
Art Fund, the Association for Independent Museums, the National Museum Directors' Council and the Museum Association's joint response to the Charity Tax Commission's call for evidence of the current charity tax system

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1. Who are we?

- 1.1. Art Fund is the national fundraising charity for art. In the past five years alone it has given £34 million to help museums and galleries acquire works of art for their collections. It also helps museums share their collections with wider audiences by supporting a range of tours and exhibitions, and makes additional grants to support the training and professional development of curators. Art Fund is independently funded, with the core of its income provided by 139,000 members who receive the National Art Pass and enjoy free entry to over 320 museums, galleries and historic places across the UK, as well as 50% off entry to major exhibitions and subscription to Art Quarterly magazine. Art Fund's support for museums includes Art Fund Museum of the Year (won by Tate St Ives in 2018) and a range of digital platforms, including Art Happens, our crowdfunding platform, and Art Tickets, our online ticket booking service. Find out more about Art Fund at www.artfund.org
- 1.2. The Association for Independent Museums (AIM) speaks for its 1200 members across the UK, including over 900 museums and galleries. It was established in 1977 and represents the independent museum sector – those museums and galleries that are independent of local or central government control. Independent museums are the most numerous part of the museum sector including over 60% of all museums, with collective visitor numbers over 9 million¹ p.a. Together they generate £1.17bn of income each year². For more information visit our website at www.aim-museums.co.uk
- 1.3. The National Museum Directors' Council (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, the National Archives and Royal Botanic Gardens Kew. NMDC acts as an advocate on behalf of members and their collective priorities and provides them with a valuable forum for discussion and debate and an opportunity to share information and work collaboratively. While our members are funded by government, the NMDC is an independent, non-governmental organisation. For more information about NMDC and our activity see our website: www.nationalmuseums.org.uk

¹ DC Research. 2009. *The Economic Impact of Independent Museums*. Available at: <http://www.aim-museums.co.uk/downloads/2cef984a-dd70-11e1-bdfc-001999b209eb.pdf>

² TBR. 2015. *The Economic Impact of Museums in England*. Available at http://www.artscouncil.org.uk/sites/default/files/download-file/Economic_Impact_of_Museums_in_England_report.pdf

1.4. The Museums Association (MA) is a membership organisation representing and supporting museums and people who work for them, throughout the UK. Our membership of over 8000 includes all types of museums, from small volunteer-run local museums to large national institutions and people working in all types of roles from directors to trainees. Founded in 1889, the MA was the world's first professional body for museums. We lead thinking in UK museums with initiatives such as Collections for the Future, Museums 2020 and, most recently, Museums Change Lives. We receive no regular public funding, and we do not wish to do so. For more information about the Museums Association, see our website: <http://www.museumsassociation.org/home>

2. Introduction

- 2.1. Museums benefit from a range of tax reliefs including those regarding gifts of cash e.g. Gift Aid, Payroll Giving, Corporate Giving and Legacies, and for the gifting, transferring or sale of works of art or cultural objects e.g. the Cultural Gifts Scheme, Acceptance in Lieu, Conditional Exemption and Private Treaty Sales.
- 2.2. We warmly welcomed the introduction of the Museums & Galleries Exhibitions Tax Relief and believe that it will support museums and galleries across the UK to create new permanent, temporary or touring exhibitions, offering relief up to £80,000 for non-touring and £100,000 for touring exhibitions.
- 2.3. Tax reliefs provide valuable support for the sector enabling it to raise and retain crucial funds in a climate of public funding cuts. The Mendoza Review calculated that public funding to museums fell by 13% in real terms in the ten years from 2007, and reported that this impact has been felt more sharply by local authority-funded museums.³ Recent statistics show that local authority spending on cultural and related services fell by 34.9% between 2010/11 and 2017/18 in England⁴, and in 2017 the MA discovered that at least 60 museums have closed in the UK since 2010, largely due to public funding cuts.
- 2.4. While we recognise the importance and immense value of existing tax incentives, we also welcome the opportunity to share our views on how these systems can be made even more effective to further support museums and galleries across the UK.
- 2.5. As highlighted in the 2014 Charities Aid Foundation report Give Me a Break⁵, the UK has a relatively sophisticated range of incentives to encourage charitable giving, however they are often archaic, complicated and fragmented, and therefore more confusing for donors, meaning levels of awareness of the various methods of tax-efficient giving remain relatively low. It also makes it difficult for museums to communicate simply and directly with potential donors.
- 2.6. Simplifying and clarifying the routes into philanthropy, and making giving more attractive and efficient, would empower museums to engage donors more effectively. To help with this, Art Fund produced a Guide to Giving in 2012, which was updated in 2014, to assist donors to understand how to gift, sell, transfer or bequeath works of art and cultural objects to a

³ Neil Mendoza. 2017. The Mendoza Review: an independent review of museums in England. Available online at: https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/673935/The_Mendoza_Review_an_independent_review_of_museums_in_England.pdf

⁴ National Audit Office. 2018. Financial sustainability of local authorities 2018. Available online at: <https://www.nao.org.uk/wp-content/uploads/2018/03/Financial-sustainability-of-local-authorities-2018.pdf>

⁵ Charities Aid Foundation. 2014. Give Me a Break: Why the UK should not aspire to a "US-style" culture of charitable giving. Available online https://www.cafonline.org/docs/default-source/about-us-publications/give-me-a-break-giving-thought-discussion-paper-no-1.pdf?sfvrsn=943bf440_6

museum or the nation. Art Fund is currently considering how this guidance can be repurposed to support museums to feel more confident about navigating the various and complicated routes to philanthropy.

3. Consultation response

Gift Aid

- 3.1. Gift Aid is one of the most important ways that charitable museums are supported by government. Take up of Gift Aid on donations is much higher amongst museums than amongst charities as a whole (80% in a 2014 AIM survey compared to 50% for all charities reported by SONI in 2014) and its fundamental importance to the ongoing sustainability of many independent museums cannot be overstated.
- 3.2. The barriers to participating in Gift Aid on donations are primarily related to the complexity of administration processes and the restrictiveness and complexity of the regulations regarding donor benefits.
- 3.3. At present, the value of a benefit is calculated on the value of that benefit to the recipient, not the cost of it to the charity. However, experience shows that attributing a retail value to items where the value is highly subjective and individually perceived is difficult (see Annex 1 for an example of some of the unique and bespoke rewards available to donors through Art Fund's free crowdfunding platform created especially for museums and galleries, Art Happens). In such circumstances, HMRC recommends that charities should establish how much the donor would be prepared to pay for a benefit by looking at the value of similar items or services. However, it is similarly difficult to determine how donors perceive the value of their rewards without an equivalent retail value, or knowing how donors perceive value – e.g. is the reward of inconsequential value to them? Are they paying for the reward plus an additional donation, or are they paying for the benefit alone?
- 3.4. In instances where benefits do not have a clearly defined retail value, the current rules force charities, including Art Fund, to adopt a conservative approach where no Gift Aid is claimed on donations where the donor receives a benefit.
- 3.5. We therefore recommend that the Gift Aid Donor Benefits rules be amended so that the benefit value is calculated based on the cost to the charity to provide that benefit, as is currently the case with events that are not open to the public (whereby the value of the benefit is determined by the cost of putting on the event to the charity divided by the number of guests). This would provide charities with certainty and security when working with donor benefits and would support the Government to achieve its stated aim of maximising the amount of Gift Aid claimed on eligible donations.
- 3.6. We understand that HMRC has created a working group to consider guidance and interpretation of legislation around donor benefits. We look forward to the publication of this guidance and would like to see it issue clear and detailed instructions on valuing donor benefits, with a particular focus on how charities can claim Gift Aid on eligible donations that offer unique and bespoke benefits without equivalent retail values.
- 3.7. The Gift Aid on Admissions scheme is a vital recognition of the way that the public supports museums, by visiting them and engaging with them. The complexity of this scheme, with its two variations, makes it hard to explain to the public and difficult for museums to administer, preventing both individual visitors and some museums from participating in it.

We believe that the scheme needs to be simplified. One way of doing this would be to return to the original method which made all day visits by UK tax-payers eligible for Gift Aid, without the need for an additional donation or to give an annual pass. Simplification would result in fewer incorrect claims, closing the tax gap on Gift Aid and would increase participation in the scheme by museums and the public.

Inheritance Tax

- 3.8. Museums and charities, including Art Fund, receive generous donations from individuals during their lifetime and/or through legacy gifts in their wills.
- 3.9. Art Fund responded to the Office for Tax Simplification's consultation on Inheritance Tax (IHT) in June 2018. In summary, Art Fund outlined that IHT is not well understood by members of the public and in some cases by advisers. The charity is frequently contacted by those who intend to benefit Art Fund in their will but who are confused by IHT, how it is levied, and what tax benefits they might receive through donating some of their estate to charity. In particular, Art Fund has found that many potential donors are misinformed about the charitable giving rules, whereby some consider that they could benefit from a 10% reduction in IHT (i.e. payable at 30% as opposed to a reduction to 36%).
- 3.10. We would therefore welcome a simplification of the system which would help potential donors to understand the options available to them. It would also be of benefit to create more links between different webpages of advice on the Government website to ensure that donors are able to receive full and correct information in a straightforward manner.

VAT

- 3.11. Cultural exemption means that the admission charges of eligible organisations are exempt from VAT and thus no VAT has to be added to ticket prices. It applies to a range of cultural organisations including museums who are deemed to be 'eligible' according to three tests.
- 3.12. If a museum is deemed to be cultural exempt it can keep its full admission income, however it cannot then recover VAT relating to the supply of exempt services. On a day-to-day basis this means having to apportion VAT between exempt and business activity.
- 3.13. The cultural exemption rules for VAT are complicated and discriminate against smaller organisations which often cannot afford the professional advice that is needed to successfully navigate charity VAT. Any simplification would be welcome, as would the ability to recover input VAT on exempt charitable supplies.

Business rates

- 3.14. A beneficial business rates environment is one of the key ways in which the government supports museums. Over half the museums in the UK are charities and benefit from 80% mandatory relief on business rates for their properties, many of which are historic buildings and sites in their own right. It is vital that this relief is protected as business rates are devolved to local authorities. Three quarters also benefit from some amount of discretionary relief but this has already been reduced for many and will be increasingly under threat as local authorities own finances are squeezed. 60% of museums responding to a survey in 2015 fear their rates bill would increase in the future.

- 3.15. Due to a combination of factors, business rates are an increasing cost facing the museum sector. Rates are calculated from the Rateable Value and a nationally set multiplier. The Rateable Values for museums have increased between the 2010 and 2017 Rating Lists leading to increased liabilities despite the slight fall in the national multiplier. The valuations being applied are widely variable depending upon the method of valuation being adopted by the Valuation Office Agency (VOA).
- 3.16. Independent and national museums run by charitable trusts benefit from 80% mandatory Charitable Relief. Historically around 50% of independent museums also received additional Discretionary Relief up to 20% thereby removing any liability for business rates entirely for some museums. Due to cut backs in local government funding the availability of Discretionary Relief has been reduced. Local authority and county council museums receive no relief from business rates.
- 3.17. As more museums are now paying rates, the issue of whether the valuation of their properties is fundamentally fair has become increasingly urgent. In many cases it is not fair, but challenging the valuation is expensive and complicated. Around half of museums in England and Wales are subject to valuation using the Contractors method, which calculates rates based on the assumed cost of rebuilding the property. For museums, which are often based in historic properties, this is neither fair nor reasonable, owing to the fact that it produces a dramatically higher rateable value than the alternative valuation method of Receipts and Expenditure, which has regard to the trading potential and the cost of running the property. The choice of valuation method is determined by the VOA, which is tasked with setting and maintaining fair and reasonable rateable values, and while a recent court case brought by York Museums Trust determined that the use of the Contractor's Method by the VOA was unfair, it was left to individual museums to bring similar legal challenges on a site-by-site basis across the country. There is clear scope for simplification here, although it must be recognised that for some museum sites, the Contractors method does result in a lower rateable value than the Receipts and Expenditure method.
- 3.18. The creation of separate trading companies by charities, including museums, in line with best practice guidance from the Charity Commission means that some museum assessments are being split with the valuable shops, cafes, and other income generating portions of the building becoming liable for business rates without the benefit of Charitable Relief. Potentially the mixed use of buildings with substantial income being generated from non-charitable activities in order to fund the charitable operation could, based on an interpretation of use being applied by some local authorities, threaten the removal of Charitable Relief for the whole museum. All of this is set against a background of reduced funding and an increased drive from Government to increase museums' entrepreneurial activity.

Encouraging greater corporate giving

- 3.19. Corporate support for arts and culture has been in decline in recent years. A successful model to motivate increased corporate funding for cultural organisations is Brazil's Rouanet Law, which allows tax breaks on giving and sponsorship for cultural activities. The tax incentive enables businesses to invest a part of their payable corporation tax in cultural activities in a similar way to the existing UK system applying to charitable giving, but has three additional benefits:

- It allows a tax deduction for sponsorship (at a lesser rate than for donations). This has been highly successful in encouraging corporate sponsorship of cultural organisations. Under the existing UK scheme, sponsorship arrangements are treated separately.
- It applies to all cultural organisations, not only those with charitable status but broadening to those under local authority control.
- It is a targeted, well-branded and well-known scheme amongst the business community and cultural organisations. A similarly branded scheme in the UK would help to raise the profile of corporate philanthropy and sponsorship.

3.20. If DCMS and HM Treasury were to give serious consideration to implementing such a scheme – either as a standalone scheme or as a reform of the existing tax rules on charitable giving – this could galvanise a step-change in corporate support for museums.

Conditional Exemption and Private Treaty Sales (PTS)

3.21. Conditional Exemption enables pre-eminent works of art and cultural objects to be exempt from IHT and Capital Gains Tax when they pass to a new owner either as the result of a death or as a gift.

3.22. Conditional Exemption plays a large role in supporting museums to purchase important works for their collections. We believe that the system could be strengthened in the following ways to further encourage pre-eminent works to enter public ownership.

- The owners of conditionally exempt works must give the Arts Council three months' notice that they intend to sell their conditionally exempt objects or works. This is not currently a requirement of the scheme as evidenced by the private sale of Pontormo's *Portrait of a Young Man in a Red Cap* before the work was later export stopped. We are aware that if an owner of a conditionally exempt work does not give the Arts Council the three months' intention to sell notice and applies for an export licence, that usually a longer deferral period will be recommended by the Reviewing Committee and put into in place by the Secretary of State. We do not believe that this measure is sufficient to incentivise owners of conditionally exempt works to give such notice, and further recognise that this does not provide museums and galleries with the opportunity to purchase conditionally exempt objects and works which are sold and kept in the UK and do not require export licences.
- It should be a requirement that the owner of a conditionally exempt work does not enter into any legally binding consignment agreement with an auction house, dealer or agent until after the notice period expires. This is not currently a requirement of the scheme, as evidenced by the private sale of Pontormo's *Portrait of a Young Man in a Red Cap* which was sold without reference to HMRC or the Arts Council.
- Following a declaration of such intention, a museum willing to acquire the work would be granted at least a further three-month period to afford them time to raise funds to acquire the object. The current three month 'intention to sell' period, where complied with by owners of conditionally exempt work, is not sufficiently long to enable a museum to build a case for acquisition and begin fundraising. Our recommendation would remedy this and bring the process into line with the current export licensing process for works of art, thereby making it better understandable to funders.

- The owner of the conditionally exempt work should enter into a fundraising-dependent contract of sale. This would ensure that the owner will sell if the museum raises the necessary funds to acquire the conditionally exempt object.

3.23. Additionally, the expansion of the list of Schedule 3 bodies to include all Accredited museums and galleries in the UK would enable all museums to develop relationships with private collectors and pursue Private Treaty Sales, which frequently offer a substantial financial advantage to both vendors and institutional buyers.

The Cultural Gifts Scheme

3.24. The Cultural Gifts Scheme (CGS), a tax incentive scheme to encourage UK taxpayers to donate pre-eminent works for the public benefit, was introduced by the Finance Act 2012 and came into effect in 2013. The Scheme performs well and gifts through the scheme have increased year on year as donors and museums are becoming more aware and familiar with the process. Recent successes include the Snowman Collection being gifted to the V&A in 2016/17, and a showroom ceiling produced by George Smith & Co Sun Foundry being allocated to Historic Environment Scotland in 2015/16.

3.25. There is potential for the scheme to go even further and enable more museums and galleries to receive culturally significant objects across the UK. Art Fund is working with DACS and Museums Sheffield to examine ways to further strengthen the scheme. Their aim is to secure the UK's current and future artistic and cultural legacy through ensuring that more and important works of art and cultural objects are gifted to UK museums and galleries. And in so doing to promote and encourage a stronger culture of philanthropy, especially in our great civic museums beyond London. The working groups objectives are to:

- Raise awareness of and bust myths around the CGS to museums, donors and tax advisors.
- Consider whether the tax incentive offered under the CGS should be made more attractive.
- Ensure that living artists can gift their works through the CGS.
- Better support museums to maintain, interpret and care for, and make the most of, a cultural gift.

3.26. In October 2017 Art Fund, DACS and Museums Sheffield held a workshop for museums across the UK to discuss their experience of the CGS. A key barrier identified towards accessing the scheme related to the varying levels of awareness and understanding of the scheme – including what gifts would meet the CGS pre-eminence criteria, and regarding the level of support provided by the Arts Council, in that many museums were unaware that they can approach ACE for support e.g. to request a pre-application steer on whether a gift might be accepted to minimise any reputational and relationship risks of a donor's work not being accepted through the Scheme. Work is therefore progressing in this and other areas in relation to the working groups aims.

Annex 1: Example of the rewards available through Art Happens

Table 1 shows an example of the unique and bespoke rewards available to donors through Art Fund’s innovative crowdfunding platform, Art Happens. As it is impossible to attribute a retail value for these rewards, Art Fund is currently unable to claim any Gift Aid on donations to Art Happens where the donor receives a benefit.

Table 1: Example of Ditchling Museum of Art + Craft’s Art Happens Big Steam Print Campaign which raised funds to take a vintage steamroller on a printing tour	
Donation	Reward
£5	Regular project updates and a citation on the Art Happens website.
£15	Eight customised postcards, featuring Big Steam Print designs by Anthony Burrill, Angie Lewin, Jonny Hannah and others. Plus updates and an online citation.
£25	A blue Big Steam Print tote bag designed by Lucky Budgie Letterpress especially for the campaign. Plus project updates and an online citation.
£45	Big Steam Print tote bag, plus an invitation (with a +1) to the private view of the Big Steam Print exhibition. Project updates and an online citation.
£60	A signed letterpress poster (51mm x 770mm) by graphic artist Anthony Burrill, inspired by Ditchling Museum founders Hilary and Joanna Bourne. Plus two tickets to Burrill’s talk <i>How to Use Words Properly</i> at Sallis Benney Theatre, Brighton.
£100	An A3 framed print of Lucky Budgie Letterpress’s Big Steam Print design, which has been designed especially for the campaign, freshly printed by our 12.5-tonne steamroller, plus a blue tote bag (see £25 reward).
£200	Beautiful numbered and signed limited-edition (1/50) ART print by printmaker Thomas Mayo. 420 x 297 mm (A3), 300gsm Naturalis Vanilla Smooth, five-colour letterpress print made with laser-cut wood type. Plus a tour of the museum’s letterpress archives by our director or curator, and cream tea with award-winning Ditchling sparkling wine (both with +1).
£450	Ride the steamroller over your own print! Select letters that have been specially laser-cut to write a word of your choice and also choose a symbol which will be laser-cut just for you. Plus an invitation to a private view a (with a +1), updates and a citation.
£995	A once-in-a-lifetime opportunity to design and steamroll your own bespoke Big Steam Print! This reward is available to individuals or groups, and would be perfect for a team-building exercise. Prints can be linocut in a workshop or designs can be laser-cut, e.g. an exact copy of your design.