Charities tax compliance

General Features



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The CIOT and ATT respond to the HMRC consultation on charities tax compliance.

In April, HMRC launched a consultation seeking views on several tax matters affecting charities and community amateur sports clubs, with a view to preventing non-compliance and helping to protect the integrity of the sector (tinyurl.com/464b43w7). The CIOT and ATT provided a joint response to the consultation.

Before addressing each of the proposals, we reiterated that the charity sector provides a huge contribution to UK society, supporting millions of people in a variety of ways, often filling gaps left by government or commercial enterprises in the provision of services or satisfaction of needs.

We said that many charities, particularly smaller ones, are run or substantially resourced by volunteers, and that these factors provide important context when considering the needs of charities and any sanctions they should face for non-compliance. We also stated that better guidance is needed, both to dispel the

widespread view that charities do not pay tax, and to provide clear examples that illustrate the application of what can be complex rules.

Preventing donors from obtaining a financial benefit from their donation

HMRC are reviewing the tainted charity donations rules, saying that the rules have proven to be overly complex to apply to certain instances of abusive behaviour. The consultation offered three options for consideration.

We said that we would support a closer review of condition B (the main purpose of entering into the arrangements is for the donor, or someone connected to the donor, to receive a financial advantage directly or indirectly from the charity) (option 3). We said that we would not support the wholesale replacement of the tainted charity donations rules (option 1), nor removal of condition B (option 2).

Preventing abuse of the charitable investment rules

HMRC are considering whether to amend the charitable investment rules. In essence, charities would be required, where HMRC have cause to consider the reasons behind the investment, to justify any investment they make and demonstrate how this benefits the charity.

We do not have strong views regarding these proposed changes, largely because charities should not make investments other than for the benefit of the charity. However, we questioned whether any changes could be limited to particular investment types, and that some form of clearance procedure would be required to protect trustees.

Closing a gap in non-charitable expenditure rules

HMRC are looking to review the rules around the clawback of relief, which could involve a review of the definition of ‘attributable income and gains’ (to consider which types of income become chargeable following non-charitable expenditure) and a review of the current six-year carry back restriction.

We said that we do not consider that the non-charitable expenditure rules create a ‘gap’ in the sense suggested by HMRC, and we do not support the changes proposed

in the consultation.

Sanctioning charities that do not meet their filing and payment obligations

HMRC are seeking views on withholding payments of Gift Aid and disapplying other tax reliefs from charities that have fallen behind on their reporting and filing obligations.

We do not think it would be appropriate to withhold charitable reliefs pending submission of a tax return. This seems excessive (considering that non-compliance might be inadvertent), would be complex to implement and administer, and similar sanctions do not exist for commercial enterprises.

Our full response can be found on the CIOT (www.tax.org.uk/ref1130) and ATT (www.att.org.uk/ref435) websites.

Richard Wild *rwild@ciot.org.uk*
Steven Pinhey *spinhey@att.org.uk*