**HM Treasury fundamental review of business rates: call for evidence part 2**

*Response on behalf of the Charity Tax Group, Charity Finance Group, National Council for Voluntary Organisations and Charity Retail Association – 30 October 2020*

**Overview**

We welcome the opportunity to comment on valuation, administration of business rates and possible alternatives to business rates reliefs, in part 2 of this Review. The comments in this response are designed to be read in conjunction with our [submission to part 1 of the call of evidence](https://www.charitytaxgroup.org.uk/wp-content/uploads/Voluntary-Sector-Business-Rates-Consultation-Response.pdf) and a [supplementary submission](https://www.charitytaxgroup.org.uk/wp-content/uploads/Business-Rates-supplementary-response-from-charity-representative-bodies.docx), prepared at the request of HM Treasury and MHCLG officials.

Mandatory and discretionary business rates reliefs are very important to the financial viability of many charities and were worth over £2bn in 2018/19. Given the current financial pressures on charities, as a result of COVID-19, our responses have made clear that charities should not be left any worse off as a result of this Review and should be granted additional support where funding is available. As a minimum, this should include the retention of 80 percent mandatory rate relief for charities, which should be replicated in some form if there is a more radical restructuring of the taxation of property in the long-term.

While charities receive significant reliefs, approximately £400m of business rates is still paid by the sector, where discretionary relief is not awarded. Payment of rates and claims for reliefs can present a significant administrative burden for charities, particularly where they have a nationwide portfolio of properties and have to deal with large numbers of individual billing authorities. Given the importance of business rates reliefs to charities it is important that any substantive changes to the administration and structure of business rates relief should only be taken following detailed consultation with the sector on specific proposals.

**Valuation**

For charities that receive 100% rates relief the valuation of their property for business rates purposes is less of a concern. However, in most cases only the mandatory 80% relief is awarded so achieving a clear and fair valuation is important to ensure rates paid are proportionate. Charities need certainty and consistency so that they can plan ahead and concentrate their efforts on supporting their beneficiaries, rather than having to spend time navigating the complexities of revaluations of individual properties.

We understand from our discussions with ratings agencies that there are generally concerns that business rates bills are just too high, as rates are set by the 2017 Revaluation based on rental levels in 2015. These rates are higher than levels we are seeing today, and in no way reflect the current pressures on the property sector, which will only have been exacerbated by COVID-19. Delaying the next revaluation process until 2023 means that some charities will be stuck with inflated valuations, resulting in higher bills than they should be paying, although we do note the commitment from the Government that valuation will be based on property values as of 1 April 2021 to better reflect the impact of COVID-19. However, in the meantime there may be a case for the values currently in the rating list to be reduced because of the effect of COVID-19 on the back of tens of thousands of MCC (Material Change of Circumstances) appeals. In many parts of the UK, retail rents are falling yet these falls will take many years to translate into lower business rate bills. This is due to Transitional Relief capping the rate at which rates bills can fall for properties whose rateable values have fallen between revaluations. Downwards phasing should be abolished so that businesses whose rateable values fall immediately pay their “true” rates liability. Transitional Relief should continue to phase the impact of significant increases of rateable values on businesses and the cost of this should be spread across all ratepayers.

More regular valuations could therefore help to improve certainty for charities, although this must be handled in a way that does not place undue administrative burdens or costs for charities, particularly when ratings and valuation services are being outsourced to third parties.

Greater consistency in approach to the valuation method is also desirable. There have been a number of valuation issues recently for parts of the charity sector, especially in relation to museums which have been valued by reference to the cost of construction of a modern equivalent. In 2017, the Upper Tribunal (Lands Chamber) ruled in favour of the York Museums Trust[[1]](#footnote-1), that rates should be set based on net income, not the cost of rebuilding, which the Valuation Office Agency (VOA) has traditionally used for many museums. The case resulted in savings of £100k for the charity in question, raising questions about the impact for the rest of the sector. A case involving museums in Exeter[[2]](#footnote-2) reached a similar conclusion following this precedent - the difference being disputed was whether the Rateable Value should be £445,000 or £1, a significant difference. As a result there may be merit in the VOA adapting its valuation process for museums and considering implications for other types of buildings.

**Maintaining the accuracy of ratings lists**

Charities support transparency and would not oppose greater disclosure to the VOA or individual billing authorities where appropriate, particularly where there has been a material change to a property that could impact the business rates liability. In our supplementary response, we indicated that this could help to increase trust in the next in charitable use exemption. However, we would caution against reporting for reporting sake and are concerned that routinely sharing rental information or commercial lease information could create additional administrative complexity with limited additional benefit to the charity. Charities that outsource management of rates for their property portfolio also benefit from their advisers having insights from across the property market.

**The billing process**

Every billing authority has a different form (a mixture of online and paper versions) for applying for business rates relief and some require these to be completed every year or two, leading to unnecessary bureaucracy for charities. It would save charities and billing authorities a lot of time and effort if there was a standard downloadable form available on GOV.UK which was recognised by all billing authorities and which could be completed and submitted electronically to each billing authority requesting it.

While local authorities can grant up to 20 percent discretionary relief, [research by Demos](https://demosuk.wpengine.com/files/DEMOS_givingsomethingbackREPORT.pdf?1385343669) indicates that in respect of charity shops, some offer no discretionary relief at all, while a further 270 authorities (83 per cent of the total) offer less than 5 percent of the available discretionary relief. This reflects the fact that local authorities’ budgets continue to be squeezed as a result of the business rates retention scheme with local authorities now responsible for a larger proportion of the cost of reliefs. In practice, this creates a “postcode lottery” for charities. Furthermore, there is a lack of consistency between the policies of individual local authorities when it comes to granting rates relief to similar properties operated by the same charity.

The call for evidence requests feedback on a centralised online system linked to other business taxes, enabling more joined-up data and management of billing across different locations. Anything that streamlines the system and ensures the prompt processing of business rates relief for charities is welcome and a centralised system could achieve this. This could also help to achieve greater consistency in terms of discretionary relief. We are aware of speculation that business rates could be integrated into the Making Tax Digital (MTD) framework. Many charities are now familiar with MTD for VAT, but it is still a new system and we would highlight the importance of a transitional period and support and training for charities if business rates were to be processed this way in future.

While the use of online mechanisms for billing and relief claims makes sense in most circumstances, there will be taxpayers that struggle with digital technology and would prefer a paper alternative. An exemption, similar to that [introduced for MTD for VAT](https://www.gov.uk/government/publications/vat-notice-70022-making-tax-digital-for-vat/vat-notice-70022-making-tax-digital-for-vat#para-3) may be appropriate, although it does operate on an opt-in basis and more organisations are likely to be assessed for business rates than are VAT registered.

**Exploring alternatives to business rates**

***Capital Value Tax***

As outlined in our various responses to the Review, overall we believe that the current business rates framework works well and provides important reliefs for charities using buildings in pursuit of their charitable purposes. We recognise that there has been some interest in a move to a Capital Value Tax, but also that such a move would represent a fundamental shift in property taxation, requiring significant investment of time and resources, which given the current pressures caused by COVID-19 may not be sensible or desirable. A shift from a property tax system based on rental values to one based on the capital value of the land and property would create windfall gains as well as windfall losses. To ensure that such a change is manageable an extensive transitional system would need to be put in place. In the event that a Capital Value Tax was implemented, we would argue that the rationale for relieving charities of most, if not all, of the associated tax burden would remain valid.

A lack of regular purchase data for business properties creates several problems with proposals for a Capital Value Tax. How, for example, would a historic property, gifted to a charity in perpetuity, be valued accurately. The VOA already has to undertake complex calculations for historic properties, not used as a residence, which are not capable of being operated for profit and this would potentially be even harder with a Capital Value Tax.

A Capital Value Tax would also weaken the link between the property tax payable and the actual use of a property. This could have a punitive impact on properties which have disproportionately large spaces which are not used for customer sales. For charities this could include large grounds for conservation or in the retail context, large sorting areas for donated goods etc.

As noted in the consultation document, it could be logical to transfer the liability for tax from tenant to landowner or property owner if a Capital Value Tax was introduced. For charities that are property tenants and responsible for business rates, there could be an immediate benefit as no rates would be payable, although in practice significant reliefs are already received. However, over time it seems likely that such an approach would result in the burden of taxation being passed back to the tenant in the form of higher rents, which may be unsustainable for many charities and leave them vulnerable to fluctuations in rates payable. There could also be potential issues and uncertainty for charity tenants where property owners do not pay their tax liabilities, or are not easily contactable or identifiable and the charity’s occupation should not be endangered as a result. In addition, charging of tax on charity occupied properties would undermine the core principle in the current system that charities receive significant reliefs where the activity in the property is “wholly or mainly” used for charitable purposes.

If in response to such concerns there were reliefs for property owners that had charity occupants this could potentially result in misuse of reliefs or attempts to capitalise reliefs into higher returns for property owners (which would be harder to challenge than in the current system as the reliefs would be available to the property owner, not the charity). For this reason, it is possible that such reliefs would be restricted to properties owned by charities and used for their own purposes or leased to other charity or not-for-profit tenants. However, this would likely exclude properties owned by charities for investment purposes (a significant number) as the use is for generating funds rather than supporting charitable purposes. This would create a new and expensive layer of taxation for many endowed charities and those that rely on property income as part of their investment portfolio.

Given that charities benefit from important reliefs to the current system of business rates reliefs, there is limited appetite for a change to a new Capital Value Tax where their financial position would be less certain.

***Online sales tax***

We recognise the rationale for some form of online sales tax as it could help to balance the playing field between traditional “bricks and mortar” retailers and newer online retailers, which usually require significantly less property space and pay lower property taxes as a result, despite often generating larger profits. Most charities are not involved in sales of goods online, so would be unlikely to be directly affected by proposals to introduce an online sales tax. However, this is a growing market for some charities (especially those with charity shops), as operating models develop in light of COVID-19 and customer preferences and as a result hybrid operations are being developed.

If an online sales tax was introduced at a flat rate per order, this would have a particularly serious impact on online sales in charity retail due to a low sales price per item and historically relatively large numbers of small transactions. The second-hand nature of products sold by charity retailers means that sales prices are relatively low so a flat fee would make up a bigger percentage of the order value than it would for most other retailers. In charity shops, the average transaction value in 2019 was just £4.46.

The risks of an online sales tax could be mitigated through good tax design. This should include exemptions for retailers whose online sales represent a minority of their retail sales. In particular, we would call for a complete exemption for sale of donated goods or sponsorship “products” relating to donations (as well as the purchase of any literature or support services related to their primary charitable purposes) and a *de minimis* level for the sale of other goods. The UK Government does not regard the sale of goods donated to a charity as a trading activity, but instead as the realisation of the value of a gift to charity. Consequently, the sale of donated goods in charity shops are not subject to VAT or Corporation Tax. If an online sales tax is introduced, a similar approach should be adopted.

While the idea of an online sales tax is well intentioned, past experience with the Digital Services Tax and other similar taxes is that the sellers would look to pass on the costs of the tax to their consumers. This could result in increased charges for charities that have to make online purchases (on which they can already often not recover VAT incurred) increasing their cost base overall. If charities were subject to the online sales tax, in many cases they would be unable or unwilling to pass on the costs to their “consumers” or beneficiaries, again resulting in higher costs.

In conclusion, we believe that if an online sales tax is introduced, it should be developed in a way that mitigates the impact on charity and does not penalise them for generating funds or helping their beneficiaries.

**About us**

The Charity Finance Group (CFG) inspires a financially confident, dynamic and trustworthy charity sector. It does this by championing best practice, nurturing leadership and influencing policy makers. Over 1,400 UK charities turn to CFG to develop their finance management knowledge and skills. Collectively, these charities manage £22bn of funds – a third of the charity sector’s income.

The Charity Retail Association (CRA) acts as the voice of charity retail in the UK and includes within its membership over 400 charity retailers who together run around 80% of the 11,200 charity shops in the UK. The Charity Retail Association supports its members by lobbying on behalf of the sector, undertaking research activities and providing a wide range of guidance, training and knowledge sharing activities.

The Charity Tax Group (CTG) has over 800 members of all sizes representing all types of charitable activity. The organisation was set up in 1982 to make representations to Government on charity taxation and it has since become the leading voice for the sector on this issue.

The National Council for Voluntary Organisations (NCVO) is the largest representative body for charities and voluntary organisations in England. NCVO has over 15,000 members ranging from large ‘household name’ charities to small community organisations. NCVO is also the national body for volunteering in England.

1. [Hughes (VO) v York Museums and Gallery Trust [2017] UKUT 200 (LC)](https://www.bailii.org/cgi-bin/format.cgi?doc=/uk/cases/UKUT/LC/2017/200.html&query=(york)+AND+(museums)+AND+(trust)) [↑](#footnote-ref-1)
2. [Hughes (VO) v Exeter City Council [2020] UKUT 7 (LC)](https://www.bailii.org/cgi-bin/format.cgi?doc=/uk/cases/UKUT/LC/2020/7.html&query=(Royal)+AND+(Albert)+AND+(Memorial)+AND+(Museum)) [↑](#footnote-ref-2)