

Minutes of the Charity Tax Forum meeting on 18 February 2019

Held at HM Treasury, 1 Horse Guards Road, London SW1A 2HQ

List of attendees

R Baldwin	Sport & Recreation Alliance
P Bater	Charity Law Association
G Batty	Chartered Institute of Taxation
R Bray	Cancer Research UK
T James	Association of Church Accountants and Treasurers
M Kelcher	Charity Retail Association
C Lane	Charity Tax Group
K Russell	Stewardship
R Sagar	Charity Finance Group
D Warrellow	National Trust
G McKay	Institute of Chartered Accounts in England and Wales
J Hemming	Wellcome Trust
P Spedding	London Library
G Hooper	HMRC (Chair)
D Hook	HMRC
P Sears	HMRC
O Price	HMRC
T Roscamp	HMRC
J Vambe	HMRC
H Dodia	HMRC
M Higham	HMRC
J Giles	HMRC
C Williams	HMRC
R Vause	HMRC
A Palmer	HMRC
G Jones	HMRC
R Shah	HM Treasury

Welcome and introductions

1. The Chair welcomed members of the Forum and noted the apologies for absence. Guy Hooper had taken over from Jo Gibson as Deputy Director for Charities Policy and, accordingly, as Chair of the CTF.

Expenses claimed by volunteer office holders

2. A paper supporting this item was circulated to Forum members prior to the meeting detailing HMRC's intention to legislate the current extra-statutory treatment of expenses paid to volunteer office holders.

3. Therefore, HMRC gave a brief overview of the proposal which was announced at Budget 2018, and explained that it was required in order to provide clarity and certainty in an area that could give rise to complications, and for which there was currently no statutory cover. The Forum was advised that the change would essentially retain the existing practice for voluntary office holders by providing a statutory exemption for all reimbursed expenses.
4. The draft legislation was expected to be published in July and then formally introduced in Finance Bill 2019/20. The statute would come into effect from April 2020.
5. A Forum member asked for further clarity on what the position would be for voluntary workers in churches and HMRC reported that it would take this away.

Off-Payroll Working Rules

6. HMRC gave an overview of the 'off-payroll working rules' (IR35) which came into effect in April 2000. These rules affected individuals that provided personal services and not the self-employed; and the differences between the two were clarified.
7. In April 2017 the rules were reformed to address non-compliance in the public sector. The Chancellor announced, at Budget 2018 that similar reform would be introduced for other organisations and sectors, with effect from April 2020. HMRC explained that these were necessary because compliance rates for IR35 since its introduction had been low and were currently at 10 per cent. The cost of that non-compliance to the Exchequer was estimated to be as much as £1.4 billion by 2023/24.
8. HMRC reported that it was aware that there were administrative burdens associated with the 2017 changes, and wanted to improve on these for the private sector. A consultation was held in 2018 which received 275 responses and also included several roundtable events with stakeholders. A further consultation would be held in the spring, and HMRC encouraged charities to participate in this.
9. Forum members reported a number of concerns regarding the extension of IR35 to the private sector. These included the definition of the turnover test, costs, invoicing processes, how the rules would work with personal service companies, where the rules would apply, where employees' rights came into play, charities not having software, how the changes would work for charities with several branches, and how the Check Employment Status for Tax (CEST) digital service could be enhanced.
10. HMRC reported that it would consider how connected organisations would operate under the rules and would be keen to hear views during the consultation. HMRC confirmed that it was engaging with software

providers and that there would also be support and guidance made available. It was recognised that a lot of the issues would be challenging, and again Forum members were encouraged to engage in the forthcoming consultation. The consultation could be accessed at: www.gov.uk/government/consultations/off-payroll-working-rules-from-april-2020)

Making Tax Digital (MTD) update

11. HMRC gave a brief update on MTD VAT since the Forum last convened in October 2018. Confirmation of the deferral announcement was given regarding the delay in mandation for some VAT registered entities until October 2019 instead of April. Letters had been issued to those affected, and it was advised that the VAT Helpline should be contacted if letters had not been received.
12. HMRC reported that the pilot was now open to all customers mandated from April 2019 and most customers within the deferred categories. Organisations were required to sign up for MTD VAT, and would not transfer automatically. The Forum was advised that charities should prepare now so that they were ready for mandation.
13. A number of concerns were raised by Forum members. These included clarification on the definition of a 'not for profit organisation not set up as a company' for the purposes of deferral, letters not going to the correct individuals, penalties applicable in the soft landing period for digital link purposes - the need for HMRC to be clear on when this applied, as well as the reverse charge not making sense for charities.
14. HMRC reported that incorporated charities were treated as companies for the purposes of MTD - therefore mandated from 1 April 2019. Letters were being issued to all customers mandated from 1 April 2019.
15. The soft landing period applied for the digital link requirement only. Customers must keep digital records and submit via software from the date of mandation. HMRC would not come down hard where customers were trying to comply but penalties could apply for non-compliance. HMRC agreed to take away the point raised about the reverse charge.
16. HMRC reminded the Forum that there was a lot of information on signing up to MTD VAT currently available on Gov.uk including YouTube video links at www.gov.uk/guidance/help-and-support-for-making-tax-digital

Implications of the criminal offence of facilitation of tax avoidance for small voluntary groups and charities

17. Forum members Richard Baldwin and Trevor James presented this item which was a follow-up to a presentation on the Corporate Criminal Offences legislation which took place at the Forum on 7 June 2018.
18. In this presentation, support was reported for the aims of the legislation but concern for the actual mechanics for small charities with large numbers of volunteers, particularly churches and sports clubs. Levels of awareness in these bodies were likely to be extremely low and therefore some form of short and cautionary guidance would be beneficial.
19. This item was supported by papers which detailed examples of guidance for churches and sports clubs and had been shared with Forum members prior to the meeting. These were considered to be good starting points with clear procedures to follow and specific cases.
20. HMRC reported that it was useful to see the guidance examples. Forum members were reminded that although sector specific guidance had been produced in other sectors by rep bodies and approved by the Chancellor, the process required the external guidance to be in keeping with the Government's guidance. This would require guidance to be more principle-based and not allow guidance as prescriptive as proposed.
21. HMRC recommended the benefits of the sector liaising directly with the Charity Commission on producing guidance specifically for charities, helping to ensure the guidance was appropriate for the sector and that it supported them. In addition, the Charity Commission would have many links and connections that could help raise levels of awareness.
22. HMRC reiterated the purpose of the Corporate Criminal Offences legislation. Essentially, its intention was to hold organisations responsible when they failed to prevent deliberate acts of facilitating tax evasion by associated persons. This related to deliberate acts, not accidental or negligent. This may need to be brought out more firmly in the shared guidance. .
23. Furthermore, under the legislation, organisations would be criminally responsible as a whole. The senior individuals were not liable of the corporate criminal offences. Again, the guidance should make this point clear.
24. Trevor James and Richard Baldwin reported that they would tidy-up their guidance examples, and then proceed to contact the Charity Commission directly, as recommended. .

AOB

25. HMRC updated the Forum on the three measures affecting charities announced at Budget 2018, and where these were in terms of

legislation. The increase in the limits to the small trading exemptions were in section 41 of Finance Act 2019 and the increase to the individual Gift Aid Small Donations limit was in the Small Charitable Donations Act (Amendment) Order 2019. It was reported that these measures would go some way in reducing charities' administrative burdens.

26. HMRC reiterated the need for Gift Aid declarations (GADs) to include the fullest amount of information from the donor as possible. It was confirmed that although this was not currently being made mandatory, the requirement remained HMRC's objective for the future.
27. The Charity Tax Group (CTG) met with HMRC in December regarding GADs and the information they should contain – the notes of which could be found at www.charitytaxgroup.org.uk/news-post/2019/gift-aid-claims-full-forenames-encouraged/ .
28. Forum members agreed that charities should encourage their donors to give as much information as possible, especially if they already had this data. The Forum considered that was a constructive way forward – and that this should include the use of full names.
29. HMRC reported that nudge letters were soon to be issued to 3000 charities which would provide them with advance notice of a tax return due in the next couple of weeks. Forum members were concerned that letters do not usually go to the correct individuals in charities.
30. Separately, a letter would also go to approximately 300 Community Amateur Sports Clubs (CASCs) about the rules on claiming Gift Aid on memberships. It was expected that letters would go out in tranches in the next few weeks.
31. HMRC reported that in order for comparisons to be made, advance copies of both letters would not be shared with Forum members at this stage.
32. It was reported that the Charity Tax Commission would be meeting the following week and that its report was expected to be published in early summer. It was noted that the NCVO would be happy to separately meet with Forum members to provide any further updates and/or answer questions directly. NCVO had contacted Forum members the previous week to this effect.
33. A Forum member raised the point that it was not made clear in the guidance on Gov.uk that VAT was eligible for recovery by charities on the fuel element of mileage claims, where the claim was made by a volunteer rather than by an employee. HMRC took this away.
34. The Charity Retail Association reported that its retail Gift Aid guidance was in the process of being updated, and enquired whether there was

any further advice HMRC could offer. HMRC reported that its guidance would be published in April.

35. A Forum member reported that a VAT grants guidance notes meeting with HMRC had been useful but that the guidance could be further improved and expanded. HMRC reported that guidance was intended to be general in nature.
36. A Forum member raised an issue about the information HMRC posted on the Gov.uk site, as there seemed to be a large increase in the quantity. It was not clear why something had been replaced, particularly in the case of guidance manuals. HMRC reported that it would try to make enquiries about this, but advised Forum members to sign up to Gov.uk alerts which gave notification of updates and why. HMRC looked into this and issued an email to Forum members on 7 March with advice.
37. A Forum member requested an update on the Chapter 3 Gift Aid guidance on Gov.uk and for an opportunity to comment specifically on the use of forenames in GADS. HMRC reported that the guidance was currently being reviewed.

Date of next meeting

38. The next meeting would be held on 17 June 2019 at 10.30 am at HMRC, 100 Parliament Street, London SW1.

**Charities Policy Team
HMRC
10 April 2019**