HM Treasury fundamental review of business rates: call for evidence

About us

The **Charity Finance Group (CFG)** inspires a financially confident, dynamic and trustworthy charity sector. It does this by championing best practice, nurturing leadership and influencing policy makers. Over 1,400 UK charities turn to CFG to develop their finance management knowledge and skills. Collectively, these charities manage £22bn of funds – a third of the charity sector's income.

The **Charity Tax Group (CTG)** has over 800 members of all sizes representing all types of charitable activity. The organisation 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.

The **National Council for Voluntary Organisations (NCVO)** is the largest representative body for charities and voluntary organisations in England. NCVO has over 15,000 members ranging from large 'household name' charities to small community organisations. NCVO is also the national body for volunteering in England.

Key points:

- Property costs are the second largest cost behind wages for many charities. Mandatory business rates relief is therefore crucial for many charities and is of particular importance to small charities.

- Covid-19 has placed a significant financial strain on charities. Throughout the crisis, charities have seen an increase in demand for services coupled with a significant decrease in income.

- Given the precarious economic situation facing many charities, it is vital that charities are not left any worse off as a result of this review. At the very least, mandatory rate relief of 80 per cent should be retained to ensure charities can play a meaningful role in the country's recovery efforts.

- Business rates relief is particularly important for charity shops. Having a high street presence for charities is hugely important for brand awareness, for recruiting volunteers and generating income and to delivering public benefit.

- Business Rates Relief should be available to all charities as defined by the Charity Commission under charity law.

- There is sometimes a misconception that mandatory rates reliefs results in higher rents over time. Many charities strike rent deals that are comparable with market competitors and they have a fiduciary duty to ensure that they do not overpay when using charity funds.

Background

Charities can currently claim relief from 80 per cent of the business rates on property used for charitable purposes ('mandatory relief') as well as up to 20 per cent additional relief, depending on the criteria set out by the local authority ('discretionary relief'). Charities receive these reliefs on the basis that the usage of the building is for wholly or / and mainly charitable purposes. This distinguishes it from other mandatory reliefs in that it is underpinned by the principle that rates should be relieved where a building is used for a charitable purpose, rather than simply to alleviate costs or to help stimulate/support certain sectors.

In 2018/19 mandatory business rates relief was worth almost £2bn to charities in England alone, with the discretionary relief worth an additional £47m to the sector. This makes Business Rates relief the single largest tax relief for the charity sector. As a point of comparison, Gift Aid is worth £1.3bn to charities. Business rate relief is of particular importance to small charities. The Charity Tax Commission found that rates relief is equivalent to around a third of the income of those organisations with an income between £10k and £100k that receive the relief, compared to less than two per cent of the income of organisations with income between £1 million and £10 million.[1]

Covid-19 has placed a significant financial strain on charities. Any changes to rates relief could compound an already precarious situation with negative consequences for the support that communities will require as we attempt to rebuild the economy. At the very least, it is therefore vital that charities are not left any worse off as a result of this review, and that mandatory rate relief of 80 per cent should be retained to ensure charities can play a meaningful role in the country's recovery efforts. Any reduction or removal of mandatory rate relief would negatively impact small and medium sized charities the most. In some cases, loss of rate relief would force the closure of services or organisations which depend on the relief to make their operations economically feasible.

Q1. How well do current reliefs and exemptions deliver their intended outcomes and satisfy the principles of good tax design? What changes would you suggest to the system?

With property costs being the second largest cost behind staff costs for many charities, mandatory business rates relief is crucial for many charities' survival. This is particularly true at a time when there are significant financial challenges for the sector. Covid-19 has reduced the voluntary sector's capacity to provide support to those most in need. Throughout the crisis, charities have seen an increase in demand for services coupled with a significant decrease in income. A survey of charities between 23 March and 12 May 2020 shows that during lockdown on average, respondent charities received 29 percent less income than budgeted. Our most recent tracker survey conducted by Charity Finance Group, Institute of Fundraising and Pro Bono Economics has shown that two thirds of charities expect demand for their services to rise in the next six months. It has also shown that a significant number of organisations expect

1 https://www.ncvo.org.uk/images/documents/policy_and_research/funding/CharityCommissionReport__ForWeb_3.pdf

the impact on their finances to persist for some time. Seventy per cent think it will take more than a year to return to pre-Covid levels, with a quarter stating that it will take more than 2 years. These findings support earlier research conducted by Pro Bono Economics which found that UK charities are facing a £10.1bn funding gap over the next six months with incomes expected to drop by £6.7bn while demand for support rises by the equivalent of £3.4bn.

Business rates relief is particularly important for charity shops. Having a high street presence for charities is hugely important for brand awareness, for recruiting volunteers and generating income and to delivering public benefit.

- Across the UK, there are 11,200 charity shops operated by around 850 different charity retailers.[2] The charity retail sector directly benefits local economies by employing 26,000 people and making rental payments to local landlords. It also benefits other local businesses by drawing trade to high streets and filling empty retail units. In 2018/19, charity shops contributed £330 million to their parent charities, playing a vital role in supporting their respective charitable causes.
- The BHF alone receives 75-80 million items per year from local communities that are processed, checked, cleaned, resold or sold on for re-use. This results in 78,000 tonnes of used goods per annum being diverted from the waste stream. Collectively, charity retailers support sustainability by diverting 339,000 tonnes of textiles from landfill, saving local authorities over £30 million in Landfill Tax alone in 2018/19[3].
- Full-time staff in charity retail outlets are supported by over 233,000 volunteers. This provides training and development, and helps to increase life skills, boost confidence, and improve mental health. In many cases this supports people to successfully re-enter the job market.

While not within the remit of this consultation, we would like to reiterate our recommendation to the government's Comprehensive Spending Review that serious consideration should be given to increase funding to local authorities. This would allow councils greater scope to provide the additional 20 per cent discretionary relief for charities, without having a negative impact on the finances of these authorities. This is important as in many cases it is effectively a postcode lottery for charities in terms of whether they receive discretionary relief. Where appropriate, central Government should also consider extending/introducing schemes such as the Expanded Retail Discount, to grant business rates relief in addition to mandatory relief, where additional support and stimulus is required, for example, in areas where local lockdowns are required.

As a result, we consider that the current reliefs and exemptions available to charities deliver their intended outcomes and satisfy the principles of good tax design. We consider that for charities the current framework works well and should be retained.

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[2] www.charityretail.org.uk/charity-shops-faq/

[3] Calculated using Landfill Tax of £88.95 per tonne for 2018/19. This figure will likely be higher for 2019/20 given Landfill Tax was increased to £91.35 per tonne.

Q2. How can reliefs be targeted more effectively? How can reliefs and their administration be simplified?

Currently mandatory business rates relief is available to all charities and the tax relief is not applied selectively or to exclude certain types of charity. We believe that this the correct approach and should continue. Responsibility for determining eligibility for charitable status is and should remain a matter for charity law and the relevant charity regulator and should not be influenced by political or public perceptions of which charities are "worthy" of this tax relief. It is critical that charities are able to operate within a regulatory and tax regime that is non-partisan and treats any purpose that falls within the legal concept of charity as equally worthy.

We would fully endorse the following statement from OSCR (the Scottish charity regulator) in response to the Barclay Review that "*treating any group of charities in a differentiated way for tax or other purposes… introduces the potential for confusion in the public mind as to what it means to be a charity*". OSCR also noted that "there is a sense in which the proposals might result in a devaluing of the charity status of certain groups of charities" and that Allowing the creation of a 'two-tier' charity sector within a 'single-tier' regulatory regime could be damaging to the public's trust and confidence in both the sector and charity law".

We consider that the current reliefs targeted to charities are effective and that they are simple to understand and apply. This may well contrast with the reliefs that are available to businesses.

Q3. What evidence is there on the capitalisation of business rates and business rates reliefs into rents over time? What does any evidence mean for the design of rates reliefs and business rates more broadly?

There is sometimes a misconception that mandatory rates reliefs (for charities and others) results in higher rents over time. Charities with significant property portfolios take active steps to ensure that this is not the case. Many charities engage third parties to manage their properties and strike rent deals that are comparable with market competitors and that the charity has fiduciary duty to ensure that they do not overpay when using charity funds. Peter Gilday, Associate at Colliers International has told us: "*Capitalisation has not impacted [Charity A's] rental levels due to the process that we as agents employ in negotiations. We base our recommendations mainly on comparable rental information so the rent we are paying is in line with other high street retailers regardless of their rates liability. We do change our negotiation strategy depending on the type of landlord, level of rent, shop profits but our main ethos is to protect the income generated from the shops and part of that is to agree rents at the lowest possible* *point*". Indeed, research from Demos[4] suggests that charity shops benefit struggling town centres. For instance, two thirds of charity shop managers report that their shop fills premises that would otherwise be left vacant. Demos also found that where economic conditions are improving, charity shops are also playing an active role in supporting high street rejuvenation.

Potential issues with capitalisation of reliefs into rents over time would be mitigated if the multiplier was lower, so business rates were less onerous for businesses making reliefs (particularly non-charity reliefs) less essential for certain sectors.

As a result, we do not consider that the value of reliefs available to charities has an undue significant impact on the setting of rents that charities pay. It is our view that the impact of COVID19 is only likely to reinforce this point.

Q4. What role should local authorities have in determining business rates reliefs and exemptions? Should reliefs and exemptions be set by central government or set locally?

As noted by the Charity Tax Commission, there is a lack of consistency between the policies of individual local authorities when it comes to granting discretionary rates relief. There is therefore a clear advantage to mandatory charity reliefs being set at a national level by central government. This ensures consistency and provides important clarity and certainty for charities reliant on this important relief. It also makes it easier for charities from an administration point of view, as there is a single set of eligibility criteria to comply with.

In terms of efficiency for government and ratepayers (making proper use of the efficiencies that technology can bring) there does need to be more consistent treatment.

Q5. Are you aware of ratepayers misusing tax reliefs or other means to avoid paying their full business rates liability? What could be done to tackle this?

It is important that the integrity of charity reliefs is maintained and that they are not abused. The charity sector supports moves which tackle abuse, but 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. In our experience most errors in claims for rates relief (and other tax reliefs) result from a lack

[4] www.demos.co.uk/wp-content/uploads/2017/09/Shopping-for-Good-the-social-benefits-of-charity-retail-.pdf

of understanding and education – honest mistakes rather than deliberate attempts to abuse the system (although there have been isolated incidents which have rightly been addressed by the Charity Commission and Valuation Office Agency). 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.

The Welsh Government recently held a consultation to discuss proposals aimed at tackling the avoidance of business rates payments in Wales, including specific sections exploring the extent to which avoidance activities might be associated with charitable relief and whether any changes could be made to the rates charged on unoccupied properties. Charities responded to the consultation highlighting the importance of ensuring that charities are not used as a vehicle for avoiding business rates. However, the response queried the evidence that abuse is prevalent and made clear that any reforms must be proportionate and targeted. Recognising this feedback the Welsh Government responded: *“[we] have considered the issue of falsely claiming charitable status for the purpose of avoiding rates and other liabilities. These ratepayers are not genuine charities but are seeking to use charitable status to avoid paying rates. [We] have listened to the concerns of the sector and do not, at this stage, propose making any changes to the arrangements for mandatory and discretionary charitable relief in this context.* The charity sector would encourage the Government to adopt a similar targeted approach to the limited number of cases of abuse of mandatory rates relief, by non-genuine charities.

We believe that one of the best ways to tackle the issue of potential abuse of charity rate reliefs is to ensure that the Charity Commission is properly resourced to ensure that charitable status is only available to genuine charities.