NMDC Submission to HM Treasury consultation
Paying a fairer share: a consultation on residence and domicile

February 2008

A. Introduction

The National Museum Directors' Conference (NMDC) represents the leaders of the UK's national museums and galleries. We believe that it is right that those who live in this country should contribute to the cost of public services. However, we are concerned about the unintended consequences of the proposed tax treatment of non-domiciles on British museums and galleries. Wealthy non-domiciles are responsible for a very significant proportion of recent gifts to museums, a source of funding which has been crucial to realising capital projects and which would cease should these wealthy individuals move abroad. A number of non-domiciles are also passionate art collectors who are likely as result of the legislation to keep their collections in a more favourable tax regime, with damaging consequences for the current and future loans from those collections which enrich our public collections.

B. Impact on funding

More than half of the richest people in Britain with investable assets of more than £15 million are non-domiciles[1] so it is not surprising that many of the largest donors to museums are non-domiciles who have made their homes in the UK. Large donations from non-domiciles have been particularly important for large capital projects which cannot be covered by government funding alone.[2]

If, as the recent STEP survey[3] suggests, over one third of foreign domiciles will leave the UK as a result of the proposed tax reforms (and museums have heard anecdotally from major donors that this is certainly their intention) then we are likely to lose a significant source of actual and potential income to UK museums and it will become difficult to deliver planned and future capital projects. Those non-domiciles who remain in the country may be less willing and able to offer the same level of support to our sector if they have new and substantial tax bills to pay.

Recommendation: *We urge HM Treasury not to introduce any measures which would prompt major donors to our museums and galleries to leave the country. We therefore strongly recommend a delay in the introduction of this legislation for a further 12 months to enable full and proper consultation to take place.*

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[1] *Art world warns on loss of non doms,* Financial Times, 7 February 2008
[2] Currently, Tate alone has planned capital project costs of £295 million for which to fundraise.
[3] http://www.step.org/attach.pl/2007/4020/STEPSurveyRND.pdf

C. The impact on museums and galleries collections and exhibitions

At present, our national collections are greatly enriched by objects which are either on short term exhibition or on long term loan from foreign domiciles, meaning that the British public have access to works which would otherwise be in private collections or kept outside the UK.

We are concerned that the proposed new legislation would deter foreigners who are resident here from lending to museums. This is because previously such objects could have been purchased out of foreign income and brought to the UK without any tax liability provided they were not sold here. Foreign domiciliaries resident here could therefore lend works to museums without worrying about whether they had been purchased using foreign income and/or gains.

Under the new rules a foreign domiciliary (or their associated entity) will not in the future be able to bring in and lend objects to UK museums if (s)he is a UK resident without incurring tax unless (s)he can clearly demonstrate that the object had not been purchased using any foreign income and/or gains, which is apparently unlikely. If this legislation is passed therefore, foreign domiciles will be more likely to keep and lend objects to museums in countries with no risks of associated tax liabilities.

We appreciate Treasury efforts to minimise the impact on the sector by exempting works imported for public access or exhibition but fear that it does not go far enough. Non-domiciles who are passionate and serious collectors may choose to leave the country rather than face ‘empty walls’, taking their collections and current and future potential loans with them. Over time, the effect will be that the aggregate number of art collectors (and potential supporters of museums and galleries) in this country will decrease as they face disincentives to collecting art for installation in the UK. This will undoubtedly have an impact on the strength of the art market in the UK. It will also lead to a longer term, negative impact on philanthropic giving, collections growth through gifts and bequests, and the quality of public exhibition and scholarship.

Recommendation: *Government should not make any change in the taxation of works of art being brought into the country.*