

Charity Tax Commission

Response to the Call for Evidence by the Charity Tax Group

6 July 2018

About the Charity Tax Group

1. The Charity Tax Group (CTG) has over 600 members of all sizes representing all types of charitable activity. It 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. CTG is represented on HMRC's Charity Tax Forum and Joint VAT Consultative Committee (JVCC), as well as numerous other working groups. CTG is also a member of the European Charities Committee on VAT (ECCVAT).
2. CTG's volunteer [Management Committee](#) consists of tax experts with practical day-to-day experience of charity tax issues. As well as its charity members, CTG works with almost 50 professional firms ("[Observer Members](#)") with expertise on charity tax issues, sharing best practice and feedback from their clients across the UK. CTG operates a number of tax working groups, including a practical issues Gift Aid forum, which now has over 50 active charity members and includes regular liaison with HMRC operational staff.

Scope of the consultation process

3. CTG welcomes the opportunity to respond to this consultation and would be happy to provide more detailed feedback as required. This is an important opportunity to raise awareness of the implications of the tax system for charities on their operations, both in terms of tax reliefs and the taxes they have to pay, particularly irrecoverable VAT. It is also important to highlight the administrative burden charities face in complying with the tax regime, particularly where they are not the direct target of tax legislation and are not required to pay tax. Our response incorporates feedback from our members, many of whom will hopefully also make individual submissions to the Commission.
4. It is welcome that the Charity Tax Commission has committed to presenting pragmatic, affordable and workable proposals to the Government. However, it is important that the proposals that are submitted are not presented as an exhaustive list of options. We would encourage the Charity Tax Commission to also present long term reform proposals, that would address structural inequalities faced by charities in the tax system, even if, in the Commission's view, resolution of these issues in the short term may be difficult for economic or political reasons. If this does not happen, the sector may have missed an important opportunity to make its case to Government, which may regard a review of charity taxation as being closed, with no need for reform in the future.
5. The planned timing of the publication of the Charity Tax Commission's proposals, in early 2019, means that we may not have full clarity on the implications of Brexit for the tax system and the wider economy. We recommend that the Charity Tax Commission's conclusions should acknowledge the uncertainty caused by Brexit and note that potential reform solutions may vary considerably once we have a clearer idea what the post-Brexit settlement will look like. For example, if the UK is no longer part of the Single

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.

Market, and not bound by European VAT legislation and the CJEU, there is greater scope for reform of VAT legislation than if we continue to be bound to these rules. Proposals should also recognise that responsibility for some tax issues is devolved.

6. It is welcome that the Charity Tax Commission has appointed a strong board of Commissioners and has also enlisted support from expert advisors (including CTG's Chairman John Hemming) and sector representative groups, who will be able to provide feedback on the proposals developed. It is also helpful that HMRC and HM Treasury officials have been invited to observe Commission's meetings and deliberations. Our work with these officials has found them to generally be open, supportive and in a listening mode and this is to be welcomed. However, we believe that the Commission would benefit from holding a formal consultation on the proposals that are put forward to Government. Otherwise there will be limited opportunity for wider stakeholders to comment on these proposals, which increases the risk of unintended consequences. Some stakeholders may have innovative new ideas that others in the sector would be very supportive of, but there will be no easy way of knowing what proposals are being considered and progressed until later in the process, by which time it may be too late to make a meaningful contribution.

The purpose of charity taxation

Please use this section to provide general thoughts on the principles that should underpin the tax treatment of charities. For example, to what extent should tax reliefs be used to support charities to provide public services, to promote certain values such as voluntarism, or to encourage donations. Or do fiscal privileges amount to a grant of public money without democratic control and represent an inappropriate forgoing of tax by the exchequer?

7. Charities benefit from important and valuable tax reliefs (estimated at £3.62bn in 2017/18) and it is important that any reforms to them do not have any inadvertent adverse financial impacts on charities. However, charities do still face a cumulative burden of taxation, both in terms of tax payable (particularly irrecoverable VAT and employment taxes) and the administrative burden associated with compliance – both of which are higher than generally perceived by the public. Traditional income sources for the charity sector have come under increased strain. New and improved tax reliefs could help to support charities at a time when their services are more required than ever.
8. However, CTG believes it would set a dangerous precedent to tie access to and eligibility for tax reliefs to a public benefit test as it would risk judgments as to which charities are more “deserving”. Who would be the arbiter of this definition? It is critical that charities are able to operate within a regulatory and tax regime that is non-partisan and treats as equally worthy any purpose that falls within the legal concept of charity. For a Government (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. But 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 and it is important to remember that any reform proposals must take account of current and planned devolution (of both charity law and tax powers). We also believe that there could be serious unintended consequences if tax reliefs are linked to levels of expenditure or transparency as often the way charities are set up, operate and report is driven by wider considerations and pressures than taxation.

9. Other important principles and recommendations that underpin CTG's response to this Call for Evidence include:
- a. The charity sector is not homogenous and the way that taxation and associated reliefs affect different types of charity depends on their size, activities and structure. There may not always be a one-size-fits all solution – more often there is not.
 - b. A large proportion of activity undertaken by charities either replaces statutory provision or would require Government intervention if it was not available. It would usually cost Government more to provide these services (and there is often neither capacity nor desire to do so). Many charities have taken over, or are willing to take over, the delivery of public services outsourced by governmental bodies, but irrecoverable VAT creates a disincentive to do this. Structural distortions in the VAT system result in a total bill for the sector of at least £1.5bn a year in irrecoverable VAT, so VAT reliefs are very important.
 - c. Gift Aid is not a public subsidy. It is related to an individual's tax bill and it is based on the principle that money given away for the public benefit – and therefore no longer available to spend as income – is not subject to tax. This is a principle that the Government has long defended and promoted but continues to be undermined in some quarters by suggestions that income tax relief is an extension of public spending and should be redirected to general exchequer spending, rather than allowing donors to favour their preferred causes. The Government has determined which activities are charitable and the independent charity regulator then determines which organisations are appropriately pursuing those activities (not the donor), so the question should not be whether Gift Aid is eligible for certain types of charity, but instead what should be the correct definition of charity, which should be an issue for the charity regulator not the tax authorities.
 - d. Legal tax relief on giving for individuals must not be conflated with tax avoidance. It is important that systems are in place to tackle any abuse of tax reliefs, but where lawful tax relief mechanisms are available (and openly promoted by the Government), these should be promoted to maximise private philanthropy. It is important to remember that in order for donors to receive tax reliefs (which can often be very generous) they need to give away a significant amount more than they receive in relief.
 - e. Where anti-avoidance legislation targeting organisations relies on a profit motive, there is a rationale for charities to be automatically excluded given that they are precluded from doing so under charity law.
 - f. Charities do not benefit directly from corporation tax reductions, which are often used to stimulate the economy and improve competitiveness. This imbalance should be addressed through other tax reliefs, particularly due to the increasing contribution made by the sector to the economy, not least through the delivery of services and R&D.
 - g. Most employment taxes do not include an exemption for charities. Due to the nature of their operations some charities (particularly those delivering services) have a high staff cost to turnover ratio resulting in a disproportionate impact. Charities end up facing a larger bill which either results in a need for additional funding or reduced capacity to provide services to their beneficiaries.
 - h. Research by the sector has highlighted the size of the tax compliance burden faced by charities, yet successive Governments have been slow to address the problem. This is a cause for concern since it suggests that some charities are having to devote a disproportionately high level of their resources to compliance: resources which might be better devoted directly to their charitable activities. The administrative costs (both in terms of time and financial resources) involved in complying with new reporting requirements often requires investment in new IT infrastructure, training and professional advice, the cost of which can sometimes undermine the benefit (where relevant) of the tax relief/scheme in question.

- i. In addition to the important work undertaken by large, often well-resourced charities, small charities, often run by volunteers, can find tax legislation and guidance very difficult to comprehend, let alone follow. It is important that onerous and disproportionate compliance requirements do not have a chilling effect on volunteers.

Comments on individual tax reliefs

10. CTG is conscious that the Charity Tax Commission is not in a position to review the minutiae of the operation of the various tax reliefs, or the practical day-to-day issues that result. We have therefore limited our responses to reflect this but would be happy to provide additional details as required.

VAT

11. The VAT system treats charities differently depending on the types of service they provide and whether or not they charge for their services. Those that do not charge are treated as the final consumer even when they are not. As a result, they are unable to recover VAT on purchases (input VAT) made to support their activities. Most of the charities that charge for their services also suffer from irrecoverable VAT because their services are exempt. These structural distortions in the VAT system result in a total bill for the sector of at least £1.5bn a year in irrecoverable VAT.
12. The UK's exit from the European Union could present both threats and opportunities for charities in respect of VAT. The Government should be considering a wider strategic review of the VAT system to consider what additional support could be provided to charities to enable them to be as effective as possible (both in cost and quality terms) when delivering such services. CTG [has proposed](#) the introduction of a special refund scheme for charities in relation to their non-business activities, or the extension of existing reduced and zero rates on supplies to charities to cover all supplies to charities. The European Commission has announced proposals to change the application of VAT rates, which, if progressed, will provide Member States with far greater flexibility in terms of introducing new reduced and super reduced (which can include zero) VAT rates. The OTS has called for a similar review of VAT rates and we believe the Charity Tax Commission should encourage the UK Government to progress this in consultation with charities and other sectors.
13. In the meantime, CTG would encourage the Government to introduce additional targeted refund schemes to those included in Section 33 of the VAT Act. 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.
14. Navigating the VAT system can be particularly complex for charities due to the frequent need to apply partial exemption methods and given the limited access to resources and expertise, often requiring investment in external professional advice. CTG has therefore expressed reservations about the potential decrease in the VAT registration threshold, a proposal which is now subject to consultation. If the registration threshold was reduced, there are a number of ways the impact on charities could be mitigated, although the solutions proposed would have universal application. For example, it would be helpful if organisations were permitted to share resources, such as staff and IT, with their trading subsidiaries, without any charges for this counting towards the VAT registration threshold. Another solution would be to change the rules so that zero-rated supplies do not contribute to the VAT registration threshold, with only positive-rated supplies included (although it would still be possible for charities to register for VAT voluntarily if that were beneficial for them). This would have a material impact on charities, owing to taxable supplies often being of books and other printed materials.

15. CTG has also expressed serious concerns at the general lack of awareness and readiness within the charity sector for the introduction of Making Tax Digital (MTD) for VAT reporting requirements from April 2019. While MTD is not a challenge for charities alone, they face specific challenges due to the complexity of their VAT affairs. VAT registered entities are not yet able to prepare for the introduction of MTD in April 2019 as software developers are yet to make available products that have been tested and are compatible with HMRC's requirements. While we welcome assurances that there will be a "soft landing" in the first twelve months and the development of a free software solution (by the private sector), we are concerned that many charities will be ill-prepared for their first submission. The lack of a clear transition period for those that exceed the threshold for Making Tax Digital is problematic both for charities and other small operations. It is therefore important that the Government continues to engage with the sector to support charities as they adapt to the new reporting requirements.
16. CTG has become aware of HMRC challenges to the applicability of the VAT zero rating for advertising on third party platforms, particularly via social media. This has significant potential implications for charities given their collective annual expenditure on advertising via these new online platforms – an additional 20% cost will simply not be sustainable for many charities, with knock-on effects for the level of fundraising income that they are able to generate. If HMRC does not believe that the legislation enables zero-rating of advertising to continue when applied to modern online platforms, we believe the Government needs to give consideration to changing the legislation to reflect the reality of modern day fundraising practices, or risk diluting the existing relief.
17. Given the complexity of partial exemption referred to above, it might be tempting to consider proposals for abolishing the social exemptions (comprising health/welfare, education, sport, and culture) so that all supplies would be taxable and allow full recovery. However, the exemptions play a part in ensuring that the tax burden on such activities is reduced where the social conditions are met. In some cases, the equivalent tax burden could be achieved by a reduced positive rate, but in practice the level at which such a rate should be set would be difficult to determine accurately if the objective was to retain the existing tax burden on the activity. And, if several different rates were needed, this would create complexity in classifying the liability of supplies. For this reason, great care should be exercised before resolving to remove the social exemptions that apply to charities. Such a proposal could appear far more attractive than it actually is.

Gift Aid

18. CTG works closely with HMRC to make certain that Gift Aid policy is applied in an even and proportionate manner and that the voice of the charity sector is heard from the outset of the policy writing process. Gift Aid was worth approximately £1.26bn to charities in the UK in 2017/18 and remains a very valuable form of tax relief.
19. CTG is keen to see this benefit maximised by as many charities as possible, while ensuring that it is only claimed where eligible. Recent research by HMRC has indicated that up to £570m of eligible Gift Aid goes unclaimed, while up to £180m is claimed incorrectly. As outlined in the previous section, it is therefore important that there is greater understanding about how Gift Aid works and this highlights the importance of improved guidance and communication for both charities and donors. If HMRC wants to eradicate incorrectly claimed Gift Aid completely, it should consider investment in infrastructure that will enable it automatically cross-check an income tax records with their donation and determine whether there has been sufficient tax paid to cover a Gift Aid claim.
20. There is ongoing debate about Gift Aid higher rate relief for donors, particularly in respect of the extent to which it motivates the size of donations. There has been some research on donor behaviour in relation

to higher rate relief, but views are split across the sector depending on the size and source of donations received by charities. CTG would therefore caution against any hasty conclusions being drawn on the future of higher rate relief, without much greater consultation with charities and donors. The successful campaign by donors and the charities to reverse the then Government's proposal to introduce a charity tax cap (proposing a limit of £50,000 or 25% of income) in 2012 shows, however, that there is unity in respect of protecting important giving incentives. It would be helpful if charities and HMRC promoted awareness of higher rate relief and if the process for claiming it was made simpler, particularly for those using PAYE.

21. Additionally, CTG would oppose strongly any proposals to decouple the link between Gift Aid and tax paid by the donor. If this happened, Gift Aid would no longer be a tax relief and the relief would become a public expenditure measure, which is always less attractive to Government.
22. Many charity shops are required to contact their supporters after the end of the tax year to let them know how much their goods have sold for before Gift Aid can be claimed. The reason for this is to ensure that the supporter has paid sufficient tax to support that claim. Contacting supporters is an expensive process in terms of time or money and charities have received negative feedback from donors about them "wasting charity resources" by sending letters about claims for a trivial sum. CTG would like to see a *de minimis* limit of at least £10 applied to this requirement and we are in advanced discussions with the Charity Retail Association and HMRC. It would be helpful if the Charity Tax Commission could endorse this simple sensible cost-saving measure.
23. Recent Government legislation on Gift Aid and intermediaries focused mainly on online platform intermediaries (where Gift Aid take up rates are already high) at the expense of SMS giving (where Gift Aid take up rates are currently low). This is frustrating as one of the stated aims of this policy was to increase uptake of Gift Aid on these types of donations, which are growing with the increased use of smartphones and impulse donations (the RSPCA, for example, reports 70% year on year growth of these types of donation). We suggest that Government commits to further work with charities and the mobile sector to maximise the amount of eligible Gift Aid claimed.
24. CTG has welcomed HMRC's decision to introduce a two threshold "relevant value test" for the Gift Aid donor benefit rules. This will help to avoid the problems of the cliff-edge effect that many charities currently face (and which can lead them to not claim Gift Aid at all). The sector is working with the Government to update the donor benefits guidance, but the Government has so far resisted calls for a detailed review of the interpretation of when a benefit is "in consequence" of a donation, which is frustrating due to the narrow view currently adopted. Additionally, it would be helpful if the Government would commit to reviewing the interpretation of how benefits are valued and the operation of the split-payment rules, both of which can cause difficulties for charities and donors.

Gift Aid Small Donations Scheme (GASDS)

25. CTG has always been supportive of GASDS given that it represents new money for the sector and allows charities to maximise the value of gifts where it is not easy to get a donor to sign a Gift Aid Declaration. Unfortunately, the take-up of GASDS has been lower than was originally hoped and the general feedback from our members is that GASDS is unnecessarily complex, particularly for the level of relief available.
26. The recent relaxation of the eligibility requirements, clarification of the community buildings rules and extension to contactless payments are all welcome, and we hope that these changes will help to widen accessibility to GASDS, particularly among smaller charities. However, we encourage the Government

to continue to review the effectiveness of these changes and consider further reforms, if there is no significant additional take-up. Increasing the eligible donation to £30, in line with the contactless limit, would be an obvious next step that should increase the attractiveness and practicality of the Scheme.

Business rates relief

27. Charity business rates relief is invaluable to many charities and is estimated to be worth over £2bn a year across England, Scotland and Wales, at least a third of the value of all reliefs received by the sector. It is important to remember that governmental responsibility for business rates is devolved, but it is welcome that in England, Scotland and Wales there has been a firm commitment to the retention of 80% mandatory rates relief for charities. As a minimum, we would recommend that the Charity Tax Commission calls for this to continue. While 100% rates relief for charities would of course be preferable, CTG is conscious that this may not be affordable or justifiable in the current economic climate.
28. In addition, every billing authority has a different form (usually a paper version) for applying for business rates relief and some require these to be completed every year or two. 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.
29. The requirement to set up a trading subsidiary company in order to comply with the rules on trading can lead to a loss of the mandatory and/or discretionary charity relief on business rates, for example where a museum shop is separately assessed for business rates because the trading company is deemed to be the occupier. We would welcome an extension of the mandatory charity relief to wholly-owned charity trading subsidiary companies which donate all of their profits to the charity (which could borrow the definition from the VAT legislation on donated goods - “profits to charity person”).
30. It is vitally important that the integrity of charity rates relief is maintained and that they are not abused, and we support moves which tackle abuse. However, we believe it is also important that measures to tackle avoidance are proportionate and do not have an adverse impact on eligible charities following the rules correctly. While there have been some cases of abuse, we do not believe there is evidence of a “prevalence” of avoidance involving charities; which was the assertion made in a recent Welsh Government consultation on business rates. In fact, in most cases we are aware that charities are operating the rules correctly. In our experience most errors in claims for rates relief (and other tax reliefs) result from a lack of understanding and education – honest mistakes rather than deliberate attempts to abuse the system. The charity regulators and the sector itself have an important role in educating charities and trustees and ensuring that no advantage is taken by unscrupulous third parties.

Capital Gains Tax (CGT)

31. Charities are exempt from CGT if the gain accrues to a charity and is both applicable and applied for charitable purposes. This is an important and well targeted relief, which has not, in practice, given rise to problems over the years. We do not think it should be disturbed.

Inheritance Tax (IHT)

32. IHT relief totalled approximately £860m for individuals in 2017-18, 58% of the total tax reliefs related to individual giving, and it is therefore a very important relief.

33. A recent consultation by the OTS asked whether the charitable exemption and the lower rate of tax on death was understood by advisers or the public. CTG members have indicated that this is a helpful giving incentive which provides a useful choice for donors wishing to support charities in their will. It is also a helpful way for donors to be introduced to discussions about wider charitable giving including legacies.
34. Improved communications about the relief will be helpful as it can appear to be complex when first discussed and something that would only be relevant to wealthier donors. Clearly this is not necessarily the case, so educating donors and helping advisors to promote the relief will an important step towards maximising the value of the relief.
35. CTG has also been supportive of the [Living Legacies campaign](#) which calls for changes to the tax system to encourage and incentivise donors to make substantial tax-effective gifts of assets and cash to charity during their lifetime.

Insurance Premium Tax (IPT)

36. In June 2017, IPT increased from 10% to 12%, more than double the rate it was in 2010. While IPT is a tax on insurers, providers invariably pass on these costs and as charities do not benefit from an exemption they have been affected by the recent increases.
37. IPT has a disproportionate impact on charities (especially those with substantial operational buildings – such as charities that provide activities in their buildings – and extensive transport and travel commitments) and we have serious concerns about rumours that IPT may eventually be increased to 20%, in line with VAT. IPT costs weigh particularly heavily on some of the smallest charities – Village Halls, Community Associations and small church congregations, for example – as the insurance related to maintaining their buildings responsibly is a significant cost.
38. We would encourage the Charity Tax Commission to call on the Government to review the current IPT burden faced by charities to assess whether a total or targeted exemption or a reduced rate would be achievable, where the insurance is required to cover activities or premises that directly relate to a charity's objects.

Climate Change Levy (CCL)

39. We have no specific comments to make on the Climate Change Levy.

Social Investment Tax Relief (SITR)

40. Government statistics indicate that take-up of this relief has been relatively low since its introduction. There may be a case for a review as to whether this relief is meeting the original policy objectives and what could be done to improve take-up, or make it more attractive to social investors. Concerns expressed by CTG members have been that the maximum size of the investment is too small (due to State Aid limitations), that it favours the lender more than the charity and that it is not that easy to use in practice. While we support the tax relief, CTG retains some concerns that it does not lead too many donors to convert their donation into an investment (upon which the charity may be able to claim Gift Aid) which may not always be suitable for the charity, due to the nature of their activities.

Stamp Duty Land Tax (SDLT)

41. Tax relief from SDLT was worth £250m to charities in 2017/18 and is therefore very important to the sector.
42. The provisions for charity relief are unnecessarily restrictive as relief is given only if the charity intends to hold the greater part of the land & buildings (by value). We are aware that some conservation charities face situations where they buy land & buildings (in order to protect the land from development), but do not wish to retain the buildings, so they intend to sell these on afterwards. However, invariably, the buildings are worth more than the land so while they may be retaining the greater part by area they are not retaining the greater part by value. As a result, they can end up paying SDLT on land which is to be held for charitable purposes just because the wording of the relief has been poorly drafted.
43. It is important that any recommendations made by the Charity Tax Commission recognise the devolution of responsibility for this tax in Scotland (Land and Building Transacts Tax) and Wales (Land Transaction Tax). Both operate broadly similar charity exemptions but in practice there may be slight differences in implementation.

Lottery Duty

44. We are not aware of any issues relating to Lottery Duty and believe that the current exemptions are sensible and well targeted.

Community Infrastructure Levy (CIL)

45. Mandatory charitable relief is available where the development is to be used wholly or mainly for a charitable purpose. This is an important relief for charities and reflects the fact that charities already make significant contributions to the health of the local community.
46. An independent review in 2017 recommended that the Government replace CIL with a system including “no or very few exemptions”. Given the importance of the charity exemption and the efforts taken by CTG and others to secure it, we made strong representations for its retention. CTG argued that charities should not be penalised because CIL has not generated the anticipated financial returns for local authorities. The rationale for a charity exemption remains valid and charities should not be taxed for development of land for charitable purposes (including social housing) or when leasing land to other charities.
47. We were therefore encouraged that the Government decided not to replace the CIL regime but instead to give Local Planning Authorities (LPAs) more flexibility in their approach to CIL. CTG’s response to a consultation on the Government’s proposals welcomed the retention of the charity exemption from CIL and calling for explicit confirmation that this would extend to any complementary or successor tariffs.

Cross-border giving

48. The Finance Act 2010 extended UK charitable tax reliefs to certain organisations in the EU, Norway and Iceland that are equivalent to UK charities. Those entities need to meet the definitions of a charity and must also be registered with any charity regulator in their home country with which the law requires

them to register. They must also be managed by ‘fit and proper persons’, a provision designed to protect the Exchequer against tax relief.

49. This UK legislation resulted from CJEU case law that found it was illegal for a Member State to refuse tax deductions on gifts to charitable bodies within other Member States simply on the basis that they are not established in the Member State in question. Feedback received by CTG in 2015 indicated that 142 organisations outside UK jurisdiction had applied for recognition as charities under the provisions of the Finance Act 2010. Of these, only 11 were successful in their application suggesting that there has not been significant take-up. It remains to be seen whether these rules will be maintained after Brexit and what, if any, impact it will have on cross-border giving in Europe. Overall any tax incentives that facilitate cross border philanthropy in a world which has become increasingly globalised is a good thing.

Corporation tax reliefs

50. In a highly competitive world, the UK’s performance in Research & Development (R&D) will depend on the Government supporting the sector’s excellence in this area and helping to stimulate it further. The Research and Development Credit (RDEC) was introduced in 2013 but, since then, the legislation has been amended so that universities and charities are unable to claim it. The Government has stated that the rationale for withdrawing the relief is that charities and universities were never the intended recipients of RDEC and that, in the case of universities, equivalent funding is already provided through HEFCE. However, non-university research charities receive no such funding and the reintroduction of RDEC for them would provide a major stimulus to R&D in medical research in the UK thereby helping to meet the Government’s stated objectives. A commitment by the Government that charities should be treated as being as eligible for the relief would be helpful both to stimulate further investment in R&D and unlock RDEC that has already been claimed. We believe that there are other imaginative tax measures that the Government could introduce to stimulate the funding of bio-medical research by charities.
51. Charities are exempt from corporation tax on non-primary purpose trading up to £50k per annum. If a charity expects its non-primary purpose trading to exceed this amount, it normally sets up a trading subsidiary, although this does incur additional administrative costs. The £50k limit has not been increased in many years and we recommend that this is increased to £100k in the first instance and then reviewed on a periodic basis to ensure it remains appropriate. This proposal was made to the Exchequer Secretary to the Treasury at CTG’s Tax Conference in May 2018 and he appeared to be receptive to the idea. Given the administrative costs of operating a trading subsidiary (and the issues for rates relief as outlined above) we would encourage the Charity Tax Commission to review whether there is a need for trading subsidiaries at all where the activity exclusively supports the charity.
52. Feedback from charities and their advisers has indicated an increase in the frequency of tax return requests by HMRC. For some charities this means that they are now required to file returns on an annual basis despite the official line being that reviews will be *ad hoc*. It is not clear what HMRC is trying to achieve through requesting returns more regularly, particularly where charities have nil returns. We support the recommendation that HMRC considers whether it could obtain the information it requires through other means e.g. from the charity’s accounts or its Charity Commission annual return, and if these documents do not contain the necessary information, could additional questions be added to the Charity Commission annual return to obtain this information.

Apprenticeship Levy

61. 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 fully would be neither realistic nor appropriate. On the other hand, volunteers are the lifeblood of the charity sector and, in many charities, they outnumber 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.
62. A year after the introduction of the Apprenticeship Levy statistics indicate that the number of new apprentices starting employment has actually fallen, rather than increased, since the levy was introduced. The charity sector has campaigned from the outset for use of the levy to be widened to include training of volunteers. CTG would encourage the Charity Tax Commission to support this proposal, to both enable charities to utilise the levy to train a high proportion of their workforce, plus supporting the provision of key skills to a cohort of future employees within the UK. Otherwise many charities will find it is simply not practical to use and a further cost to fund.

Payroll giving

63. Since 2000, a number of attempts have been made to promote, incentivise and encourage greater use of the Payroll Giving scheme. Despite this, take up has fallen well short of Government expectations and we therefore need to be bold and deal with the barriers and constraints that have been associated with this type of giving: poor employer take-up; lack of portability; perceived complexity; and barriers to direct contact between the charity and the donor. If not the scheme will continue to underperform.

Anti-avoidance legislation

64. CTG is supportive of 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. Charities often take a very cautious approach and will invest significant resources in compliance, when in practice this may not be necessary or proportionate. Where appropriate CTG seeks charity exemptions or dispensations from legislation that was never intended to affect charities, but often this has been after the legislation has been mooted or implemented, due to a lack of consultation. As outlined above, it would be preferable for charities to be automatically excluded where anti-avoidance legislation relies on a profit motive.

Transparency

The UK regime of tax reliefs can seem out of step with the general trend towards greater transparency in other countries. For example, in the USA and Canada, the government publishes data about the extent and nature of charity tax reliefs. To what extent is the public benefit from UK tax reliefs plainly visible? How can the UK system be made more transparent without increasing burdens on charities?

65. HMRC does publish fairly detailed statistics on charity tax reliefs, providing data on the overall reliefs for charities and individuals as well as a breakdown by types of relief. This can also be compared to the levels of relief claimed in previous years.

66. CTG does not think it should be mandatory for charities to make additional disclosures in their accounts as this will result in additional administration costs for charities and make the accounts harder to understand. Increasingly charities may want to publish details of the reliefs they receive (such as the amount of Gift Aid claimed) and their compliance with the tax system (with some of the larger charities publishing a Tax Strategy), but we believe this should remain optional and not linked to tax reliefs.
67. Equally there is an argument for transparency about the amount of taxes that charities actually pay (approximately £400m on business rates, and up to £1.5bn in irrecoverable VAT last year, for example), which amounts to a lot more than is often thought by the general public. In addition, for reliefs such as Gift Aid, evidence from HMRC research suggests that the total amount of tax relief claimed is lower than the number of donations on which tax relief was eligible.

Other comments

Please use this section to provide any further comments which you would like to raise which might be of interest to the commission, including, but not limited to, potential future pressures on tax relief and issues relating to digital and technological change.

68. Tax legislation and guidance failing to keep up with commercial and technological developments is a recurring issue. Often, when HMRC has identified a need to update guidance, there has been insufficient resources available to undertake this work (which has been regarded as a lower priority). We have welcomed announcements from Government that there are plans in place to outsource responsibility for identifying necessary updates to professional bodies which could then be reviewed and approved by HMRC. We have seen this start to happen and have ourselves provided suggested guidance but have found that it remains a lengthy process due to HMRC resource constraints.
69. Charities also continue to report difficulties in navigating the Gov.uk website, with it often not clear what VAT guidance they need to follow. The HMRC Charities helpline is an important resource, particularly for smaller charities, but at present it is only available during the working week and in work hours. Extending the opening hours slightly to include an evening or Saturday morning would really help volunteer trustees to access this important resource.
70. We recognise that charities benefit from tax reliefs, but the reality is that charities still incur significant tax costs, including irrecoverable VAT, and have to commit significant resources to compliance with the tax system, which in turn can result in expenditure on specialist staff, training, professional advice and third-party software. Any major infrastructure changes to the tax system for charities risk resulting in additional costs, so where possible there should always be consideration of free HMRC software, training, transition periods or exemptions for charities where appropriate, as well as consultation throughout the implementation process.

CTG
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