CHARITY TAX COMMISSION - CALL FOR EVIDENCE

About the Charity Tax Commission

In October 2017, NCVO established an independent Charity Tax Commission to undertake a full review of the impact of the tax system on charities. The commission is chaired by Sir Nicholas Montagu, a former chair of the Inland Revenue, working alongside a board of six commissioners with extensive charity, economic and fiscal policy expertise. NCVO is providing secretariat support for the commission. [Read more on the Charity Tax Commission website.]

Rationale for a review of charitable tax reliefs

Tax reliefs for charities are estimated to be worth £3.77bn a year, the main ones being business rates relief, Gift Aid and VAT relief, while reliefs for individuals are worth £1.47bn. The last comprehensive review of charity taxation and reliefs took place over 20 years ago. Since then, the voluntary sector and the environment in which it operates have changed significantly. The sector has grown in scale and charities now do far more, including playing a bigger role in the delivery of public services. Britain's departure from the EU also presents potential opportunities to review a number of issues related to the tax treatment of charities. Against this backdrop and ongoing pressures on local authority spending and other funding streams for the voluntary sector, we believe it is a good time to do an in-depth assessment of how the tax system functions in relation to charities and what – if any – changes could help position them better to fulfil their long term strategic role in society.

About this call for evidence

This call for evidence seeks views and evidence from anyone with relevant knowledge, expertise or experience of the system of charitable tax reliefs in the UK, including charities, donors, academics, think tanks, representative bodies, accountants, philanthropy and financial advisers, tax professionals and members of the public.

In particular, we are keen to receive thoughts about the effectiveness of current reliefs, which are summarised below, and whether the existing system could be improved in order for charities to better serve their beneficiaries. We welcome all ideas about how the tax system can help to create an operating environment in which charities can maximise the public benefit they generate. Respondents should in their comments reflect the commission's determination to make practical, evidence-based recommendations focussed on increasing the efficiency and effectiveness of the current tax system. To help get a sense of priorities, we would like you to demonstrate how ideas for reform keep within the current fiscal settlement by indicating what other areas of charity tax relief or spending might be deprioritised in order to provide expenditure in other areas. The secretariat will be arranging meetings with stakeholders during the call for evidence period and will also host open sessions for interested parties in different parts of the UK. Further details will be published on the Charity Tax Commission website in due course.

Personal details

Name of respondent: Nick Heath

Organisation: Back of the Sofa

Email: nick@backofthesofa.com

Phone: 07720 297972

Call for evidence

The subheadings below indicate the specific areas of taxation on which thoughts would be particularly welcome, but feel free to include other relevant comments at the end. Please use the headings provided and keep your responses concise as possible: we want to keep replies to a reasonable length, and we will follow up orally for evidence that needs amplification. Where possible, provide data and/or examples to support your answers. Information that supports analysis or validates conclusions (especially lengthy information), should be included in an appendix to your main submission.

When responding, the commission would be particularly interested in receiving views on how far the current system of charity taxation succeeds in benefiting beneficiaries and what, if anything, needs to change to create maximum public benefit. We are also keen to receive views on whether the current system directs the activities of charities and encourages certain behaviour.

The purpose of charity taxation

Please use this section to provide general thoughts on the principles that should underpin the tax treatment of charities. For example, to what extent should tax reliefs be used to support charities to provide public services, to promote certain values such as voluntarism, or to encourage donations. Or do fiscal privileges amount to a grant of public money without democratic control and represent an inappropriate forgoing of tax by the exchequer?

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Just to briefly explain my background / interest… I co-founded and spent 10 years working for the UK's largest SME price comparison business (Make It Cheaper) where - as well as small businesses - we helped thousands of charities through the complexity of buying their utilities. Energy companies require charities with premises to buy commercial contracts and, for many charities, that means they are mistakenly charged 20% VAT and Climate Change Levy on their bills. We offered charity customers advice on how to fix this but last year I sold my share in Make It Cheaper and set up a new business in order to address this problem head on. In doing so, I thought… if small charities are making a simple mistake costing them hundreds of pounds a year (on energy VAT & CCL), what else are finance directors and volunteer treasurers doing wrong – that is easy to fix and can earn them an unexpected windfall?

The result is Back of the Sofa – a free service that offers advice to small charities on overheads such as Savings Accounts, Insurance, Energy, Water and Business Rates, as well as ideas on how to generate extra income without having to ask supporters for further donations.

As such I'm not going to attempt to opine whether the various tax reliefs are appropriate but instead to identify where the current system has created inequalities and inefficiencies – particularly for time poor, cash strapped and confused smaller charities. This input is by no means comprehensive across all the categories of tax relief covered in the Call For Evidence and so I have restricted my answers to the sections where I can provide useful information. Needless to say, I believe that the tax relief available does not always get through to the good causes it was intended for. And - if in remedying this situation by taking a more liberal approach, costs to the exchequer increase - then re-allocating more of the dormant accounts being sat on by the Financial Services industry would be my recommendation for its funding.

NB Case studies for all examples given below are available on request.

Comments on individual tax reliefs

Please use the headings below to comment on the effectiveness and efficiency of individual tax reliefs and provide suggestions for reform.

Value Added Tax (VAT)

While there is no general VAT relief for charities, a number of special reliefs, exemptions, zero ratings and concessions exist which cover many supplies to and made by charities. The current regime treats charities differently depending on the types of service they provide and whether or not they charge for their services. Those that do not charge are treated as the final consumer even when they are not. As a result, they are unable to recover VAT on purchases (input VAT) made to support their activities. Most of the charities that charge for their services are unable to recover input VAT because their services are exempt (estimated to cost £1.5bn a year). VAT relief was worth approximately £400m to charities in 2016-17.

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With specific reference to VAT relief on non-domestic energy contracts – many charities that are eligible to reduce their bills by paying less VAT and no Climate Change Levy do not realise they are able to do so; nor do they know that the onus is on them to declare their charitable status to their suppliers in order to qualify; nor do they realise that they can claim a rebate for up to 4 years if they have been overcharged historically. Research conducted in my previous role as Head of Insights at Make It Cheaper showed this lack of knowledge to affect around a third of charities. One can also assume that sales practices within energy companies - and their intermediaries - also lack sufficient knowledge to set the VAT level correctly every time. To illustrate this, there are organisations with names that clearly demonstrate they are a charity (church, chapel, hospice etc) that have been consistently billed at the wrong rate without questions or internal flags having been raised.

The effects from a wide lack of knowledge about this particular tax relief are compounded by the complex rules that govern it.

One example of this is where a charity has benefited from VAT/CCL relief because they qualify under the Deminimis Rule but mistakenly believed this relief to be because of their charity status. Often in these cases, the charity's energy consumption will eventually rise above the Deminimis threshold and they find themselves, inexplicably, charged at the higher rate of VAT on subsequent bills.

Another barrier is the Business / Non-business definition and the 60% threshold. Two charities with identical energy consumption profiles might have very differing views on what constitutes Business and Non-Business Use. Where charity shops, church halls and village halls are concerned, this is a very grey area that will no doubt take on a shade or two more when the proposals from the Taylor Review encourage more business activities within community buildings.

Community Amateur Sports Clubs are a particularly unfair victim of the Business Use rule, where a not-for-profit club - staffed only by volunteers - could be struggling financially to provide much-needed facilities to its local community but prevented from reducing its energy bills. And yet, an unregistered charity, that may have a very similar mission is not impeded in the same way.

For organisations that have identified - or suspected - that overpayments have been made, there is a different set of hurdles that stand between them and obtaining a rebate. Some energy suppliers are very good at processing claims and swift at crediting customers but others are not. Unfortunately the largest supplier of energy to the UK's charities will only refund overpayments from the past 12 months, this despite guidance from HMRC to backdate up to 4 years. So ambiguous is this situation that neither the Energy Ombudsman nor Ofgem are able to intervene.

In summary, VAT relief on energy (and corresponding CCL relief) is not being efficiently applied to charities and there are currently too many unfair losers to omit this relief from some kind of reform.

Moving forward, Back of the Sofa's recommendations would be to:

- Remove the Business/Non-Business Rule
- Include CASCs in the Relief
- Communicate the tax relief available to all charities via the Charity Commission
- Mandate energy suppliers to audit their charity customers and correspond with any not claiming the relief
- Mandate all energy suppliers to rebate overpayments up to 4 years

Furthermore, being encouraged to review the VAT element of their bills will, in turn, lead many charities to shop around for a better deal and look to improve their energy efficiency.

Gift Aid

Gift Aid allows charities to claim tax relief – 25p in the pound – on gifts and donations made by UK taxpayers. If the donor is a 40 per cent taxpayer, further tax relief of 20 per cent (the difference between the current higher rate of income tax of 40 per cent and the current basic rate of tax of 20 per cent) can be claimed by the donor themselves (not by the charity). Gift Aid was worth approximately £1.28bn to charities in 2016-17. Higher Rate Relief was worth approximately £520m to individuals.

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Higher Rate Gift Aid Relief might be 'worth' £520 million to individuals but that's a far cry from how much actually reaches them or - candidly - is passed back to the charities as a component of the original donation.

HMRC published research in March that shows only half (52%) of Higher Rate Taxpayers realise they can put their charity donations on their tax return and receive back 25p in the pound (31p if lucky enough to be an Additional Rate Taxpayer).

And worse… of those who actually know about the tax relief, less than half bother to claim it. The reasons given: one in three (32%) stated that it would take too much time and / or effort to claim tax relief on donations made. Nearly one in five (18%) cited the process for claiming tax relief as too complicated, while a similar proportion (17%) stated that by claiming tax relief, they would only receive a small amount of money back.

The upshot is that just 22% of Higher Rate Taxpayers use this form of relief – ie claiming £114 million with the remaining £406 million each year going permanently down the back of a sofa at the Treasury. And that's on top of the £560 million a year that HMRC says is not being claimed by charities because of the Gift Aid box not being ticked at the point of donation.

Even fewer individuals will know / bother to tell the Taxman about donations they've made going back 4 tax years in order to receive a cheque for the tax they've overpaid. So that's £1.6 billion of free money that's gone unclaimed.

And so, again, here we have a form of tax relief that is not being used to its full potential because of a lack of awareness and complexity-driven inertia. The fact that only half of those concerned are even aware of this 28 year old tax break points to a pretty bad level of awareness - with the blame to be shared by HMRC, the financial advice industry and, to an extent, charities themselves.

Back of the Sofa's recommendations would be to:

Scrap Higher Rate Gift Aid relief in favour of a blanket one-size-fits-all, declaration-free Gift Aid contribution from the State (in a similar way to how the Gift Aid Small Donations Scheme works). IE Set a fixed top-up on all donations - regardless of the tax position of the donor - and completely do away with all forms of Gift Aid declarations. There is certainly plenty of research conducted into the level of charitable giving and this fixed 'match funding' approach could be calculated in line with Treasury budgets.

Gift Aid Small Donations Scheme

The Gift Aid Small Donations Scheme (GASDS) allows charities to claim a gift aid-style top-up on small donations, in situations where it wouldn't be feasible to collect Gift Aid declarations, for example where a collection tin or bucket is used. Charities can claim up to £2,000 a year under the scheme (on cash donations of up to £8,000). GASDS was worth approximately £29m to charities in 2016-17.

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See Gift Aid

Business rates relief

Business rates are a tax on occupancy, which any charity that owns or rents a property is liable to pay. Charities receive a mandatory relief of 80% of their business rates bill. Local authorities are able to grant discretionary relief on the remaining 20% that charities have to pay, although on average they only receive a further 2.5% relief. Business rates relief was worth approximately £1.87bn to charities in 2016-17.

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With regards to the additional 20% Discretionary Relief, Councils are meant to have information about this on their websites. Most do but some don't and others make it very hard to find – I know because I've visited all 420 of them and created a database that can be searched by charities looking for the specific information/forms.

Even when they find the appropriate information, not all small charities and CASCs are being treated equally. There are geographic areas in which it seems that Discretionary Relief for charities is being cut back, possibly to pay for the increased cost of providing Small Business Rate Relief and Hardship Relief. This has resulted in some charities having to pay 20% of their Business Rates whereas - if they were a business of a similar size operating from the same premises - they would automatically get 100% relief. In fact, a small business could have a site with a rateable value four times as high as some charities and would still not be liable for any Business Rates.

In '*National non-domestic rates collected by local authorities: England 2016-17*' published by the Department for Communities and Local Government, SBRR increased by £42 million and total relief to charitable occupations was up £59 million. However, the 6,200 clubs registered as CASCs only receive £1m in Discretionary Relief between them - out of a total of £143 million. That's an average of just £161 each.

The recommendation here is that small charities and CASCs should automatically be granted mandatory 100% relief – without having to jump through hoops to apply for it. Certainly this should be the case for any organisations with rateable values below the SBBR threshold of £12,000 but arguably for much higher values if the organisation is providing a valued service or facility used by communities within the Council's catchment area.

Insurance Premium Tax

Insurance Premium Tax (IPT) is a tax on general insurance premiums. There are two rates: a standard rate of 10 per cent and a higher rate of 20 per cent for travel insurance and some insurance for vehicles and domestic/ electrical appliances. Charities are liable for Insurance Premium Tax, although lifeboats and lifeboat equipment, and block insurance policies held by Motability which covers disabled drivers who lease their cars through the scheme are exempt (the exemption does not cover disabled drivers generally).

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Given how similar this levy is to VAT and that the Standard Rate has recently increased, I would support an exemption for all charities and CASCs.

Climate Change Levy

The Climate Change Levy (CCL) is a tax on energy delivered to non-domestic users in the UK which aims to incentivise energy efficiency and reduce carbon emissions. Charities are exempt from the Climate Change Levy for premises where at least 60% of activities carried out are classified as non-business.

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See VAT

Other comments

Please use this section to provide any further comments which you would like to raise which might be of interest to the commission, including, but not limited to, potential future pressures on tax relief and issues relating to digital and technological change.

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Just a reminder that Case studies for all examples given above are available on request.

Submitting evidence to the Charity Tax Commission

Please submit your completed forms to info@charitytaxcommission.org.uk. Please include your name, or where applicable, your organisation name in the subject line.

Please submit your evidence by 17.00, Friday 6 July 2018. Unless respondents indicate to the contrary, it will be assumed that they have no objection to their response being made public. If you have any

questions about the Charity Tax Commission or this document, please contact
paul.winyard@ncvo.org.uk