HM Treasury

Museums and galleries tax relief:

response to the consultation

December 2016

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1 Introduction

1.1 Budget 2016 announced that the government would introduce a new tax relief for museums and galleries to support them to develop new exhibitions and to display their collections to a wider audience.

1.2 The government held a formal consultation on the design of the relief from 5 September 2016 until 28 October 2016. HM Treasury received and considered a total of 88 responses. These included submissions from a wide range of representative bodies, museums, galleries and other heritage organisations from across the United Kingdom. The respondents varied from large national galleries to small independent museums and also encompassed libraries, archives and charity groups.

1.3 During the consultation, government officials met with a large number of institutions, stakeholders and representative bodies. These stakeholders provided valuable input into the development of the policy. The views expressed at these meetings have been incorporated into this summary of responses.

1.4 The government is grateful to all those who contributed to the consultation process. A list of respondent organisations is available in Annex A.

Summary of respondents' views

1.5 The majority of respondents welcomed the introduction of a tax relief for museums and galleries. They told the government that the relief would help support museums and galleries to continue developing and touring high quality exhibitions and said it would encourage museums to be more entrepreneurial and to think more about how best they could make use of their collections. However, the majority of respondents also said that the scope of the relief announced at Budget was too narrow, and suggested that it should be expanded to cover permanent exhibitions to make it accessible to a broader range of institutions.

1.6 Some respondents were concerned that they would not be able to claim relief as they did not pay corporation tax. The government would like to provide reassurance that, although this relief is part of the corporation tax system, museums and galleries do not need to pay corporation tax to claim it; they just need to be within the charge to corporation tax. Charitable companies and wholly owned subsidiary companies of museums, galleries or local authorities are within the charge to corporation tax.

1.7 This document covers areas where respondents had questions or proposed alternative ideas to those outlined in the consultation document. It sets out the key changes which the government will make on the basis of the consultation, along with an explanation for each of these. The three key changes from the relief proposed in the consultation relate to the expansion of the relief to permanent exhibitions, the inclusion of a cap at the equivalent of £500,000 per exhibition and the announcement of a higher rate for touring exhibitions.

Broadening the relief to permanent exhibitions

1.8 There was general consensus among respondents that the proposed relief for temporary and touring exhibitions would exclude a wide range of smaller museums and galleries that do not have the space or budget to put on temporary exhibitions or host tours. To ensure the relief is available to a wider range of institutions, **the government has removed the 12 month limit on qualifying exhibitions to ensure all new exhibitions are within scope.** This change will ensure the relief works

to encourage investment in creative new exhibitions in a wide range of institutions across the UK, rather than just being available to the parts of the sector that put on temporary exhibitions.

Capping the relief at qualifying expenditure of £500,000 per exhibition

1.9 Extending the relief to include permanent exhibitions without a cap could cause a large rise in the cost of the relief as some permanent exhibition re-displays cost significantly more than most temporary exhibitions. To mitigate this risk and protect Exchequer revenue, **the government will cap the amount of relief available at the equivalent of £500,000 of qualifying expenditure per exhibition,** meaning museums and galleries can claim up to £80,000 of relief for a non-touring exhibition or £100,000 if it is toured. The government received a number of case studies from individual museums, galleries and representative groups during the consultation period and believes the vast majority of exhibitions will be unaffected by this cap. It will allow the relief to be broadened out to a wider range of qualifying museums and galleries without significantly increasing costs to the Exchequer.

The incentive to tour

1.10 The consultation document asked a number of questions on how the touring exhibition market worked. Although the responses suggested that this particular area of the museums and galleries sector is complex, the government still believes there is merit to providing an additional incentive to touring so as to improve public access to a wider range of exhibitions across the country and raise the UK's profile overseas. **This is why it has set the rate for non-touring exhibitions at 20% and added an enhanced rate at 25% for touring exhibitions.** The higher rate will be available on qualifying costs of museums that host touring exhibitions as well as those that originate them, so more than one museum will be able to claim for the same touring exhibition.

1.11 The government understands that not all exhibition tours are confirmed in advance of the exhibition opening, however an intention to tour at the outset must be shown in order to qualify for the higher rate. Exhibitions that are not initially intended to tour will still be eligible for 20% relief, and future costs that then turn the exhibition into a tour could still become eligible for the higher rate.

Evaluating the relief

1.12 As with all aspects of the tax system, the government continually monitors tax reliefs to make sure they are effective in fulfilling their objectives. In line with this practice and with state aid requirements, the legislation will include a sunset clause which means that the relief will expire in April 2022 unless renewed. To ensure that museums and galleries have the certainty they need to plan exhibitions in advance, in 2020 the government will review the tax relief and set out plans beyond 2022.

Stages of the consultation

1.13 When the consultation document was published, officials were at stage 2 of the government tax consultation framework (determining the best option and developing a framework for implementation, including detailed policy design). The government has now entered stage 3 of the process (drafting legislation to effect the proposed change).

Next steps

1.14 This summary of responses confirms the government's approach based on the responses to the consultation. Draft legislation has been published alongside this document and is available to be commented on. The tax relief will be available from 1 April 2017. As a next step, the

government will work with the sector to ensure museums and galleries are well-informed about the relief and are in a position to take advantage of it once it becomes available.

2 Summary of responses

2.1 This chapter summarises the key points and suggestions put forward by participants in the consultation. It explains the government's response and highlights any changes that will be made to the design of the policy.

Principles and criteria

2.2 The consultation document set out the criteria which the government proposed to use when evaluating proposals for museums and galleries tax relief.

Box 2.A: Criteria for museums and galleries tax relief

- effective
- affordable
- simple and straightforward to administer
- sustainable
- not open to abuse
- compliant with EU law

Question 1: Do you agree with the proposed criteria for assessing the options to provide support to the museum and gallery sector? Please provide any comments as appropriate.

2.3 In general, respondents who answered this question agreed that the criteria were appropriate. A number of respondents said that it was extremely important for the relief to be simple and straightforward to administer, particularly given some small museums and galleries are run by volunteers with limited access to accountants or advisers.

Government response

2.4 These criteria will guide the further development of the policy. The government carefully considers the administrative burden of tax policy on businesses. The government has worked closely with the sector during the consultation to design a relief that works well and will continue to provide support once the relief passes into legislation. The consultation has made it clear that qualifying institutions are usually obliged to keep good financial records of each exhibition which should help reduce any additional burden placed on claimants.

The definition of a museum and gallery

2.5 As confirmed in the consultation document, the government wants to ensure the museums and galleries tax relief is open to an appropriate range of qualifying institutions. The document stated that "*the government wants the relief to provide support to museums and galleries with charitable or educational objectives*" which is why commercial entities are excluded. However the government must ensure the relief works well for the sector and prevents abuse.

Question 2: Would these definitions allow appropriate institutions to be in a position to claim the relief?

Question 3: Would adopting the definitions outlined above be an effective way of meeting the government's objectives as set out in Chapter 3 (of the consultation document)?

Question 4: Is there an alternative definition of a qualifying institution that would more accurately permit the most appropriate range of museums and galleries to qualify for the relief? If so, please provide details.

2.6 The government received a wide range of responses to the proposed definitions of a museum and gallery, the majority of which were positive. Almost all respondents were content that the relief should only be available to non-commercial museums and galleries and many were happy that the proposed definition went beyond the Arts Council accreditation scheme to include charitable art galleries without a permanent collection.

2.7 A number of respondents questioned whether the legislation needed distinct definitions of both a museum and a gallery. They argued that the only major difference between the two definitions proposed in the consultation was the use of the word 'conservation' in the definition of a museum but not a gallery and suggested that, in reality, many galleries do conserve their own collections.

2.8 There were also a number of responses from libraries, archives, outdoor sculpture parks and historic homes that suggested that the relief should be broadened away from just museums and galleries to other heritage institutions with similar objectives.

Government response

2.9 Having listened to the wide range of responses on how to define a museum and a gallery during the consultation, **the government has concluded that both terms can take their natural meaning in law and so the legislation will not specifically define them**. The relief was always intended to cover galleries that conserved their own collections as well as those that put on exhibitions but did not house their own collections and there is no intended distinction between the two groups.

2.10 **The government will ensure charitable libraries, archives, historic homes and similar organisations that put on qualifying exhibitions in outdoor spaces like sculpture parks are within scope**, as long as they are run as charitable companies, wholly owned subsidiary companies of a charity which maintains a museum or gallery or wholly owned subsidiary companies of a local authority which maintains a museum or gallery.

2.11 To ensure the policy meets its intended objective of supporting institutions with charitable or educational objectives, **any institution that does not meet at least one of the criteria mentioned in paragraph 2.10 will not be eligible for relief.**

Box 2.B: Definition of a qualifying institution

- The institution must be a charitable company which maintains a museum or gallery, or a wholly owned subsidiary company of a charity which maintains a museum or gallery, or a wholly owned subsidiary company of a local authority which maintains a museum or gallery.
- A 'museum or gallery' includes a library or archive and also includes a place where a collection of objects which are considered to be of scientific, historic or artistic interest is exhibited outdoors or partly outdoors, for example a sculpture park.

The definition of an exhibition

2.12 As well as proposing definitions of a museum and a gallery to be used in legislation, the consultation document also proposed a definition of a temporary exhibition. The document stated that the definition would need to be robust and workable in legislation whilst also being recognised by and appropriate for the sector. It said the definition should be broad enough to cover the range and diversity of exhibitions put on by qualifying museums and galleries that encompassed a spectrum of themes from science to modern art.

Question 5: Is there a more accurate definition of an exhibition that would allow qualifying institutions to claim relief for the most appropriate range of displays?

Question 6: Does a period of up to one year accurately reflect the length of time a temporary exhibition would remain open to the public?

Question 7: In addition to those mentioned in Box 4.B, are there any types or characteristics of an exhibition that you think should be excluded from the relief?

2.13 Most responses suggested that the proposed definition of a temporary exhibition, which excluded exhibitions that were in place for longer than 12 months, would mean that many museums and galleries could not benefit from the relief. Although most agreed that temporary exhibition were almost always under 12 months, they argued that many smaller museums did not have the space or budget to put on temporary exhibitions and so would not be able to benefit despite often being the ones most in need of financial support. Of the 88 official responses, 30 were sent in solely to make this point while a further 26 included it alongside information on other areas of the consultation.

2.14 Some respondents were also concerned about the proposed clause which limited exhibitions to those held in qualifying museums or galleries, suggesting that lots of galleries in particular did exhibitions outside of traditional spaces, such as in prisons, parks or schools.

2.15 Some respondents also raised concerns that the proposed definition of a '*selection of works of art or items of interest'* would exclude exhibitions based around one singular item such as Anish Kapoor's 'Marsyas'. They highlighted that there was a clear difference between such exhibitions, which would need curating and would come with supplementary and relevant interpretation, and a simple re-hanging of a painting or swapping of an artefact or object.

2.16 Almost all respondents supported the exclusion of exhibitions not open to the general public and were also in favour of excluding exhibitions with the main purpose of advertising goods or services or selling the exhibit or exhibits, though there was some concern that this

would mean fee-charging exhibitions or those that sold supplementary products like catalogues or prints were out of scope.

Government response

2.17 **The government has removed the 12 month limit on qualifying temporary exhibitions so that new permanent exhibitions are also within scope.** To ensure this change can be made without significantly inflating costs to the Exchequer, the relief will be **capped at the equivalent of £500,000 of qualifying expenditure per exhibition.** An exhibition must be curated as an easily identifiable and distinct entity in its own right.

2.18 **The government will allow exhibitions that are not held in qualifying museums or galleries to qualify for relief, as long as they are put on by qualifying institutions.** This will ensure the relief is not unfairly weighted towards museums and galleries with their own space to put on exhibitions but also easily accessible to those that curate exhibitions in other spaces like parks, prisons or schools.

2.19 **The government will ensure that the definition of an exhibition includes those that are based on a singular object or piece of work.** The government listened to the views of the sector during the consultation period and agrees that there is a clear difference between an exhibition based around a singular work and a re-display of a painting or object. It has added the word 'curated' to the definition of an exhibition to make the distinction clear.

2.20 Exhibitions that are not open to the general public as well as those where the main purpose is to either advertise goods or services or sell the exhibition's content will be ineligible for relief as the government wants to ensure it remains well targeted at institutions with charitable and educational objectives. Exhibitions that charge a fee will still be eligible, so long as they remain accessible to the general public, while the use of sponsorship or the selling of supplementary merchandise will not strictly rule out an exhibition as long as its main purpose is not specifically to advertise goods or services or sell what is displayed. These points will be dealt with by HMRC on a case-by-case basis. To keep the relief targeted at museums and galleries as per the definition outlined above, exhibitions that include live performance will be excluded.

The definition of a touring exhibition

2.21 The consultation stated that the government wanted to encourage museums and galleries to tour more of their best exhibitions around the country. In order to gather more information on how that part of the sector worked, it asked a number of questions on how museums and galleries construct and pay for tours. It also proposed a definition of a touring exhibition.

Question 8: Is there a more accurate definition of a touring exhibition that would allow institutions to tour their exhibitions to other museums and galleries?

Question 9: How soon in advance is it decided that an exhibition will be toured?

Question 10: What kind of model is most likely to be employed for touring, i.e. will it be led by one organisation, split between two institutions etc.?

Question 11: How are the costs split up between the touring institution and the institution that is hosting the tour and how do the two interact more widely?

Question 12: If an exhibition is toured internationally, when and where are the costs normally paid?

2.22 The consultation received a wide range of responses and information about touring exhibitions. The general consensus was that there is no clear way of describing how a tour is created and that various different models are followed. The models can be broadly categorised in the following four areas:

- **specific tour:** an exhibition that is created solely to go on tour and is not shown in an originating museum
- **show then tour:** an exhibition that is specifically created to be shown in the originating museum but then adapted to take on tour
- **successful temporary exhibition:** an exhibition that was never intended to tour but gains traction after a successful stint in the originating museum
- **co-production:** a touring exhibition that is jointly created by two distinct institutions that split the costs equally

2.23 A number of respondents were concerned that the need to show evidence that an exhibition would be toured at the beginning of the planning phase was too restrictive. They felt it would exclude exhibitions that were never intended to tour but proved to be more successful than initially expected.

2.24 As mentioned in the temporary exhibition section, many respondents pointed out that exhibitions were often toured to non-qualifying institutions. Others questioned whether the stated policy objective to encourage museums and galleries to tour their 'best' exhibitions was the right approach as it would be difficult for the government to define what would constitute the 'best' exhibitions.

Government response

2.25 The government understands that the touring exhibition market is complex, however there is merit to providing an additional incentive to touring so as to improve public access to a wider range of exhibitions across the country and raise the UK's profile overseas. This is why **it has set a higher 25% rate for touring exhibitions.** This will provide a further incentive to qualifying museums and galleries to tour their exhibitions around the country and beyond, improving access across the country and raising the UK's profile overseas.

2.26 Due to the complexity of this part of the sector, the government has adapted the existing model used in the creative sector tax reliefs to make it more accessible to museums and galleries. For the first time, **more than one production company will be able to claim the relief on the same tour** as long as each company only claims on its own unique costs. The government recognises that individual museums and galleries usually have their own specific production costs on each leg of an exhibition tour so has adapted the model accordingly to benefit the sector. This means that as well as the institution that originates the exhibition, each museum and gallery that hosts an exhibition will also be able to make a claim for its qualifying costs.

2.27 In line with paragraph 2.18, **the government will adapt the definition of a qualifying exhibition to allow tours to take place in non-qualifying museums and galleries.** The government does not intend to make a judgement on which exhibitions merit tax relief and so the legislation will contain no references to 'best' exhibitions.

2.28 In order to qualify for the enhanced rate of credit, a qualifying institution must show an intention to tour at the beginning of the planning phase of the exhibition. The government recognises that this is not possible for some touring exhibitions, but the need to prove that an exhibition will be toured from an early part of the process is an important provision to ensure that only genuine touring exhibitions can claim the higher rate and may also encourage

museums and galleries to start thinking about displaying exhibitions in more than one location at an earlier stage of production. Any qualifying exhibition that is not eligible for the higher rate of credit will still be able to claim up to £80,000 via the 20% rate for non-touring exhibitions.

Qualifying 'core' expenditure

2.29 In order to qualify for relief, expenditure must be directly incurred in the production of the exhibition and must be integral to the exhibition process.

Question 13: Which costs are integral to the exhibition process itself and should therefore be eligible for relief? Please explain your choices.

2.30 Respondents were broadly positive about the proposed list of eligible and ineligible costs and most were in agreement that only those directly linked to the exhibition should be included. Several respondents listed specific additional costs which they said should be within the scope of the relief.

Government response

2.31 **The government will support the main costs of creating and producing an exhibition** as outlined in the consultation. It is important to note that the examples used in the document were only intended to be indicative, so qualifying expenditure will include costs such as curator fees, exhibition-specific installation costs, transport and insurance. The document proposed that storage costs would be ineligible for relief, however the consultation has made it clear that storage forms a vital part of a touring exhibition. **Off-site storage costs for a period of up to four months between touring venues will therefore be eligible for relief.** Having taken on board feedback from the sector, the government believes this will provide adequate time for institutions to store an exhibition's contents before they move on to another location.

2.32 The government wants to ensure this relief remains targeted at the creation and production of exhibitions and so costs that are not integral to this process will remain out of scope. Indirect expenditure like marketing and ancillary educational programmes as well as direct acquisition costs, including paintings that are commissioned to collect, will remain ineligible while day-to-day running costs like providing security once the exhibition has opened will also be out of scope. To make sure the relief stays targeted at new exhibitions (temporary and permanent), de-installation costs will not be eligible for exhibitions that are open for longer than 12 months.

The claims process

2.33 The consultation document stated that museums and galleries would be able to claim an additional deduction against their corporate taxable profits that can be surrendered for a payable tax credit. It also proposed how the relief might work in practice and made a request for information about what impact the need to be incorporated would have on qualifying museums and galleries.

Question 14: Does the requirement to be incorporated and operate separate trades within the company cause significant administrative burdens for museums and galleries? Please explain in what way.

Question 15: Would the requirement to be incorporated affect current funding or subsidies/exemptions that are received by some museums? If so, please explain how?

Question 16: Are there any other specific design points which need to be addressed?

2.34 A number of respondents were concerned that they would not be able to claim the relief because they did not pay corporation tax. **The government would like to reassure the sector that museums and galleries do not have to pay corporation tax to benefit from this relief.** The company responsible for putting on the exhibition needs to be within the charge to corporation tax. All charitable companies are within the charge to corporation tax although some of their income is exempt from payment of tax. Charities or their wholly owned subsidiaries may be able to surrender losses for a cash credit at a rate of 20% (or 25% if the exhibition is toured). Institutions not within the charge of corporation tax can choose to run an exhibition through a wholly owned trading subsidiary, through which they can also claim the credit. More information can be found at: https://www.gov.uk/hmrc-internal-manuals/theatre-tax-relief/ttr70000.

2.35 Although some respondents were wary that an additional administrative burden would put some museums and galleries, particularly those run by volunteers with limited financial acumen, off claiming the relief, most were confident the need to be within the charge to corporation tax would not have a significant impact. The government was encouraged to hear that most institutions already keep detailed financial records of each individual exhibition so the need for additional accounting services should be limited.

2.36 A number of respondents were aware that some local authority museums without separate trading arms would not be able to claim the relief as local authorities are not within the charge to corporation tax. However, the majority of these were sympathetic to the fact that the creative sector tax reliefs are part of the corporation tax system and so institutions would need to be within the charge to corporation tax to qualify. Some respondents outlined the recent trend in local authority museums converting to charitable trusts whose subsidiary companies would be within scope.

Government response

2.37 The government recognises that claiming a corporation tax relief could cause an administrative burden to charitable museums and galleries but, as with all the previous sector creative sector tax reliefs, has worked closely with the sector to keep this burden to a minimum. Although institutions will be required to treat each exhibition as a separate trade**, they will be able to group more than one trade together in a single claim in a tax return.** It is not necessary to file a separate tax return for each exhibition trade.

2.38 Having worked through all the specific concerns which were raised during the consultation, the government is confident that charitable museums and galleries will be able to access tax relief without incurring substantial additional administrative burdens. Detailed guidance will be supplement the legislation to help claimants understand how it works in practice while for existing reliefs, training events are often organised by representative bodies. It is anticipated that museum and gallery representatives may follow this practice and HMRC are happy to participate if helpful.

Other issues

2.39 The consultation document made a series of proposals about the State aid rules that underpin this relief and the process of claiming it from HMRC. Respondents generally did not raise concerns with the proposals.

2.40 It also requested information on the other types of funding available to museums and galleries. The government received a number of responses to this question which included:

- lottery funding – Heritage Lottery Fund and Arts Council England
- other government departments and bodies
- UK research councils
- trusts and foundations
- private donations and philanthropy
- members, friends and patrons
- corporate sponsorship

2.41 The consultation document also set out the government's strategy to prevent abuse. In general, respondents said the strategy appeared robust and did not identify any additional opportunities for abuse.

2.42 The government is grateful for stakeholders' feedback and has concluded that it is appropriate to proceed with the proposals outlined during the consultation.

A List of respondents

Association of Independent Museums

Art Fund

Arts Council England

Axminster Heritage Centre

Bambridge Accountants

Beamish Museum

British Film Institute

Birmingham Museums Trust

Black Country Living Museum

Brighton Royal Pavilion and Museums

British Council

British Library

British Motor Museum

British Museum

British Universities Finance Directors Group

Bulldog Trust

Canterbury Museums and Galleries

Chapter

Charity Tax Group

Crafts Council

Creative Scotland

Commonwealth War Graves Commission

Derby Museums

Devon Dance

Dundee Heritage Trust

Dundee Museum of Transport

Exeter Museums

Federation of Museums and Galleries of Wales

Fry Art Gallery

Glastonbury Abbey

Gold Hill Museum

Greater Manchester Arts Centre

Henderson Loggie

Heritage Alliance

Historic Houses Association

Historic Royal Palaces

Institute of Chartered Accountants in England and Wales

Impressions Gallery

Industrial Museums Scotland

Imperial War Museum

Kingston Smith

KPMG

Leeds Museums and Galleries

Leyton Museums

Library and Museum of Freemasonry

London Library

Macclesfield Museums

Museums and Heritage

Museums Association

Museums Galleries Scotland

Museums Sheffield

National Galleries of Scotland

National Library of Scotland

National Trust

Natural History Museum

National Museums Directors' Council

National Museums Liverpool

Norfolk Museums Service

Nottingham Contemporary

Oxford Bus Museum

Ripon Museums

Roald Dahl Museum

Rochdale Pioneers Museum

Royal Academy

Royal Air Force Museum

Royal Armouries

Royal Institute of British Architects

Royal National Lifeboat Institution

Robey Trust

Serpentine Galleries

Seven Stories

Shakespeare's Globe

Somerset House

SS Great Britain Trust

St Paul's Church Deptford

Stroud District Museum Service

Topsham Museum Society

Turner Contemporary

University of Hertfordshire Galleries

University of Manchester

Wakefield Council

Watts Gallery

York Castle

Responses were also received from four individuals.

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