**OECD Secretariat Proposal for a “Unified Approach” under Pillar One**

***Response to the Consultation by the Charity Tax Group***

**12 November 2019**

**Introduction**

1. The Charity Tax Group (CTG) has over 700 members of all sizes representing all types of charitable activity in the United Kingdom. The organisation was set up in 1982 to make representations to charity taxation and it has since become the leading voice for the UK charity sector on this issue.
2. We welcome the opportunity to respond to this consultation on Pillar 1 and we will also be commenting on the Pillar 2 consultation in due course.
3. Feedback from our members indicates that there are not many UK charities that have a substantial primary purpose trade that is carried on overseas. Of those charities to which this applies the number that conduct their international business through the charity rather than one or more subsidiaries is probably limited, particularly if the foreign countries where the charity is operating do not grant it any tax privileges based on its charitable status. However, we are aware that some charities with global operations could be impacted. As a result, our response makes a number of specific comments, rather than attempting to respond to each question. The Charity Tax Group is not directly affected by this proposal, but our comments are informed by feedback from our members who believe that they are.
4. Question 1 (e) on the scope of the “Unified Approach” seeks feedback on potential carve outs and how these may be formulated. UK charities can trade globally in pursuit of their charitable objectives. In such a case the UK would be normally be the primary entrepreneurial location and thus be allocated the majority of non-routine profits. Due to the tax exemption that is available for such trading, the charity’s tax charge would be sensitive to reallocations of such profits away from the UK to other jurisdictions where it will generally not benefit from similar domestic exemptions. While charitable exemptions differ around the world, they are generally considered to be in the public interest.  We believe, therefore, that excluding charities from the Pillar 1 requirements would allow such operations to sustain their existing level of activity to the wider benefit of society.
5. In the case that the above general exclusion is not accepted, we have a number of additional observations. In the context of the scope consumers/users while “consumer-facing” is not a defined term in the current consultation, indirect distribution through overseas institutions (e.g. Universities) and governmental organisations (e.g. Departments of Education) is at risk of being so categorised. In our view this should not be considered as “consumer-facing”, and treating it as such would increase the cost of providing public services. Certain educational charities publish academic and educational materials and distribute these worldwide. In our view the advancement of education should not be considered a “consumer-facing” business.
6. In respect of metrics for group profit, in the case of a charity that earns investment returns on its endowments (and also has trading activities) an approach based on consolidated group profit would allocate part of the investment returns to overseas jurisdictions that have no direct nexus with the investment activity. The suggested “business line” calculation should therefore exclude such investment returns from allocation.
7. Lastly, where simplification measures seek to standardise returns, if this level is set higher than the current return that can be achieved then this would clearly increase tax costs (in the non-exempt scenario), and if set too high it may make certain markets uneconomic to operate in.

**Charity Tax Group**

**12 November 2019**

***To discuss any of these responses in further detail please contact 02072221265 or*** [***info@charitytaxgroup.org.uk***](mailto:info@charitytaxgroup.org.uk)