

Employment Allowance (Excluded Persons) Regulations 2019

Response to the consultation by the Charity Tax Group – 20 August 2019

1. The Charity Tax Group (CTG) has over 700 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.
2. CTG welcomes the opportunity to respond to this consultation and would be happy to meet officials to discuss our feedback in greater detail.

Scope of the Employment Allowance

3. The Employment Allowance is a helpful relief that currently entitles most charities a reduction in their secondary Class 1 NICs liabilities of up to £3,000 per year.
4. CTG notes that the *(Draft) Employment Allowance (Excluded Persons) Regulations 2019* restrict access to the Employment Allowance for a tax year to employers with secondary Class 1 National Insurance contributions (NICs) liabilities below £100,000 in the previous tax year. This will mean that a number of larger charities will no longer benefit from this relief. While we appreciate that the purpose of this reform is to target the Employment Allowance to support smaller businesses, it is worth noting that for some charities' employment costs are a disproportionate element of their overall expenditure, due to the provision of care services or other employee-intensive support. In these cases, the NICs allowance is often spread over a wider lower paid workforce.
5. Charities operate on very tight budgets and there may be a rationale for retaining the relief for certain charities that may be unduly affected. While we do not have specific figures on the number of charities in receipt of the Employment Allowance (and it would be really helpful to have this information if it was available), we expect that it will affect a reasonable number of charities.
6. It is also worth noting that the Apprenticeship Levy, which is applicable to charities with total paybills over £3m has been of limited use to many of them, resulting in the levy effectively operating as an additional tax. The removal of the Employment Allowance for charities, while a small relief overall, will add to the cumulative burden of taxation facing the sector.

State aid rules

7. CTG also notes that from April 2020 the Employment Allowance will be administered as *de minimis* State Aid in order to ensure compliance with European Union State Aid rules.
8. It will be important that this is made clear to all charities continuing to benefit from the Employment Allowance, as many may be in receipt of other reliefs subject to State Aid, such as the Retail Discount,

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which is particularly relevant for charities with large charity shop chains. We are aware of situations in the past where charities have had to repay reliefs due to a lack of awareness and understanding of the state aid rules.

CTG
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