

7 October 2016

Rt Hon Philip Hammond MP
Chancellor of the Exchequer
HM Treasury
1 Horse Guards Road
London, SW1A 2HQ

Dear Chancellor

The Charity Tax Group (CTG) has over 500 members of all sizes representing all types of charitable activity. It was established in 1982 to make representations to Government on charity taxation and it has since become the leading voice for the sector on this issue.

CTG welcomes the opportunity to make an Autumn Statement submission, which outlines a number of policy areas on which the Government could take action to improve the tax position of charities. Our proposals relate to: VAT, Gift Aid, the Apprenticeship Levy, the Common Reporting Standard and Research Development Expenditure Credit (RDEC).

We look forward to having the opportunity to discuss these issues with the Financial Secretary to the Treasury at the proposed sector roundtable later this year. We would be happy to discuss our proposals in more detail with officials in the meantime if this were considered helpful.

Tackling irrecoverable VAT

1. Charities continue to face structural distortions from the VAT system that result in irrecoverable VAT. We have estimated that the total annual cost of irrecoverable VAT to charities is £1.5bn a year. Many UK charities have taken or are willing to take over the delivery of public services, outsourced by governmental bodies, which they are often best placed to do so. However, the current system provides a disincentive to this because charities face large irrecoverable VAT bills unlike an equivalent public body.
2. CTG welcomed the Government's decision to extend the s33 VATA 1994 refund scheme to include UK Search and Rescue and air ambulance charities and hospices. We also welcome the expansion of the scope of the VAT refund scheme for museums and galleries. This has been an important step in levelling the playing field between charities and public sector/commercial providers of equivalent services, which are often services that would otherwise fall on the state to provide.

The voice of charities on Tax

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While all efforts are made by the Charity Tax Group to give assistance to its members, it is not qualified to give technical advice on fiscal matters and cannot therefore be liable in any way for any such advice given.

3. Clearly, post Brexit, there will be an opportunity to look again at the structure of the VAT system, including how it affects charities (and we mention this briefly below) but, meanwhile, CTG urges the Government to give further consideration to additional targeted refund schemes, which the European Commission has confirmed are legal under EU law. CTG is working with its VAT Expert Group and charities to develop a series of proposals to achieve substantive change and to demonstrate the long-term value of such measures to both charities and the Government. Removal of the irrecoverable VAT burden would provide an important income boost for affected charities, decreasing their reliance on state funding and increasing their capacity to provide vital public services, resulting in a wider economic benefit for society.

How the Government can help:

- **By continuing to work with the sector to develop further s33 refund schemes.**

Apprenticeship Levy

4. CTG supports the Government's drive to improve productivity by increasing the number of apprentices in the workplace but we have serious concerns about the extent to which the Apprenticeship Levy, in its current form, can be utilised for training the charity workforce. Many charities do not currently employ apprentices and, in some cases, doing so on a sufficient scale to utilise the levy significantly would be neither realistic nor appropriate. If, as expected, charities find it difficult to make full use of their levy contributions, we anticipate that donors will be concerned that their donations would be redirected to other apprenticeship schemes rather than being used to support the charities to which they had been given.
5. On the other hand, volunteers are the lifeblood of the charity sector, and in many charities they outnumber the paid staff by a considerable margin. Volunteers provide a very effective and productive workforce and, without them, many charities would find it difficult to operate as effectively as they do. However, they are not, by definition, 'employees'; and, given their importance for the sector, it makes sense to extend the levy contributions made by charities to supporting accredited volunteer training and associated expenses. This would be an effective way of using this funding and would meet the intention that the levy should increase the skills of our workforce. In particular, resources could be focused towards encouraging younger people to get involved in volunteering, thereby playing a role in the up-skilling of the country's younger workforce.

How the Government can help:

- **By delaying the April 2017 implementation date for charities so that they can make the necessary administrative and staffing changes to enable them to comply fully.**
- **By allowing Levy funds to be used to pay for accredited volunteer training and associated expenses.**
- **By permitting charities to assign to other charities any unused Levy credits at a higher level than the 10% currently allowed by the rules. This move would ensure more funding is retained for charitable use.**

Gift Aid Small Donations Scheme

6. The Gift Aid Small Donations Scheme (GASDS) has been a welcome new source of income for charities which helps to maximise the value of small cash donations. Although the Scheme has increased in terms of the value to the sector, it is still experiencing far lower take-up than was originally envisaged.
7. We welcome the Government's commitment to remove the Gift Aid history requirement as contained in the Small Charitable Donations and Childcare Payments Bill 2016. This will hopefully widen access to the Scheme, particularly among smaller charities, but we urge the Government to keep the Scheme under review and consider further reforms to the eligibility and matching criteria so that GASDS complements the Government's objective of increasing the take up of the full Gift Aid scheme by smaller charities.

How the Government can help:

- **By considering the removal of a formal matching threshold in favour of a requirement to simply have made any Gift Aid claim that year or the year before.**
- **By continuing to work with charities to improve the available guidance. This is particularly important in relation to the more complex elements of the scheme such as the connected charities rules and the eligibility of charities for the community buildings provision.**
- **By promoting the Scheme to a wider audience, particularly small charities.**

Reform of the Gift Aid donor benefit rules

8. CTG welcomed the opportunity to respond to the Call for Evidence and Consultation on the Gift Aid donor benefit rules over the last year and awaits the publication of the Government's response to the representations made during this consultation. CTG would like to register its appreciation of the willingness of officials to work with the sector on this important issue and is hopeful that some valuable and practical changes will be possible.

How the Government can help:

- **By publishing clear policy proposals for reform of the donor benefits rules following the Call for Evidence and consultation process. We encourage the Government to consider the CTG consultation response, particularly our recommendation proposing the introduction of two simpler bands that are easier to understand and address the "cliff edge" effect.**
- **By committing to a serious review of the donor benefits guidance involving both charities and their advisers, with particular focus being given to the 'in consequence' rule. This review should also consider ways of improving accessibility to the guidance on Gov.uk.**

Research and Development Expenditure Credit (RDEC)

9. The Government introduced the Research and Development Expenditure Credit (RDEC) in 2013, but has since amended legislation so that universities and charities are unable to claim the RDEC. The Government has stated that the rationale given for doing so is that charities and universities were never the intended recipients of the policy and that, in the case of universities, equivalent funding is already provided through HEFCE. Non-university charities receive no such funding and therefore appear to be receiving unfair treatment compared to other research institutions.

How the Government can help:

- **By supporting charities and universities processing claims for any qualifying expenditure they incurred prior to 1 August 2015.**
- **By considering the reinstatement of RDEC for non-university charities.**

Automatic Exchange of Information

10. We are working closely with your officials to ensure that charities do not face an onerous and disproportionate administrative burden because of the new Automatic Exchange of Information (AEOI) requirements and compliance with the Common Reporting Standard (CRS). While we welcome the news that corporate charities are unlikely to be affected, we call on the Government to consider charitable trusts as well, as the differences between these types of charities are arbitrary and irrelevant in this context.
11. We welcome the recognition by the Government that the AEOI regime presents a challenge for charities, as well as the acknowledgment that an initial lack of communication with the sector led to reduced time to put the necessary compliance processes in place ahead of the rules coming into effect. To reflect this, it is encouraging that HMRC has confirmed that, during the early years of AEOI reporting, its approach to compliance by charities will be a “soft landing” and HMRC will not seek to apply penalties where charities have made efforts to carry out due diligence requirements and report accurately.

How the Government can help:

- **By co-ordinating further information events for charitable trusts outlining their reporting and due diligence requirements.**
- **By establishing a clear mechanism for charities to share concerns with HMRC and resolve queries relating to CRS.**

Transfer of profits

12. CTG wholeheartedly supports Government efforts to stop charities being used as vehicles for fraud and tax avoidance, but has stressed the need for proportionate and targeted legislation that will not inadvertently catch innocent donors or charities.
13. We welcomed the Government's decision to introduce a charity exemption from the Diverted Profits Tax following CTG representations that charities would be inadvertently caught by the legislation. We believe that a similar exemption is necessary to avoid charities being unintentionally caught by the legislation on transfer of corporate profits in s1305A in Chapter 1, Part 20 of Corporation Tax Act 2009, as introduced by the Finance Act 2014.
14. We have welcomed Ministerial assurances that the legislation will not apply if a company pays all its profits to charities through Gift Aid unless avoidance is present, and the confirmation that it is not avoidance if taxpayers use statutory relief for charities in the way intended by Parliament. We also welcome the written assurances, given in the technical guidance note (see example 6) published in March 2014, that charitable subsidiaries would not be caught. However, based on our experiences, we believe that such assurances should be enshrined in legislation and we urge the inclusion of a charity exemption in the next Finance Bill.

How the Government can help:

- **By introducing in the next Finance Bill an exemption for charitable companies from this legislation on the transfer of corporate profits.**

Making Tax Digital

15. While CTG welcomes efforts to improve digital record keeping, through the Making Tax Digital agenda, we welcome the Government's commitment to consult on exemptions for charities and Community Amateur Sports Clubs (CASCs).
16. Many larger charities, with sophisticated support systems and infrastructure are already familiar with online operations, and would not face major issues in moving to online record keeping. However, for those charities with limited resources, or a lack of digital expertise, it is preferable that the processes remain optional, so that they manage the transition at a time suitable to them.

How the Government can help:

- **By introducing an exemption from digital record keeping for charities, while providing resources and support for those charities that wish to opt in.**

Charity business rates relief

17. CTG welcomed the formal confirmation in the *Summary of Responses document to the Business Rates Review* that mandatory charity business rates relief was to be protected in England.
18. This is a vitally important relief for the sector, forecast to be worth £1.57bn in the year 2016-17, which makes it even more valuable than Gift Aid in financial terms.

How the Government can help:

- **By ensuring that mandatory rate relief continues to be protected as part of wider reviews on 100% local business rates retention and business rate revaluations.**
- **By working with charities and local authorities both to consider the implications of business rates reform for discretionary rate relief and also to explore ways to ensure more consistent treatment across the country.**

Review of the VAT system following Brexit

19. CTG is widely recognised for its long-standing expertise on the VAT position of charities. Since our inception in 1982 (as the Charities' VAT Reform Group) we have been extensively involved in discussions with the Treasury, HMRC and the European Commission (including acting as an expert for the European Commission and being an expert witness in the European Parliament) on the development of various VAT measures of significance to the sector and, in some cases, their subsequent clarification. Over the past thirty years, we have built up a considerable wealth of knowledge about the impact of VAT on different types of charities.
20. We recognise that an Autumn Statement submission is not the place to go into detail on the topic but we have begun to develop our recommendations relating to a post-Brexit VAT regime as it affects charities. We welcome the opportunity to work with the teams responsible for Brexit at HM Treasury, HMRC and the Department for Exiting the European Union.

In conclusion, as mentioned above, we should be happy to discuss any of these issues in more detail in meetings with officials.

Yours sincerely



John Hemming
Chairman
Charity Tax Group