

Fifth Money Laundering Directive and Trust Registration Service – Technical consultation

Response by the Charity Tax Group – 21 February 2020

The Charity Tax Group (CTG) has over 700 members of all sizes representing all types of charitable activity in the United Kingdom. The organisation was set up in 1982 to make representations to charity taxation and it has since become the leading voice for the UK charity sector on this issue.

CTG was delighted to read Paragraph 3.17 of the Consultation Document which states:

“... The government proposes that charitable trusts are not in scope to register because the risk of these kinds of trusts being used for money laundering or terrorist financing activity is low.”

John Hemming, CTG Chairman, commented:

“This is a great outcome for charities and vindicates the responses made by CTG and other sector bodies to the original consultation that charities were low risk and should be excluded from registering with the Trust Registration Service. This is a great example of common sense prevailing particularly as the rules would otherwise have applied regardless of whether or not the trust has incurred a UK tax consequence. We are aware that very small charitable trusts, including those that are exempted from registration with the charity regulators, could have been caught, which would have been unduly onerous, given their limited resources”.

However, we believe that the draft amending legislation (Appendix A at Para 1 (2) – inserting new Reg 45ZA(2)(e)) does not fully achieve this objective. There are two concerns here, that have been confirmed by charity lawyers:

- If incorporated charities (for example Companies Limited by Guarantee or Charitable Incorporated Organisation (CIO's)) hold either restricted funds or endowment funds, we believe that, as currently drafted, these may still need to be registered on a fund by fund basis.
- There is a considerable backlog of charity registrations with CCNI in Northern Ireland and, in addition, CCNI has yet to call all charities there forward for registration. As such, these currently unregistered charities will need to register with HMRC under the TRS unless their registration is completed before March 2022.

We are fairly sure that this is an unintended consequence of the draft legislation and would encourage changes to be made to clarify the position.

If you require any additional information, please feel free to contact us.

The voice of charities on Tax

Charity Tax Group
Church House
Great Smith Street
London SW1P 3AZ

T +44 (0)20 7222 1265
E info@charitytaxgroup.org.uk
Follow us @charitytaxgroup
www.charitytaxgroup.org.uk

Charity Tax Group Limited
Registered in England, No. 08028281

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.