**HM Treasury consultation – Museums and Galleries tax relief**

**Response by the Charity Tax Group**

**28 October 2016**

**About the Charity Tax Group**

The Charity Tax Group (CTG) has over 500 members of all sizes representing all types of charitable activity. It was established in 1982 to make representations to Government on charity taxation and it has since become the leading voice for the sector on this issue. Included in CTG’s membership are a number of cultural organisations, from whom we have taken evidence to frame our response.

CTG welcomes the opportunity to respond to this consultation and would be happy to meet officials to discuss our answers in greater detail.

**The consultation**

***Principles and criteria***

1. *Do you agree with the proposed criteria for assessing the options to provide support to the museum and gallery sector? Please provide any comments as appropriate.*

The criteria for assessing the support options are all clear and understandable. We would only highlight that it is often very difficult to make something simple and straightforward to administer without risking the loss of its effectiveness. The charity sector on the whole is willing to accept a certain degree of complexity if it is clear that this ensures a better system, and if it allows charities of different sizes and structures to act on a level playing field. As such, we would add that “fair” be added as a key criterion for judging the quality of the relief.

***Definitions and designs***

1. *Would these definitions allow appropriate institutions to be in a position to claim the relief?*

For the most part, these definitions cover the appropriate institutions. There are, however, two key exceptions, which we feel should be included within the definitions, namely, libraries and historic houses where they act in the same way as museums or galleries. Across the country, libraries and historic houses often seek to bring together interesting touring exhibitions of books or other literary matters to further the education of the public, enhance their profile, establish their areas of interest and develop income. While it might be possible to interpret the definition of “museum” in such a way as to include libraries, this question of interpretation might create too much uncertainty. As such, we believe there should be separate definitions for “cultural organisations” which operate in the same way as museums or galleries and deserve to benefit from the same relief.

There has also been some concern that the definitions, by using the word “building”, restrict those temporary and touring exhibitions that take place in less formal constructions – public parks, for example. Given that these serve entirely the same purpose as an exhibition within a museum building, we are concerned that they risk being excluded. Moreover, young and emerging artists are trying to engage a new generation of audiences, in which the digital realm is the best medium to do so. The language in the definition of a gallery should be clarified to allow for this important development, as well as helping future-proof the legislation.

1. *Would adopting the definitions outlined above be an effective way of meeting the government’s objectives as set out in chapter 3?*

Given that we have suggested that fairness be added as one of the objectives, we believe that the definitions outlined need to include more specific wording for libraries and historic houses that operate in the same way as museums or galleries.

1. *Is there an alternative definition of a qualifying institution that would more accurately permit the most appropriate range of museums and galleries to qualify for the relief? If so, please provide details.*

Using the term “cultural organisation” would more readily cover the instances outlined in our answer to question 2, where a cultural organisation “provides similar services to an eligible museum or gallery in its pursuit of the conservation, exhibition and educational interpretation of collections having scientific, historical or artistic interest”.

1. *Is there a more accurate definition of an exhibition that would allow qualifying institutions to claim relief for the most appropriate range of displays?*

The given definition is not clear on the definition of “held” in relation to the items of interest. Quite often a museum will already have some items from a particular artist that can form the bedrock of an exhibition, but will then need to borrow some works from others to complete it and tell the full story.  As drafted, the definition could be understood to explicitly exclude any borrowed material from being included (i.e. if the originating museum does not already hold the item, it cannot be included thereby disqualifying the exhibition).  If this is the case, this could significantly damage the potential success of those exhibitions. CTG believes that the wording should be clarified, to make certain that the items displayed do not themselves disqualify the exhibition. On the other hand, if “held” is supposed to mean “taking place in”, then this should also be made clear. If this is the case, separate questions need to be answered about whether it is appropriate for a touring exhibition from a qualifying organisation to be required to take place in another qualifying location.

The given definition is also unclear on the definition of the exhibition’s accessibility to the general public. CTG would call on the Government to clarify what level of entrance fee it sees as being “inaccessible”, or indeed whether it believes that any form of entrance fee might present such a barrier. The price of access could be used to significantly shape both the effectiveness and the fairness of the resulting relief and, as such, the Government’s position on accessibility should be made clear. Equally, while we support free art for all it is important to be honest about the economic reality of an increasingly competitive fundraising environment and a decline in voluntary and grant income. Many organisations will have no choice but to charge a fee for their exhibition, and it would certainly disadvantage numerous organisations if this were to disqualify the exhibition from this tax relief outright.

Under the definition of “exhibition”, the previously-used term “gallery” appears to have become “art gallery”. Given that in the original definition of “gallery” the scope was far wider than the artistic (“objects having scientific, historical or artistic interest”) we suspect that this was unintentional, and therefore suggest that the wording be corrected. If, however, this was intentional, we would ask the Government to clarify why only art galleries are to qualify as exhibitions.

As set out in our answer to questions 2 and 4, we would also suggest that the wording be modified to state “a qualifying museum, gallery or **cultural organisation**”.

1. *Does a period of up to one year accurately reflect the length of time a temporary exhibition would remain open to the public?*

Our evidence suggests that some exhibitions, particularly those which are costly and time-consuming to organise and set up, may well last longer than a year. We would suggest that the definition of “temporary” be amended to cover exhibitions which run for up to 24 months.

1. *In addition to those mentioned in box 4.B, are there any types or characteristics of an exhibition that you think should be excluded from the relief?*

There are no exclusions that we would add to this list.

1. *Is there a more accurate definition of a touring exhibition that would allow institutions to tour their exhibitions to other museums and galleries?*

We do not agree that the definition of an exhibition should specifically exclude situations in which “one of the main purposes is to advertise or promote goods or services”; or, at the very least, the exclusion should be more specific. Museums, like most other cultural operators, are having to be increasingly commercial as their public funding is reduced.  At most organisations, an admission price is charged.  Therefore, the touring exhibition could well be intended to market the purchase of tickets to the originating institution. Equally, Museums often try to include a fundraising message in their literature or place a prominent ad in the exhibition guide promoting themselves. It is not clear whether HM Treasury would view these as “advertising” and therefore exclude the exhibition from the relief. Likewise, the originating institution may well have created a guide book to accompany the exhibition and made it available for sale from the museum shop or Amazon.  Under the current definition, encouraging people to buy that catalogue (which might well be one of the main purposes for the sake of income generation), would be precluded. CTG believes the clause should be qualified to allow the promotion of the goods or services of the originating organisation or in direct connection to the exhibition.

Our evidence suggests that there are also concerns about the fact that the wording under 4B excludes exhibitions from taking place in a non-qualifying museum or gallery. This might place restrictions on potential locations for exhibitions, particularly in situations where existing museums and galleries are attempting to reach out to new audiences. In particular, this is likely to have a negative effect on exhibitions taking place outside of any building, or in a place that is not usually or exclusively used for the purpose of exhibiting. A collection of important sculptures being displayed in a public park, for example, would seem to fall foul of the rules by not being displayed “in a qualifying museum or gallery”; yet it serves the same important purpose of “the conservation, exhibition and educational interpretation of collections having scientific, historical or artistic interest”. We believe this exclusion needs to be clarified, or else removed entirely.

1. *How soon in advance is it decided that an exhibition will be toured?*

Evidence suggests that decisions on touring exhibitions might be made anywhere up to 2 years in advance. However, in some instances touring opportunities may be sought or agreed even when a show has already been open to the public elsewhere. This is particularly the case for smaller organisations, which usually work on a much smaller lead time. The definition of what constitutes a “touring exhibition”, however, specifically requires that the organisation shows evidence at the beginning of the planning phase that it will present the exhibition in at least one other museum or gallery in a different location. This requirement is likely to disadvantage smaller organisations, or those who may be looking for further touring opportunities after the project has already started.

1. *What kind of model is most likely to be employed for touring, i.e. will it be led by one organisation, split between two institutions etc.?*

This is dependent on the nature of the exhibition and the structure of the originating organisation.

1. *How are the costs split up between the touring institution and the institution that is hosting the tour and how do the two interact more widely?*

N/A

1. *If an exhibition is toured internationally, when and where are the costs normally paid?*

N/A

1. *Which costs are integral to the exhibition process itself and should therefore be eligible for relief? Please explain your choices.*

As stated in question 7, we believe that some costs that might be understood to be marketing and advertising costs are integral to the exhibition process. As such, these should be eligible for relief, where they relate directly to the originating organisation or the specific exhibition.

Regarding the general running costs of any exhibitions, should they be excluded from the qualifying core costs, this is likely to create a significant additional burden. In particular, smaller organisations would likely have to set up alternative cost-control mechanisms. This situation could be avoided by ensuring the inclusion of costs like conservation costs, artist fees, travel and storage costs.

1. *Does the requirement to be incorporated and operate separate trades within the company cause significant administrative burdens for museums and galleries? Please explain in what way.*

N/A

1. *Would the requirement to be incorporated affect current funding or subsidies/exemptions that are received by some museums? If so, please explain how?*

N/A

1. *Are there any other specific design points which need to be addressed?*

N/A

***Other issues***

1. *Can you give examples of other sources of funding that you receive for exhibitions?*

N/A

1. *Would the strategy outlined above be an appropriate way of preventing abuse of the new tax relief?*

As far as we are aware, the strategy would be an appropriate way of preventing abuse of the new tax relief.

1. *Are there specific areas in addition to those mentioned above that create the opportunity for abuse?*

N/A

**CTG – 28 October 2016**