

Off-payroll working rules from April 2020

Response to the consultation by the Charity Tax Group

28 May 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. CTG recognises the importance of improved tax compliance, and we are keen to work with Government to ensure that reporting mechanisms are well targeted and proportionate and that there is sufficient support available to charities.
3. We have not responded to individual questions within the consultation document, but have concentrated on making comments on the potential issues charities may face once off-payroll working is extended to the private sector. This is in part informed by feedback from the limited number of charities that have been required to comply with the IR35 rules for public sector organisations – most have adapted to the new rules but the extension to a larger number of charities could present wider challenges.
4. Charities can often work with a number of agencies and third parties, as they do not always need the services of full time or long-term staff and require the flexibility of being able to engage off-payroll agency workers and consultants with specialist expertise to meet their requirements.
5. The decision to extend off-payroll working rules to the private sector has the potential to create additional administrative and cost burdens for affected charities. Charities often operate very small payroll departments and may have to increase capacity and expertise to ensure compliance with the rules. Extra administrative and cost burdens may include:
 - Time to undertake case by case analyses to determine employment status due to the increased tax and reputational risks of getting this wrong
 - Time for regular monitoring of variations to engagements
 - Time and cost of internal training of staff and volunteers
 - Additional time negotiating rates and resolving disputes with contractors (and the potential of higher rates from those that fall into IR35)
 - Additional costs passed on by agencies (including Employer NICs, Apprenticeship Levy, VAT (in most cases irrecoverable) and admin fees).
6. CTG therefore welcomed the announcement – following the consultation on the implementation of off-payroll working to the private sector – that the rules will only apply to medium and large companies, with small companies exempt from compliance with the off-payroll working rules. This

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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.

pragmatic decision will mean that many smaller, less well-resourced charities will not be required to face this additional reporting burden.

7. We understand that the Companies Act definition of “small” will be used and to be small a company must meet two of the following conditions:
 - annual turnover must be not more than £10.2 million
 - the balance sheet total must be not more than £5.1 million
 - the average number of employees must be not more than 50.
8. CTG recommends strongly that the definition of turnover is that same as that used for the Senior Accounting Officer rules – see [here](#): “Corporates which are charities almost certainly receive donations and other voluntary income which does not derive from the provision of goods and services. This would not therefore constitute turnover”. This would ensure consistency of terminology and approach and there is precedence for this in the context of Tax Strategy requirements.
9. In this context, it is important that there is sufficient guidance and support in place for organisations that need it. In our experience, consultation with the sector would be the best way to achieve this. In support of the charity sector, we have published a number of relevant articles (see for example [here](#) and [here](#)) and will continue to disseminate information and guidance, as it becomes available.

CTG
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