

Minutes of the Charity Tax Forum meeting on 24 June 2016

List of attendees

Gillian McKay	Institute of Chartered Accountants in England and Wales
Ian Clark	Charity Representative
Andrew O'Brien	Charity Finance Group
Kevin Russell	Stewardship
Matt Kelcher	Charity Retail Association
Richard Bray	Cancer Research UK
Sean Smith	Society of Trust and Estate Practitioners
Susan Cattell	Institute of Chartered Accountants in Scotland
Michael Birtwistle	National Council of Voluntary Organisations
Paul Bater	Charity Law Association
Chris Lane	Charity Tax Group
John Hemming	Wellcome Trust
Philip Spedding	London Library
Graham Batty	Chartered Institute of Taxation

Rachel Nixon	HMRC (Chair)
Michelle Stokell	HMRC
Owen Price	HMRC
Daniel Pease	HM Treasury
Helen McHardy	HM Treasury
Tony Johnson	HMRC
Peter Mendy	HMRC

Introduction and Apologies

1. The Chair welcomed members of the Charity Tax Forum and noted the apologies for absence.
2. HMRC reflected on the previous six months and highlighted some of the work the government has undertaken to make sure that

Gift Aid and other charitable tax reliefs operate as simply and effectively as possible.

3. HMRC provided clarification in response to recent media reports suggesting that HMRC had unilaterally imposed a new 'pre-donation questionnaire', which donors were required to complete before making Gift Aided donations through digital intermediaries:
4. HMRC's position on Gift Aid donations, made via digital intermediaries, remains unchanged – HMRC is working closely with intermediaries to help them improve their processes to maximise the Gift Aid claimed on eligible donations. HMRC remains committed to simplifying giving to increase Gift Aid on eligible donations.
5. Internal processes are a matter for individual intermediaries - there is no question of HMRC imposing new requirements on intermediaries or charities without prior consultation.

Action Log

6. AP13.9 – HMRC continue to work on the Fit and Proper Persons test and hopes to be in a position to circulate the latest version more widely shortly.
7. AP19.0 – HMRC has now set up a dedicated Charities/CRS Subgroup, which has met several times since the last forum. This action was closed.
8. AP19.1 – A further Making Tax Digital update will be provided at the next forum.
9. AP19.2 – HMRC provided an update on Tax to Cover:
10. HMRC's policy on tax to cover has not changed. HMRC's view is that where a donor has insufficient tax to cover the Gift Aid claimed on their donations, the legislation is clear that it is the donor who is responsible for any shortfall.

11. In practice, where HMRC identifies tax to cover issues as a result of its compliance activity, it may invite the charity to make good any shortfall on behalf of the donor. However, the charity is not legally obliged to repay and the responsibility always remains that of the donor.
12. HMRC is currently reviewing this position. No changes will be made without prior consultation with the forum
13. The Longer Term Issues log was reviewed.
14. Forum members remain concerned that the process for claiming Gift Aid Higher Rate Relief is too complex. HMRC explained that individuals can claim Higher Rate Relief via their Self Assessment tax return, or over the phone via HMRC's contact centre. HMRC also suggested that the introduction of Personal Tax Accounts may ultimately streamline the process further.
15. The forum agreed that 'Longer Term Issue #4', concerning the treatment of payments exceeding distributable reserves, could be closed.
16. Forum members asked for an update on the government's work to simplify Gift Aid on donations made through digital intermediaries. HMRC stated that draft regulations would be published for consultation shortly.

Making Tax Digital

17. This item was held over until the next meeting.

Gift Aid Donor Benefits

18. The government is reviewing the Gift Aid Donor Benefits rules to explore how they might be simplified.
19. A consultation setting out several broad conceptual reform options closed on 12 May. The government is now considering the responses received and will publish a responses document in due course.

20. Forum members asked whether a good spread of responses had been received from across the sector. HMT advised that arts and culture charities in particular had responded well and that responses had been received from both large and small organisations.

21. Forum members urged HMRC to work closely with the sector to consider the application of the 'in consequence' rule.

Gift Aid Small Donations Scheme Review

22. The government is reviewing the Gift Aid Small Donations Scheme.

23. A consultation on reform options was published on 20 April and was due to close on 1 July.

24. A forum member expressed disappointment that the summary of responses to the Call for Evidence had not reflected the work a number of rep bodies had undertaken to engage with smaller charities. HMRC recognised the work that all rep bodies had done to engage with their members and assured the forum that due weight had been given to this during the analysis of the responses.

25. Forum members asked about the process of the review and whether consideration was given to the levels of non-compliance seen since the scheme was introduced. HMRC confirmed that compliance had been considered as part of the review.

26. Forum members asked about the proposal to relax the community buildings rules to allow donations to be counted when they are received outside of the community building. HMRC explained that the government wanted the scheme to be as flexible as possible and welcomed any thoughts stakeholders had on how this proposal might operate in practice.

Report back from Working Groups

Devolution

27. HMT/HMRC recently attended an event in Scotland to discuss with stakeholders the implications of income tax devolution on Gift Aid.
28. A number of potential policy options were discussed and it was acknowledged that whatever decision is taken, consideration must be given to the costs incurred by small charities.
29. HMT/HMRC will continue to engage with stakeholders on this issue.

Charities/CRS Subgroup

30. Following a request at the previous forum, HMRC convened a Charities/CRS Subgroup to discuss the implications of the common reporting standard on the charity sector.
31. HMRC felt that the meetings had been constructive and that genuine progress had been made. HMRC has clarified a number of ways in which the administrative burden for charities can be minimised, including allowing registration with CCEW and CCNI to be used as a proxy for determining the tax residence of a charity grant recipient.
32. HMRC explained that the focus of the group was now moving towards raising awareness of CRS amongst charities so that they would be in a position to file their first reports in May 2017.
33. Some subgroup members expressed reluctance about raising awareness of the regime until clear guidance was in place. HMRC agreed that clear, consistent guidance is important. HMRC pointed out that guidance is already available on gov.uk (<https://www.gov.uk/guidance/automatic-exchange-of-information-guidance-for-charities>) and while this is likely to be expanded over the coming months, it is important that charities are made aware of the reporting requirements as soon as possible.

34. Further draft guidance has been shared with the subgroup for comment.
35. Forum members suggested that HMRC should agree not to charge penalties in the first year of reporting. HMRC made it clear that it did not want to penalise charities and that the focus was on helping charities to comply with the regime going forward. Any compliance action will therefore be proportionate.
36. Forum members reported that some of their members had encountered difficulty when asked to complete forms by banks relating to FATCA. Stewardship has produced guidance to assist charities with these forms.

CTF Stocktake

37. HMRC discussed the importance of effective stakeholder engagement and the positive role this plays in delivering good policy. HMRC wants to make sure the Charity Tax Forum continues to operate effectively for stakeholders and for government. HMRC asked forum members for their views on the forum and how it might be improved.
38. Forum members were generally satisfied with the existing forum structure and arrangements.
39. Forum members felt that CTF is most effective when work is delegated to subgroups and suggested that HMRC reconvene the Gift Aid Working Group and consider forming a VAT Working Group. HMRC said that it is happy to facilitate working groups but that because of the resources required, any working groups must have a clear focus and remit.
40. Forum members asked HMRC to share forum materials in advance. HMRC said that where slide packs or papers were produced it would endeavour to share these as far in advance of the meeting as possible.
41. HMRC highlighted that the agenda items discussed at that day's forum had been put forward by HMRC and were largely updates

on recent consultations. HMRC encouraged stakeholders to provide suggested agenda items to the secretariat (charitypolicy.taxteam@hmrc.gsi.gov.uk) in advance of future meetings.

42. Forum members felt that it would be helpful for other departments and agencies to attend the forum, such as the Office for Civil Society, the Charity Commission for England and Wales, or the Home Office. HMRC explained that the OCS has a standing membership of the forum and does regularly attend. HMRC agreed to invite other departments as required.
43. Forum members suggested that HMRC provide fewer printed meeting packs at meetings to save paper, as many attendees bring their own papers. HMRC agreed to provide fewer printed papers at future meetings to avoid unnecessary waste.

Any other business

44. Forum members said that, with the introduction of new powers for the Charity Commission, charities would like more guidance on Social Investment Tax Relief and when a social investment might be queried.
45. Forum members asked whether HMRC would publish a list of charities for tax purposes. HMRC replied that it has no plans to publish such a list.
46. Forum members asked HMRC to provide an update on recent queries received by the Charities Outreach team.

Action Point 20.0 – HMRC to provide Outreach team update at next forum.

47. Forum members asked for an update on the research HMRC has commissioned into Gift Aid behaviour. HMRC advised that the report would be published in the autumn.
48. Forum members asked to discuss the Apprenticeship Levy at a future meeting.

Date of next meeting

49. The next meeting will be held on **2 September** at **2pm** at HM Treasury.