

Charitable rates relief for schools and hospitals in Wales

Response to the consultation by the Charity Tax Group and Charities' Property Association

28 May 2020

Introduction

1. The [Charity Tax Group](#) (CTG) has over 700 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.
2. The [Charities' Property Association](#) (CPA) represents charities which own and manage properties as investments. It represents almost 100 charities with significant property portfolios, including charitable housing trusts, independent schools, and charities who operate charity shops.
3. We welcome the opportunity to submit a joint response to this consultation and would be happy to meet officials to discuss our answers in greater detail (please contact 02072221265 or info@charitytaxgroup.org.uk / info@charity-property.org.uk).
4. We also welcomed the extension of the deadline for responses to this consultation, but we anticipate that many affected stakeholders may have been unable to respond due to COVID-19. We would encourage the Welsh Government to consider this when reaching its conclusions and undertake additional consultation where required.

Importance of charity business rate relief

5. Authorities have discretion to grant rate relief from all or part of the amount of non-domestic rates payable and the level of relief determined by an authority may be varied by a further determination. Generally, properties used wholly or mainly for charitable purposes, or which are registered Community Amateur Sports Clubs are eligible for 80% mandatory relief. This relief can be topped up to 100% at the discretion of the local authority.
6. Charity business rates relief is invaluable to many charities and is estimated to be worth more than £60m in Wales. This relief has been particularly essential during the COVID-19 crisis and the Welsh Government has also taken positive steps to supplement this support and protect charity shops and those in the leisure and hospitality sectors, as well as small businesses through targeted grant funds.
7. In its summary of responses to the consultation Tackling Avoidance of Non-Domestic Rates in Wales, representatives of the Welsh Government stated: *"I have considered the issue of falsely claiming charitable status for the purpose of avoiding rates and other liabilities. These ratepayers are not genuine charities but are seeking to use charitable status to avoid paying rates. I have listened to the concerns of the sector and do not, at this stage, propose making any changes to the arrangements for mandatory and discretionary charitable relief in this context. However, I will work with local authorities, the third sector and the Charity Commission to explore what can be done to reduce the abuse of charitable status."*
8. We are encouraged by the Assembly's continued overall support for rates relief for charities and would welcome clear confirmation of this in the response to the consultation document. It is right that charities do not abuse rates relief (and this was highlighted clearly in the recent Charity Commission inquiry into the Public Safety Charitable Trust) but it is important that steps to eliminate bad practice are proportionate and targeted and do not undermine support for the vast majority of law abiding charities.

Eligibility of independent schools and private hospitals for charity rates relief

9. The consultation document asks for views on the merits of independent schools and private hospitals receiving charitable rates relief. We support the proper review and reform of taxes, including business rates. We do, however, have concerns about the potential impact of politicising the definition of a charity that is “worthy” of receiving tax reliefs. In our view, the tax system should not be used to restrict support for charities that are deemed to be less “deserving”, nor should it make changes to the definitions of charity and on what constitutes operating for public benefit – this should be a matter for charity law. Today it is private schools and hospitals that are less “deserving”, which type of charity will be next?
10. It is critical that charities are able to operate within a regulatory and tax regime that is non-partisan and treats any purpose that falls within the legal concept of charity as equally worthy. For politicians (or the sector itself) to manipulate charitable tax reliefs to favour one charitable purpose over another would damage innovation by charities and undermine the freedom of choice which encourages charitable giving. Government is free, quite properly, to give grant-aid to particular types of charities where that is considered to be an efficient and effective means of delivering policy objectives. However, the converse – to deny charitable reliefs except in favoured cases – has much more far-reaching and negative repercussions for the sector as a whole. The definition of charities should remain an issue for the relevant independent regulator (the Charity Commission of England and Wales in this case).
11. In the absence of a public response from the Charity Commission of England and Wales, we would draw your attention to the comments of the Office of the Scottish Charity Regulator’s (OSCR) comments on similar, recent consultation in Scotland that is applicable to this consultation. OSCR raised “a general concern that treating any group of charities in a differentiated way for tax or other purposes... introduces the potential for confusion in the public mind as to what it means to be a charity”. We agree with this statement. OSCR also noted that “there is a sense in which the proposals might result in a devaluing of the charity status of certain groups of charities”. It continued, “Allowing the creation of a ‘two-tier’ charity sector within a ‘single-tier’ regulatory regime could be damaging to the public’s trust and confidence in both the sector and charity law”. Again, we share OSCR’s concerns and we believe that the impact could be damaging to the public’s trust and confidence in the sector across the UK, not only in Wales.
12. We would suggest that the Welsh Government consider the numerous differences in the financial context and the way that taxes apply to (for example) state schools and independent schools, such as public sector schools receiving public funding and having differences in VAT. If the policy’s aim is to achieve a level playing field, then those differences would also need to be addressed.
13. The Consultation Document also notes that certain independent schools and hospitals charge for their services. While that is true, they are limited by charity law to only charge for services which further its charitable objectives and public sector organisations are also able to charge for certain services. A charity would need to establish a trading subsidiary if it wished to charge for services that did not further its charitable objectives, in which case it would not be able to apply for mandatory charity rates relief. It is important these points are considered as policy is developed.
14. Our wider concerns on the impact and integrity of charity and charitable giving aside, we would suggest that the removal of charitable relief during the COVID-19 pandemic, or shortly after its conclusion, would be ill timed and have amplified consequences. We would therefore suggest that consideration of the issue should be delayed until after the pandemic has concluded. The Scottish Government has already confirmed similar steps. In addition, will the Welsh Government commit to producing a detailed impact assessment before any decisions are made?