is your role in the process?
* Do you either charge a fee or price of any kind on donations as a business, or pay a fee to receive donations as a charity? Does this enable you to access the existing VAT relief on goods donated for sale?
* How permanent or formal are the relationships with the other parties in the operating model? For example, are relationships ongoing or one-off basis? Are there written or verbal agreements in place with other parties? Do you carry out any checks before you start working with them and/or on an ongoing basis?
* Are there parts of the donation-to-distribution chain which are not visible to you (for example, if you are a business, do you know what happens to the goods once you have delivered them to the charity)?
* How are suitable end-recipients to receive donations identified and reached (for example, are there criteria or referral systems in place and how do these work, or do you use a purely walk-in system)?
* Are intermediaries or referring organisations involved in identifying or distributing goods to end-recipients? If so, are these intermediaries charities, other types of organisations or individuals, and how do you choose which intermediaries you work with?

**CTG will not respond to this question**

Question 6: Asks whether businesses would you use a relief on goods donated to charity to give out free or charge or use in the delivery of their services?

**CTG will not respond to this question**

Question 7: Asks whether the proposed relief would encourage donations?

* Please include detail on volume or value of donations that this proposal would encourage

*We are of the view that the relief, if implemented in a way that focuses on simplicity and utility, would encourage donations because the quantum and complexity of calculating the VAT charge arising on making a donation is a barrier to giving. This is particularly the case where the VAT cost or risk is higher than the cost of disposing of the goods otherwise, including into landfill. Note that the complexity arises largely around valuing the goods for disposal.*

Question 8: Asks whether the proposed relief would support circular economy objectives by encouraging the donation of goods which may otherwise be put into landfill?

*As above, we are of the view that the relief, if implemented in a way that focuses on simplicity and utility, would encourage donations, supporting a circular economy, because the VAT cost or risk arising on making a donation is a barrier to giving where this cost is higher than the cost of disposing of the goods, including into landfill or otherwise.*

Question 9: Asks about the average value of individual items donated or received?

If you donate surplus or end-of-life stock for charities to give away free of charge, how do you calculate the value of the stock to determine the VAT due?

*Whilst CTG does not donate goods, it is our understanding that where businesses donate end of life stock to charities, they should use the valuation provisions in para 6 Schedule 6 of VATA 1994. This requires the taxpayer to use a hierarchy of the cost of identical goods in the same age and condition; the cost of similar goods in the same age and condition; or failing this, the cost of production. If businesses were to apply these rules to surplus stock, then in most cases they would value the stock at significantly less than the original intended sales price, because the goods are surplus. However, there is a risk that businesses take a prudent approach and use the intended sales price.*

Question 10: Asks about what would be a suitable value limit to put on individual items donated

*We understand that the introduction of a monetary limit is* *intended to* *manage the risk of fraud and abuse of these provisions and so protect the public purse. However, fundamentally we are unclear as to why there should be a monetary limit on this relief when there is no equivalent limit for the relief where goods are donated for* [*resale*](https://www.legislation.gov.uk/ukpga/1994/23/schedule/8/part/II/chapter/15/paragraph/2) *or* [*export*](https://www.legislation.gov.uk/ukpga/1994/23/schedule/8/part/II/chapter/15/paragraph/3)*.*

*Notwithstanding this inconsistency, we are of the view that putting a monetary limit on the value of individual items donated would not be the best route to achieve this objective. Businesses want certainty as much as they want low tax bills. We think that a monetary limit would so problematic that it would seriously limit the utility of the easement such that usage would be very restricted to an extent that it would frustrate the policy objectives of the proposal. The reasons for this include:*

1. *We understand that one of the primary drivers for introducing this easement is to encourage donations to lift people out of poverty. When considering the items that would be useful in meeting this aim, many low value items such as food, sanitary products, or nappies already benefit from zero rating and so there is currently no VAT barrier to donation. Whereas goods which are of higher retail value, such as white goods, furniture, or clothing are standard rated, and so there is a barrier to donation. Hence it seems logical that the design of this relief should be aligned policy objective to encourage donations of this type. One example could be a house builder who wants to donate surplus white goods to a charity. The retail value of a washing machine could be £500-£1,000. However, if the individual monetary limit for a donated item is set at say £100, then such items, which would benefit from this easement if there was no monetary limit and clearly fall within the policy objective, would be excluded.*
2. *Secondly, one of the key barriers to giving under the current VAT rules is the VAT risk and complexity associated with ascertaining the VAT liability arising on the gift. This is because valuation is a very problematic area. HMRC dedicate many pages of their internal manuals to this topic one example being the extensive guidance on donor benefits for gift aid. And there are many approaches to valuation of goods. When considering surplus stock for example donations by retailers of clothes to the charity Smart Works to provide clothes to unemployed women going for job interviews, a donor could use the retail price, the original cost, the book value, or an estimate of the market value. And how does a donor reach a place of comfort for such a valuation if the preferred method is market value which is a very subjective measure when the stock is surplus? As such, although introducing new legislation offering VAT relief on such donations would in some circumstances reduce the VAT cost to donors, maintaining a monetary limit for donations would not alleviate the VAT risk and complexity associated with ascertaining the VAT liability or otherwise arising on the gift, which is potentially the main barrier to donors.*
3. *The final reason for rejecting the idea of a monetary limit is that even if the limit set in 2025 is a reasonable level, many monetary limits remain unchanged for a long time. In some cases up to, or even over 20 years. As such the limit is likely to become outdated and with a very busy list of budget priorities, it is unlikely that the government will find time to uplift it. As such, although not something we see in any other tax legislation, if a monetary limit is introduced as the only route to protect the public purse, the legislation should include provision for the uplift of the limit. Either through automatic uplift or through tertiary legislation.*

Question 11: Asks for details of types of goods do donated or received (e.g. hygiene products, clothes) and what is the status of the goods (second hand, new stock, end-of-life stock, business returns)?

* Any details of the types of goods you donate or receive would be helpful

**CTG will not respond to this question**

Question 12: Asks what categories of goods should be included in a list of eligible goods for donation?

* Please also list goods it would be problematic to exclude from the relief if relevant

*We cannot think of any items that it would be problematic to exclude from the relief. As noted above, we have a very strong preference to avoid a monetary limit on donations and having a list excluding those high value smaller items such as mobile phones and laptops where there is a high risk of fraud or abuse of these provisions would be welcome. In order to keep this list manageable, we would recommend that the enacting legislation makes provision for the list to be updated through tertiary legislation.*

Question 13: Asks for other ideas on defining goods eligible for the relief, or to identify any issues with the options set out above?

*Having inclusions and exclusions leaves room for challenge and uncertainty. However, as noted above we have a very strong preference to avoid a monetary limit on donations or some of the other limitations suggested below. So, having a list of included items would be welcome if it removes the need for monetary limits and other limitations. We believe that this would be the best way to achieve the policy objective whilst managing the risk of fraud and abuse of these provisions and so protecting the public purse. There are examples where maintaining a list of eligible items is a workable solution for both HMRC and taxpayers. One example of this is the VAT relief for medical equipment in VAT Notice 701/6.*

Question 14: Asks what purpose donations are used for: to give away to those in need, use in the delivery of services, or another purpose?

* Please specify details of goods used in the delivery of services of for another purpose

**CTG will not respond to this question**

Question 15: Asks about possible problems with a relief which included goods for the purpose of distribution to those in need, but not for use in the delivery of a charity’s services?

*There are two possible concerns here. The first is that introducing a ‘line in the sand’ is always problematic for any relief. It will be challenging for some charities to distinguish between distributing to those in need and delivery of services. For example, if a retailer were to donate kitchen equipment to a soup kitchen, where would that donation sit? Would it be for the purpose of distribution to those in need, or would it be for use in the delivery of a charity’s services? And in some cases, the charity may not have specific use in mind, or there may be dual usage.*

*The second concern is that the VAT liability that this relief aims to ease sits with the donor. But the exact understanding of how donations will be used sits with the organisation receiving the donation. This is problematic because the donor does not necessarily have sufficient information to enable them to reach a place of comfort in relation to VAT on making the donation.*

*As such we think that such a limitation on usage would again would seriously limit the utility of the easement such that usage would be sufficiently restricted as to frustrate the policy objectives of this proposal.*

Question 16: Asks about possibly limiting the relief to eligible individuals such as those who receive welfare support and who this would impact a charity’s ability to distribute donations to those in need?

*Whilst such a limitation would focus the relief on the policy objective of alleviating poverty there are two possible concerns here.*

*The first is that those in poverty are not necessarily in receipt of welfare payments and so this is possibly too blunt a measure to define those who should benefit from the relief. It is also worth noting that even where beneficiaries are in receipt of welfare, they may be unwilling to share this information with charities or other agencies who are offering help, perhaps through a sense of shame.*

*The second issue is that as with the proposal at question 15, the VAT liability that this relief aims to ease sits with the donor. But the exact understanding of how donations will be used sits with the charity receiving the donation. This is problematic because the donor does not necessarily have sufficient information to enable them to reach a place of comfort in relation to VAT on making the donation.*

*As such we think that such a limitation on usage would again would seriously limit the utility of the easement such that usage would be restricted and so would frustrate the policy objectives of this proposal.*

*An alternative approach would be to limit the type of organisation which can receive such donations to those who have certain charitable objectives. In England and Wales, examples could include items (a), (d) (j) and (k) of* [*section 3 of the Charities Act 2011*](https://www.legislation.gov.uk/ukpga/2011/25/section/3)*:*

*(a) the prevention or relief of poverty;*

*(d) the advancement of health or the saving of lives;*

*(j) the relief of those in need because of youth, age, ill-health, disability, financial hardship or other disadvantage;*

*(k) the advancement of animal welfare;*

*There are equivalent provisions in section 7 of the* [*Charities and Trustee Investment (Scotland) Act 2005*](https://www.legislation.gov.uk/asp/2005/10/section/7) *and examples could include:*

*(a) the prevention or relief of poverty,*

*(d) the advancement of health,*

*(e) the saving of lives,*

*(n) the relief of those in need by reason of age, ill-health, disability, financial hardship or other disadvantage,*

*(o) the advancement of animal welfare.*

*And the 4 objectives listed above in relation to the Charities Act 2011 also appear in* [*section 2 the Charities Act (Northern Ireland) 2008*](https://www.legislation.gov.uk/nia/2008/12/section/2)*.*

Question 17: Asks whether applying a limit on the total value of VAT-free donations an individual could receive would impact a charity’s ability to distribute donations to those in need?

*Our experience of administering other VAT reliefs is that maintaining a cumulative record of relief offered to individuals is difficult. One example is the limit on number of trivial gifts in a year. This is of course easier in some ways because a business is required to keep records of its employees and their pay. However, charities would not ordinarily keep records of the donations made to individuals, and to do so would introduce complexity and also additional burdens under GDPR regulations. Out experience is that on inception of such a regime. Organisations will implement processes and training, but over time with staff changes and the implementation a distant memory, people will not understand why they are doing what they are doing, and will struggle to implement the carefully designed systems.*

*Also, as with questions 15 and 16, it is important to remember that the VAT liability that this relief aims to ease sits with the donor. But the exact understanding of how donations will be used sits with the organisation receiving the donation. This is problematic because the donor does not necessarily have sufficient information to enable them to reach a place of comfort in relation to VAT on making the donation, and in this case the charity may be unable to confirm how the donation will be used.*

*As such we think that such a limitation on usage would again would seriously limit the utility of the easement such that usage would be restricted and so would frustrate the policy objectives of this proposal.*

Question 18: What are your views on the types of organisations which should be eligible to receive goods donated under this relief, for example charities, social enterprises and charitable incorporated organisations?

*At CTG we work mainly with registered charities. These bodies are subject to regulation and scrutiny by their regulators, and they are easily identified and verified by potential donors. We are of the view that the most secure route to limiting organisations eligible to receive goods donated under this relief would be to limit it to registered charities because they are identifiable and verifiable. However, not all charities are registered charities. Examples include Exempt Charities* [*s22 of the Charities Act 2011*](https://www.legislation.gov.uk/ukpga/2011/25/part/3/crossheading/exempt-charities) *(this includes many universities) and Excepted Charities* [*s30(2) of Charities Act 2011*](https://www.legislation.gov.uk/ukpga/2011/25/section/30) *(this includes many churches). A better route to defining charities eligible to benefit from the relief would be to rely on existing tax legislation and look at the definition in* [*Schedule 6 of FA2010*](https://www.legislation.gov.uk/ukpga/2010/13/schedule/6) *and require those charities to have registered with HMRC and have a charity reference number, which could be provided on the certificate (see below).*

*We acknowledge that there are other organisations who are not registered charities such as community interest companies (CICs) who may also benefit from this relief. However, given the need to ensure that the relief is not subject to fraud or abuse, our preference would be that there is a restriction on the organisations able to receive goods under this relief to perhaps charities that fall within the definition of charity under Schedule 6 of FA2010 rather than offering the relief to a wider range of organisations, if this would then avoid the need for other more onerous restrictions on value and ultimate beneficiaries detailed above which would seriously limit the utility of the relief.*

Question 19: Seeks views on restricting the relief to goods donated to registered charities?

* As an un-registered charity, would you be able to provide HMRC with assurance against the risk of fraud in the form of records and accounts in the absence of formal registered charity status?

*We are of the view that the most secure route to limiting organisations eligible to receive goods donated under this relief would be to limit it to registered charities because they are identifiable and verifiable. However, not all charities are registered charities. Examples include Exempt Charities* [*s22 of the Charities Act 2011*](https://www.legislation.gov.uk/ukpga/2011/25/part/3/crossheading/exempt-charities) *(this includes many universities) and Excepted Charities* [*s30(2) of Charities Act 2011*](https://www.legislation.gov.uk/ukpga/2011/25/section/30) *(this includes many churches). A better route to defining charities eligible to benefit from the relief would be to rely on existing tax legislation and look at the definition in* [*Schedule 6 of FA2010*](https://www.legislation.gov.uk/ukpga/2010/13/schedule/6) *and require those charities to have registered with HMRC and have a charity reference number, which could be provided on the certificate (see below).*

Question 20: Seeks views on restricting the relief to goods donated to charities with a poverty relief objective, and whether such a restriction create any challenges for a charity’s operating model?

* If you’re not a registered charity, would you be able to demonstrate a poverty relief objective?

*See our response to question 16*

Question 21: Seeks views on a requirement for businesses to demonstrate that they have delivered, or otherwise made available, goods to an eligible charity?

*Either the business or charity should keep records of shipping and delivery. This is something that all businesses will be familiar with and have systems in place.*

Question 22: Asks those who currently donate goods to be given away free of charge what records they keep?

**CTG will not respond to this question**

Question 23: Seeks views on the records in paragraph 5.5 which could be needed to assure compliance with the relief?

**CTG will not respond to this question**

Question 24: Asks whether the option to use a certification system would be effective for this relief?

* Do you have views on other means for a business to seek assurance that the charity will use the goods for the intended purpose?

*We are of the view that a certification system would be effective for this relief. There are numerous examples of certification systems for VAT including but not limited to: Charity funded equipment for medical and veterinary uses (VAT Notice 701/6), and buildings qualifying for zero rating (VAT Notice 708).*

*This system would ensure that the donor has undertaken due diligence to ensure that the recipient is entitled to receive the zero rated goods, for example they are a charity whose objective is relief of poverty or other permissible objectives, and it will also enable the charity to certify to the donor that they are registered with HMRC, and that they are using the goods for a qualifying purpose, for example to help rehouse homeless families. As well as mandating basic due diligence by donors of their recipients, this will link up the knowledge that the charity has in how the goods will be used, with the donor who needs to decide how to treat the disposal of the goods on their VAT return.*

Question 25: Asks those charities which currently receive donations, what records, if any, they keep on total donations, and individual recipients of donations?

**CTG will not respond to this question**

Question 26: Asks what is the scope for limiting the total value of donations an individual receives, or putting in place eligibility criteria for recipients such as the receipt of welfare support?

* Do charities keep records of the value of donations individuals receive which could be used to facilitate a limit on the total value of donations?
* Do charities hold information on the recipients of donations, such as whether they receive welfare support, and if not, would it be possible to collect this information

**CTG will not respond to this question**