

Museums and galleries tax relief consultation

NMDC response to HM Treasury open consultation, October 2016

1. Executive summary

NMDC very much welcomes the proposed new tax relief and the government's recognition of the value of museum and gallery exhibitions. The scheme could be of significant value to the sector, encouraging and supporting museums to continue to produce excellent and innovative new creative content in a climate of declining public funding.

However, in order to ensure the tax relief achieves its stated objectives and that the entire museum sector – and thus audiences all over the UK – are able to benefit, NMDC strongly urges the removal of the one year time limit on exhibitions.

We broadly agree with the majority of the other proposals for the scheme, although would suggest various amendments to the proposed definitions to ensure clarity and accuracy, as outlined below.

2. About the NMDC

This response made on behalf of members of the National Museum Directors' Council (NMDC). The NMDC represents the leaders of the UK's national collections and major regional museums. Our members are the national and major regional museums in England, Northern Ireland and Scotland, the British Library, the National Library of Scotland, and the National Archives.

Some NMDC members are also submitting their own responses to this consultation to highlight specific issues from their individual perspectives, and many are represented by other sector bodies or groups which are also responding to this consultation.

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3. Proposed key features: removing the time limit for temporary exhibitions

NMDC strongly urges government to remove the one year time limit so that all new exhibitions, regardless of length, are eligible for the relief. As currently proposed the tax relief will not achieve its stated aims of delivering cultural benefits across the UK.

Many smaller museums and galleries do not have temporary exhibitions spaces or a regularly changing exhibitions programme, and the majority of investment in the sector is in longer-term displays of permanent collections. The scheme as currently proposed will therefore principally benefit only large institutions with the capacity to produce regular temporary and touring exhibitions, which are predominantly national museums and galleries based in London.

Removing the restriction on the length of exhibitions eligible for the tax relief would ensure fairness – between museums of different scales, and between the museums scheme and other cultural sector tax reliefs (there is no such restriction for the theatre tax relief). It would also ensure fairness for the public across the whole UK, especially those without access to national or large museums.

The one year time limit is an artificial timeframe, since exhibitions can be of any length depending on a wide range of factors (and indeed may run for a longer or shorter period than originally planned). By incentivising only short-term exhibitions the scheme would also act as a disincentive to sustainability, both economic and environmental.

In response to potential concerns about how the relief might work if the one year time limit were removed, we would note the following:

- The current criteria for assessing eligibility would apply equally well to exhibitions of any length. As with temporary exhibitions, there is always a clear opening date for longer-term exhibitions and permanent collection re-displays, so the cut-off point for eligible costs can be clearly defined.
- Museums are used to monitoring exhibition-specific costs and a single project code is commonly used for internal budget monitoring and in order to report to funders. This applies equally to exhibitions of any length.
- We appreciate there may be concerns over the likely total cost of the scheme if larger museums were able to claim for longer-term exhibitions. It is difficult to provide comprehensive figures for this, but the Heritage Lottery Fund (HLF) awards grants to the vast majority of museum redevelopment projects across the UK, particularly large permanent gallery redisplay, and so provides some indicative sector-wide data. Please see the appendix on p9 below, where we have also provided some indicative data on total eligible costs for national museums should the one year time limit be removed.
- NMDC strongly advocates for the complete removal of a time limit on exhibitions. However, there may be potential solutions to mitigate concerns over the total cost of the relief whilst still enabling the maximum number of museums to benefit, although it is difficult to make proposals without knowing the government's budget for the scheme. NMDC and its members – which include many of the largest museums and galleries likely to be making the biggest claims under the scheme – would very much welcome the opportunity to contribute to further discussion on this issue.

Consultation questions

3. Principles and criteria

Criteria for museums and galleries tax relief:

- *effective. Any proposed policy change must be effective in supporting institutions to deliver cultural benefits, encouraging the sector to develop creative exhibitions across the UK, and incentivising touring exhibitions to ensure that a wide range of audiences can enjoy them*
- *affordable. The proposed relief must represent value for money to the taxpayer and must be affordable in line with the government's objective for long-term sustainability in the public finances*
- *simple and straightforward to administer. The government is committed to simplifying the tax system as well as modernising it through its Making Tax Digital programme. Any proposed change should not result in unnecessary burdens for companies, charities or other groups, for individuals or for the administration of the tax system*
- *sustainable. Any proposed change must be designed, as far as possible, to fit both the current and future states of the sector*
- *not open to abuse. Tax reliefs should not create any additional avoidance opportunities*
- *compliant with EU law. The UK must meet all obligations as a member of the EU whilst the exit from the European Union is negotiated. Because of this, any proposed policy change must be consistent with the principles of the Single Market and will need to be achievable in the context of EU rules on State aid*

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.

We agree with the proposed criteria.

4. Definitions and designs

4.1 The definition of a museum and a gallery

Proposed definitions of qualifying institutions for the purposes of tax relief:

- *The proposed definition of a museum is "a building or place devoted to the conservation, exhibition and educational interpretation of collections having scientific, historical or artistic interest."*
- *The proposed definition of a gallery is "a building or place that is used for the exhibition and educational interpretation of a collection of objects having scientific, historical or artistic interest."*

Proposed exclusions:

- *commercial companies run on a for-profit basis other than trading subsidiaries of charities.*

Questions 2-4

- Would these definitions allow appropriate institutions to be in a position to claim the relief?
- Would adopting the definitions outlined above be an effective way of meeting the

governments objectives as set out in chapter 3?

- 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.

The proposed definitions suggest a false separation between museums and galleries – many galleries also hold collections and undertake conservation. We believe a more appropriate definition would instead delineate between organisations that hold collections and those that do not.

We would also propose that the definition specifically refers to organisations being non-profit-making and working for public benefit, to ensure commercial organisations are excluded and to be clear that the scheme's aim is to deliver additional benefit to the public.

The term 'conservation' in the museum sector refers specifically to the practice of physical protection and restoration of individual objects rather than the wider management and care of collections. Changing this to 'protection and preservation' would more accurately describe the role of a museum or gallery in caring for collections and holding them in trust for society.

The word 'objects' does not fully encompass all collections and potential exhibition content, for example performance art. Changing the definition to 'objects and works' would ensure it is applicable to all types of museum collections, from fine art to natural history.

There are many examples of

We would therefore suggest the following amendments to the definition:

A museum or gallery is:

"a not-for-profit organisation working for public benefit devoted to the protection, preservation, exhibition and educational interpretation of a collection of objects or works having scientific, historical or artistic interest";

or:

"a not-for-profit organisation working for public benefit devoted to the exhibition and educational interpretation of a collection of objects or works having scientific, historical or artistic interest".

These amendments would offer clarity by using terms and definitions more widely utilised and understood across the museum sector, ensure that the most appropriate range of museums and galleries will qualify for the relief, and exclude organisations working solely for commercial purposes, thus more effectively meeting the government's stated objectives for the scheme.

4.2 The definition of an exhibition

Proposed definition of an exhibition for purposes of a tax relief:

The proposed definition of an exhibition is "an organised and temporary display of a selection of works of art or items of interest held in a qualifying museum or art gallery. The exhibition must be open and accessible to the general public." To qualify as temporary, the period between opening and closing the exhibition to the general public must not exceed one year at a single location.

An exhibition will not qualify for relief if:

- one of the main purposes is to advertise or promote goods or services

- *it is not open and accessible to the general public*
- *it is exhibited in a museum or gallery that does not meet the definitions above*
- *the purpose is to sell the exhibit or exhibits*

Questions 5-7

- Is there a more accurate definition of an exhibition that would allow qualifying institutions to claim relief for the most appropriate range of displays?
- Does a period of up to one year accurately reflect the length of time a temporary exhibition would remain open to the public?
- In addition to those mentioned in box 4B, are there any types or characteristics of an exhibition that you think should be excluded from the relief?

As detailed above, NMDC urges the removal of the one year time limit to enable museums of all types and sizes, and the audiences they serve across the UK, to benefit from the relief and to ensure the scheme fulfils the government's objectives.

The length of time a temporary exhibition remains open to the public varies widely. Many large national museums have a regular programme of large temporary exhibitions running for 3 to 6 months, while many small museums do not have temporary exhibition spaces and thus the definition of a temporary exhibition proposed here is not applicable.

The current definition refers to works or items in the plural. However, there are good examples of exhibitions comprising a single work or object – such as the National Gallery's Masterpiece Tour – which represent more than a simple loan, are accompanied by a package of display and educational material and are promoted by recipient organisations as an incoming exhibition. We would therefore propose that the definition is amended to 'a single or selection of works'.

We support the prohibition of exhibitions without general public access or for the purpose of selling the exhibits.

4.3 The definition of a touring exhibition

What constitutes a touring exhibition:

An exhibition will only qualify as touring if the institution shows evidence at the beginning of the planning phase of the exhibition that it will present the exhibition in at least one other museum or gallery in a different location falling within the proposed definitions above. A museum or gallery that tours an exhibition to a different branch of that same institution will still be eligible for relief.

Questions 8-12

- Is there a more accurate definition of a touring exhibition that would allow institutions to tour their exhibitions to other museums and galleries?
- How soon in advance is it decided that an exhibition will be toured?
- What kind of model is most likely to be employed for touring, i.e. would it be led by one organisation, split between two institutions, etc?
- 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?
- If an exhibition is toured internationally, when and where are the costs normally paid?

We would suggest that – unless there is a different rate of relief for touring and temporary exhibitions – a separate category for touring exhibitions is not required for the effective operation of the tax relief scheme, since all temporary exhibitions should be eligible whether they tour or not. This would also simplify the structure and working of the scheme.

The requirement for institutions to demonstrate at the beginning of the planning phase that the exhibition will tour to other venues is problematic, as it does not allow for flexibility or changes to plans as work developed. An exhibition might not initially be planned as a touring exhibition but then travel to other venues after its inception if it is particularly popular with the public, for example.

A solution to this – particularly if the separate category for touring exhibitions is removed – would be for each partner in a touring exhibition to claim separately for their part of the project from the point at which they begin to incur costs, i.e. a touring exhibition would result in a set of separate claims from each participating organisation or venue. In the case of exhibitions created in partnership, we would propose that the partners select one lead organisation which would claim the relief on behalf of all partner organisations.

The requirement for touring exhibitions to be presented in at least one other museum or gallery could be restrictive, since exhibition venues are increasingly diverse and a touring exhibition might not be presented in any other formal museum or gallery setting after leaving the originating institution. We therefore propose that the wording ‘at least one other museum or gallery’ is replaced by ‘at least one other venue’.

The models employed for touring exhibitions, the interaction between partners and the way in which costs are split and paid all vary very widely across the sector, depending on the size of the institutions, the nature of the exhibition, the types of works or objects and the partner organisations involved.

4.4 Qualifying ‘core’ expenditure

Question 13

- What costs are integral to the exhibition process itself and should therefore be eligible for relief? Please explain your choices.

We suggest some amendments to the definitions of eligible and non-eligible costs to ensure clarity and accuracy and to ensure that all costs relating to an exhibition are included – for example, there may be legal fees relating to a loan that are easily identifiable as specific to an exhibition rather than a core running cost.

Qualifying ‘core’ expenditure – to qualify, the cost must be directly linked to the exhibition:

- curator and research costs
- costs of commissioning artists
- exhibition installation and deinstallation
- exhibit loan costs
- conservation costs for exhibition objects or works
- digital ~~spending~~ content
- insurance and transportation costs
- costs of temporary storage for loan items
- exhibition specific venue costs (including set-up) and exhibition hire
- administration and legal fees that are linked directly to the exhibition

Ineligible costs:

- general museum costs and running costs of exhibition
- cost of financing
- fees, including general legal and accounting fees

- acquisition costs
- storage costs
- marketing and advertising
- infrastructure costs not solely related to the new exhibition

4.5 Claims process

Questions 14-16

- 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.
- Would the requirement to be incorporated affect current funding or subsidy/exemptions that are received by some museums? If so, please explain how.
- Are there any other specific design points which need to be addressed?

Most national and independent museums already have mechanisms in place to enable them to utilise the scheme, so it would not cause additional administrative burdens. There will be some additional administrative burdens and costs for e.g. implementing and updating contracts, additional legal fees and ongoing administration of separate trading companies.

The exception to this is some local authority museums which do not already have trading subsidiaries and thus will not be able to benefit from the scheme. For these organisations there will be an additional burden in setting up a subsidiaries, assuming their local authority allows it.

We appreciate there is no workable way around this problem, since the scheme takes the form of a corporation tax relief, but would note that the part of the sector dealing with the greatest financial uncertainty – those museums reliant on local authority funding which is in many cases being drastically and swiftly reduced – will be least able to benefit from the relief. We would also note, however, that the tax relief could be an added incentive for local authorities to let museums set up trading subsidiaries, which could have numerous other benefits in offering greater freedom from local authority control and encouraging entrepreneurialism.

The requirement to be incorporated would not affect current funding or exemptions for most museums.

There is a need for clarity on what will be eligible as qualifying income.

5. Other issues

5.2 State aid

Question 17

- Can you give examples of other sources of funding that you receive for exhibitions?

Exhibitions funding can come from a wide range of sources, including:

- 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

Questions 18-19

- Would the strategy outlined above be an appropriate way of preventing abuse of the new tax relief?
- Are there specific areas in addition to those mentioned above that create the opportunity for abuse?

The strategy is appropriate and as far as we are aware there are not any other specific areas that create the opportunity for abuse.

Appendix: Further supporting evidence

1. Sector-wide indicative costs: HLF

The Heritage Lottery Fund (HLF) provide grants for the majority of new exhibitions created as part of capital redevelopment projects or permanent gallery redisplays in UK museums. This includes major, once in a generation, projects such as the recent redevelopments of Imperial War Museum London or the Ashmolean Museum.

In each of the past five years HLF has contributed to an average of 39 projects with exhibitions that last longer than a year, with values ranging from £55.9m to £125.9m (an average of £87.2m).

Of this typically 20-25% of the total project cost is spent on exhibitions – so at 25% this would mean £21.8m in total, 80% of which would be eligible for the relief (£17.44m). At a rate of 20% this would result in a total tax relief claim across the sector of £3.5m, in addition to claims for short term temporary and touring exhibitions.

Year	Total no. of projects funded by HLF*	Total project cost*	Exhibition cost (based on typical rate of 25%)	Tax relief claim at 20%
2011/12	38	£55.9m	£14m	£2.2m
2012/13	51	£114m	£28.5m	£4.6m
2013/14	31	£70.5m	£17.6m	£2.8m
2014/15	35	£69.9m	£17.5m	£2.8m
2015/16	41	£125.9m	£31.5m	£5m
Average	39	£87.2m	£21.8m	£3.5m

* Figures supplied by HLF, October 2016.

2. Case study: National Gallery

Estimates of total claims for both temporary and permanent exhibitions, based on 2017-18 outline proposals for National Gallery activity:

Temporary exhibitions	Tax relief claim at 20%	Permanent displays	Tax relief claim at 20%
£3.4m	£0.26m	£0.3m	£0.01m

3. Case study: Imperial War Museums

Temporary exhibitions

On an annual basis IWM spends between £1.5m and £1.8m on temporary exhibition costs across its five branches.

Permanent gallery development – Transforming IWM London

For the transforming IWML phase 1 project – which including the redevelopment of the First World War permanent exhibition galleries – the total exhibition costs were £9.95m, of a £40m project. The total claim for tax relief would therefore have been £1.53m.

A summary of indicative eligible costs per year and the amount of relief that could be claimed, for both temporary exhibitions and permanent displays, is as follows:

Branch	Temporary exhibitions (£000s)	Tax relief claim at 20%	Permanent displays (£000s)	Tax relief claim at 20%
IWM London	1,106	177	105	17
IWM North	303	48	61	10
Churchill War Rooms			165	26
HMS Belfast			68	11
IWM Duxford			82	13
Total	1,409	225	481	77

3. Case study: Science Museum Group

Science Museum Group (SMG) is a group of 4 museums, each with their own identified masterplan for development and redisplay of galleries along with a temporary exhibition programme.

At the Science Museum, in general there is one major ticketed exhibition mounted each year, together with a contemporary science exhibition and one other generally free-to-enter exhibition. A masterplan is in place to develop certain galleries – these projects range from very significant major developments, such as the Medicine Galleries – a £24m HLF-funded project to transform the first floor of the museum – to smaller re-display projects. Such is the scale of the museum that there is a continual programme of gallery redevelopment projects. Most of these will span several years from concept to completion, with the exhibition-related costs – such as curatorial time, design and object-related work – taking place across the entire period (i.e. it would not be easy to identify one single year in which the eligible costs would arise).

SMG has a touring programme in place, with 2 or 3 tours underway at any point in time. Tours tend to be national (including within the group of museums) and then international. Tours tend to run over 3 years or more. Each tour – and the related cost – is separately identifiable. At each of the other museums, there is at least one exhibition mounted each year. In addition, there are plans to refurbish and redisplay objects at each museum.

The level of eligible costs in gallery refurbishment projects will vary depending on the nature of the project. The key difference between redisplays and exhibitions is that gallery redisplay projects generally include a significant amount of infrastructure and capital work – improvements to plant and the fabric of the building. These costs would not be eligible for tax relief, so the proportion of eligible costs would be much lower for these types of projects than for temporary exhibitions. For this exercise it has been assumed that 25% of total project cost would be eligible exhibition costs and that 85% of those would be eligible for the relief.

In arriving at an estimate of a typical year, a range of live projects has been taken and used an indicative figure for the costs that might arise in a single year. This will vary year-on-year. Values are £'000s:

Venue	Temporary exhibitions		Permanent displays	
	Indicative annual cost	Estimated eligible cost	Indicative annual cost	Estimated eligible cost
Science Museum, London	2,800	2,380	9,500	2,375
Museum of Science and Industry, Manchester	450	383	500	125
National Media Museum, Bradford	100	85	500	125
National Railway Museum, York	200	170	1,500	375
Touring exhibitions	300	255		
	3,850	3,273	12,000	3,000

The estimated eligible costs in an illustrative financial year are £6.3m, based on the assumptions described above. This splits fairly evenly between display and exhibition activities (assuming that the proportion of eligible costs proves to be accurate).