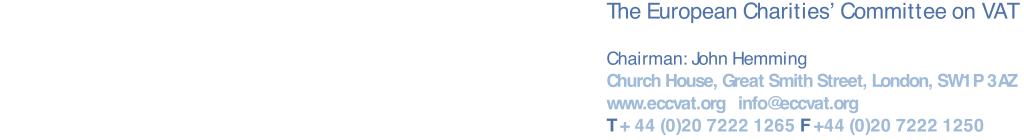
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**Commission Review of VAT Rates**

**Response by the European Charities Committee on VAT (ECCVAT)**

**March 2017**

**Introduction**

1. The European Charities' Committee on Value-Added Tax (ECCVAT) is a group of charities and foundations that has come together to research the impact of VAT and other taxes on the work of NGOs and to make representations to the EU institutions and governments on behalf of the sector. ECCVAT has been working to improve the VAT system for charities since 1992. ECCVAT has sat as an Observer to the Commission’s VAT Expert Group and has met regularly with DGTAXUD officials in recent years as part of the Commission’s review of the VAT system.
2. ECCVAT has been concerned about the impact of the VAT system on the work of charities for a long time and welcomes the opportunity to comment on this further in response to the Commission’s Review of VAT rates.
3. Reference is made throughout this submission to “charities”. This term is taken to include all public benefit organisations, including public benefit foundations as well as charitable organisations providing services that are either outside the scope of VAT or exempt.

***Primary consultation questions***

1. ***Currently, the list of goods and services eligible for reduced VAT rates is contained in Annex III of the VAT Directive. This list is not regularly updated. Is the range of goods and services eligible for reduced rate treatment adequate?***
2. ECCVAT believes strongly that the list in Annex III should be reviewed more regularly to ensure that it is possible to introduce new reduced (and also super-reduced) rates for new services or products, where it has clearly been identified that a new reduced rate would be socially beneficial. The extension of reduced rates to digital publications, such as e-books is an example of a new product or service where the introduction of a reduced rate is important, to ensure consistency of treatment with printed materials. Equally, we believe that any proposal to remove existing reduced rates should be subject to full scrutiny as many of them are hugely valuable to charities and also to those to whom charities provide services.
3. ECCVAT is aware that detailed consideration was given in the early 1990s to the introduction of a reduced rate on supplies to charities (in addition to the reduced rate that was introduced for supplies by charities in point 15 of Annex III). Given that this would help reduce the structural anomalies in the system that affect the work of charities, we urge the Commission to reconsider introducing this important reduced rate. In this context, we would support the amendment of Point 15 of Annex III to remove the reference to being “engaged in welfare and social security work” as this restriction makes it very difficult for the reduced rate to be used effectively by Member States.
4. ***In most cases, current rules limit the possible difference in VAT rates within one Member State or between Member States. Sometimes, however, the differences can be relatively large, for example when a Member State has received a specific derogation allowing it to apply super-reduced rates of less than 5% or a zero rate, whereas other Member States apply a standard rate. Are you aware of any distortion of competition resulting from the application of a reduced, super-reduced or zero rate?***
5. ECCVAT is not aware of any distortion of competition resulting from the application of a reduced, super-reduced or zero rate, insofar as these rates are applied in the restricted area of public benefit transactions.
6. ***On the basis of your experience, do you think granting additional flexibility to Member States would create new distortions of competition?***
7. No, ECCVAT does not believe that granting additional flexibility to Member States will create new distortions of competition. On the contrary, we believe that giving Member States flexibility will potentially help resolve some of the current significant distortions that charitable organisations face with the present VAT system.

1. ***The VAT directive establishes a minimum standard VAT rate of 15% and a list of goods and services which can be subject to a reduced rate of no less than 5%. This system offers harmonisation at EU level but in some cases may limit Member States choices in various ways, for example by ruling out a reduced VAT rate on certain goods or services or by setting a minimum level to the VAT rate. A reform could grant Member States greater room for manoeuvre in this regard. However, this might result in an increase in complexity, creating additional costs for businesses and generating legal uncertainty; this is because, in a destination based system, businesses in each Member State must generally apply the VAT rate applicable in the Member States where they are selling. What should the reform prioritise?***
2. ECCVAT supports the introduction of some greater flexibility in the application of specific reduced, super-reduced and zero-rates and also to exemptions where they apply to services that are deemed to be socially beneficial and we believe that any additional administrative costs that may arise from such flexibility are likely to be outweighed by the savings in irrecoverable VAT for charities. We do, however, support close scrutiny by the Commission to ensure that Member States do not use such flexibility to raise VAT rates significantly on goods and services that are recognised as being of social benefit.
3. ***The reform should propose a solution for the future of super-reduced rates. Many of these derogations were only granted on a temporary basis and are set to expire when the definitive regime is adopted. One option would be to extend the scope of super-reduced rates to all Member States. This would ensure equal treatment among them. However, this could add complication to the VAT system and introduce a risk of erosion of VAT revenues. A second option would be to remove the super-reduced rates from the VAT system; this would simplify the VAT system. However, it would require Member States to abolish the super-reduced rates already granted to specific sectors and revert to the normal regime. What is your view?***
4. ECCVAT’s first priority is to ensure that the current super-reduced rates enjoyed by charities in various Member States are protected. Indeed, we would argue strongly that the super-reduced rates available to charities in some Member States should be extended to all Member States. They have been demonstratively of significant social benefit in those Member States that use them and we believe that there is widespread public support for the extension of this benefit throughout the EU. Their removal would add significant pressure on Government expenditure in those Member States that apply these rates. ECCVAT is working with its members to quantify the public benefit value of existing super-reduced rates.
5. ***In the current system, Member States are only allowed to apply one standard rate to all transactions and two reduced rates to some transactions (with the exception of super-reduced rates which are specific derogations). A reform could increase the number of rates available to Member States. This would allow Member States greater flexibility, at the cost of introducing greater complication. Do you think Member States should also receive more flexibility regarding the number of rates they can apply (while remaining limited by the list for the application of reduced rates)?***
6. ECCVAT’s preference is for the availability of reduced rates and zero rates to be increased, rather than having lots of tailored rates. The latter could cause administrative complexity for both charities and their suppliers. ECCVAT urges greater choice as to what can be super reduced- and reduced-rated, rather than introducing *ad hoc* rates for different types of goods and service.
7. ***Should the 15% minimum for the standard rate be maintained?***
8. ECCVAT has no strong views on this.
9. ***Should the 5% minimum for reduced rate be maintained?***
10. ECCVAT would prefer there to be permitted zero rates, rather than by derogation. The retention of a minimum standard rate of 5% without any permitted super-reduced rates could prove problematic for charities in the event that exemptions were removed and there was a move to a full taxation model; in such circumstances it would be necessary for there to be a fiscally-neutral super-reduced rate.
11. ***The Commission is now assessing two broad options for the reform of the VAT rate system. The first option aims to keep the standard VAT rate of 15% and update regularly the list of goods and services eligible for reduced rates, on the basis of Member States suggestions. The second option increases flexibility substantially by removing the minimum rate of 15% and abolishing the list, thus granting Member States large discretion to fix their VAT rate. Under both options all currently existing reduced rates, including derogations, legally applied in Member States would be maintained and made available to all Member States, ensuring equal treatment. Which of these two solutions would you prefer?***
12. ECCVAT has been working for many years to address the problems for charities that are inherent in the current VAT system. Clearly, any system that substantially increases flexibility for Member States could benefit the sector across Europe and Option 2 certainly is the more attractive option from that point of view. We recognise that greater flexibility would allow Member States more discretion in supporting goods and activities that would benefit from reduced- and super-reduced rates. This decision is often best made at a local level and Governments would be able to act more quickly to address VAT distortions and difficulties if they were not restricted by existing rules on VAT changes, which require the unanimous support of the Member States. We would welcome this flexibility.
13. ECCVAT does, however, have concerns about allowing flexibility to Member States without ensuring that Member States support the recognition that the current VAT system gives to items of social benefit, which it currently does through the application of certain exemptions. Were protections not built in to any new flexible system ECCVAT believes that Option 1 should be introduced. This option would also provide an improvement on the current system, albeit a less significant one, and would go a long way towards addressing some of the structural deficiencies in the VAT system.

***X)*** ***Do you think a specific list should be made for goods and services subject to super-reduced rates?***

1. Yes, although presumably this would apply only to Option 1. We would want assurances that existing reliefs would be protected and would also hope that the development of such a list could provide an opportunity to widen and update the scope of the existing reliefs.

***XI) Do you think granting Member State greater flexibility could risk creating, because of more intense tax competition between Member States, an erosion of VAT revenues and/or pressures to narrow the tax base for VAT?***

1. ECCVAT has no comment on this question.

**ECCVAT**

**March 2017**

**Commission Review of VAT Rates**

**Supplementary paper by the European Charities Committee on VAT (ECCVAT)**

**March 2017**

**Introduction**

1. The European Charities' Committee on Value-Added Tax (ECCVAT) is a group of charities and foundations that has come together to research the impact of VAT and other taxes on the work of NGOs and to make representations to the EU institutions and governments on behalf of the sector. ECCVAT has been working to improve the VAT system for charities since 1992.
2. ECCVAT has sat as an Observer on the Commission’s VAT Expert Group and has regularly met DGTAXUD officials in recent years as part of the Commission’s review of the VAT system. ECCVAT also participated in the Fiscalis Conference in Mestre in May 2013 on the implications for charities of the review of existing VAT legislation on public bodies and tax exemptions in the public interest.
3. ECCVAT has been concerned about the impact of the VAT system on the work of charities for a long time and welcomes the opportunity to comment on this further in this supplementary submission as part of our response to the Commission’s Review of VAT rates. ECCVAT has welcomed previous acknowledgment by the Commission that charities suffer from distortions and a lack of neutrality from the existing VAT system (and this was addressed in some detail in the reports produced for the Commission by Copenhagen Economics on the VAT treatment of public bodies).
4. Reference is made throughout this submission to “charities”. This term is taken to include all public benefit organisations, including public benefit foundations as well as charitable organisations providing services that are either outside the scope of VAT or exempt.

**Charities and VAT**

1. 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 the 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 classified as exempt under Article 132 (1) a-q of the Principal VAT Directive (2006/112/EC).
2. While the VAT system was not created with charities directly in mind, it certainly had a level of charitable intent by identifying classes of consumer and goods and services which should be exempted from VAT (the Social Exemptions). However, the system is inadequate as there is limited flexibility as to who and what should get relief, the goods or services cannot be provided for free to the consumer and, even then, full relief is not achieved as VAT is still an embedded cost at some point along the supply chain – costing the providers of vital, socially-beneficial services significant amounts each year in irrecoverable VAT.
3. According to estimates by ECCVAT, charities in the EU lose about €6 billion a year in irrecoverable VAT. This would be even higher were it not for reduced and super-reduced VAT rates and the introduction of national refund schemes in some Member States. Although these reliefs and refund schemes are vital, they are unsatisfactory in that they create a more complex VAT system, which has made limited progress on reforms and simplifications due to the need for Member State unanimity on tax issues. Full exemption with refund for charities would be fairer, easier to understand and simpler to administer.
4. The current VAT system has a detrimental effect on the work of charities in Europe. The economic crisis, recent increases in VAT rates in certain Member States and funding difficulties have put the sector under significant financial strain. Additional VAT costs as a result of any reforms would be very damaging and would compromise the ability of charities to deliver their services and would also have a significant negative impact on the beneficiaries of services provided by charities. ECCVAT hopes that the Commission will continue to take into account the unique position of charities and carefully considers every potential impact of future reform measures on the sector.
5. This is all the more important because in a number of Member States, we observe growing pressure on charities to play a greater role in providing social welfare services and on foundations to help support such work. The current system massively disadvantages charities as it favours the provision of these services by public bodies that are entitled to a refund of VAT while charities cannot recover VAT costs where the service is VAT exempted or financed by grants.
6. The current rules as written have led to interpretation problems and disputes on what constitute business or non-business activities, often because it is not clear whether what is being done is a non-economic activity provided in return for a grant or an activity within the scope of the tax (even if it is exempt) provided for consideration under a contract for services. More clarification would be welcome. In practice, it has become particularly hard for charities, those public bodies commissioning their services and the tax authorities in many Member States to distinguish between business and non-business activities in a consistent and fair way. Much clearer guidance is needed in most Member States in this area.

**No “one-size fits all” solution**

1. ECCVAT understands that the ultimate objective of the Review is the simplification and greater effectiveness of the EU taxation system. Once more, we would urge the Commission to keep in mind the diversity of the charity sector and its special role in society. ECCVAT also welcomes the efforts being made to reduce unnecessary bureaucracy and to simplify the VAT system; this is long overdue and reform would have a positive impact in terms of administrative costs for charities.
2. In our view, it is crucial that, in considering the direction of reform, the Commission should take into account the fact that the differing needs of four different types of charity have to be considered:
   1. Pure fundraising charities, which provide services for no charge (eg sea-rescue charities)
   2. Grant making trusts and foundations
   3. Charities providing the following types of service under contract often on behalf of the state:
      1. Exempt
      2. Non-business
      3. Taxable
      4. A mixture of two or all three
   4. Hybrid charities (ie those that fundraise and supply non-business services and/or grant making as well as providing services under contract).

**Annex one:** The following organisations support this submission

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| --- | --- |
| isobro_top_merged10 | **Isobro – Danish Fundraising Association (Denmark)”**  [www.isobro.dk/](http://www.isobro.dk/) |
| 71176_61157173597_1013669_n | **European Foundation Centre (pan-European)**  [www.efc.be/Pages/default.aspx](http://www.efc.be/Pages/default.aspx) |
| Image result for charity tax group | **Charity Tax Group (UK)**  [www.charitytaxgroup.org.uk](http://www.charitytaxgroup.org.uk) |
| Image result for charities institute ireland | **Irish Charity Tax Reform Group (Ireland)**  [www.ictr.ie/](http://www.ictr.ie/) |
| dafne | **DAFNE (pan-European) – Donors and Foundations Networks in Europe –** has a collective membership of over 6,000 foundations  [www.dafne-online.eu/Pages/default.aspx](http://www.dafne-online.eu/Pages/default.aspx) |
| [Firma_electrónica_ipenalosa](http://www.fundaciones.org/es/home) | **Spanish Association of Foundations (Spain)**  <http://www.fundaciones.org/es/home> |
| http://profile.ak.fbcdn.net/hprofile-ak-snc4/161972_133200100080309_7566104_n.jpg | **European Fundraising Association (pan-European)**  [www.efa-net.eu/](http://www.efa-net.eu/) |
| [logo](http://www.eurocom.org/index.htm) | **euroCom (Germany) –** improves the organisational competence and effectiveness of NGOs  <http://www.eurocom.org/english-site/index_main.htm> |