

## Welsh Government Consultation: Tackling Avoidance of Non-domestic Rates Relief in Wales

### Response by the Charity Tax Group – 27 June 2018

#### About the Charity Tax Group

1. The Charity Tax Group (CTG) has over 600 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 answers in greater detail.

#### Charity business rate relief

3. Authorities have discretion to grant rate relief from all or part of the amount of non-domestic rates payable and the level of relief determined by an authority may be varied by a further determination. Generally, properties used wholly or mainly for charitable purposes, or which are registered Community Amateur Sports Clubs are eligible for 80% mandatory relief. This relief can be topped up to 100% at the discretion of the local authority and the top-up attracts 25% funding from the Welsh Assembly Government.
4. Charity business rates relief is invaluable to many charities and is estimated to be worth up to half the value of all reliefs received by the sector. Welsh Government [statistics](#) indicate that the charity relief was worth £57.8m in Wales in 2017-18 and we are encouraged by the Government's continued support for rates relief for charities.
5. It is important that the integrity of charity reliefs is maintained and that they are not abused, and we support moves which tackle abuse. However, we believe it is also important that measures to tackle avoidance are proportionate and do not have an adverse impact on eligible charities following the rules correctly. It may be that the "wholly or mainly" test in the legislation should be clarified and/or that clear guidance should be available for charities and local authorities, so that the test is understood and applied consistently. The Charity Commission and the sector itself have an important role in educating charities and trustees and ensuring that no advantage is taken by unscrupulous third parties.
6. The consultation makes a number of references to there being "evidence" of or "evidence to suggest" a "prevalence" of avoidance involving charities. However, the evidence is not produced, so it is not clear what might be the problem to be addressed, or its scale. Cases such as the *Public Safety Charitable Trust* (occupation via installing Bluetooth devices), and the *Africa Relief Trust* (charity taking part in commercially promoted scheme) clearly involved abuse and the schemes were rightly

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challenged and halted. However, we are not aware of a prevalence of such cases and would suggest that the Welsh Government provide further information to charity representative bodies about the evidence they hold. In fact, in most cases we are aware that charities are operating the rules correctly and as such feel any efforts to counter these cases of avoidance (which have all been stopped following intervention by the Charity Commission) needs to reflect this. In our experience most errors in claims for rates relief (and other tax reliefs) result from a lack of understanding and education – honest mistakes rather than deliberate attempts to abuse the system.

7. CTG has also received extensive feedback on the postcode lottery that charities face in respect of discretionary rate relief. We believe that this is an area that the Welsh Government could focus on to ensure that eligible charities receive important support at a time when costs and demands on their services have increased and their income is coming under pressure.
8. The consultation also refers to the *Kenya Aid Programme* decision where the charity was found not to use premises “wholly or mainly” for charitable purposes. There are clearly genuine concerns about the potential for abuse via schemes where an owner of vacant property might offer to pay a charity a premium to occupy the property whether or not the charity had a use for that property. However, there may be occasions where a charity is required to downsize or temporarily cease operations and it is important that there is not a chilling effect where charities become fearful that their relief will be challenged on the basis that they are no longer occupying a hereditament to the necessary “extent”.
9. Overall the language and tone of the consultation is quite concerning and includes loose references to false charities and disingenuous claims. While there have been instances of abuse, we do not believe that sufficient evidence has yet been provided to justify the introduction of any draconian anti-avoidance measures, particularly given how invaluable charitable relief is to the sector. If there have been instances of abuse, these should continue to be addressed by the Charity Commission, as the appropriate regulator.

**CTG**  
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