

Response to the OTS review of Tax Simplification

To: ots-reliefs@ots.gsi.gov.uk

We understand the Office of Tax Simplification (OTS) is undertaking a review of tax reliefs, allowances and exemptions, with a view to identifying those that should be simplified or repealed. We welcome the opportunity to feed into this review and this response is written on behalf of the National Museum Directors' Conference (NMDC), which represents the leaders of the UK's National Collections and major regional museums www.nationalmuseums.org.uk. This response has also been produced in discussion with colleagues from the MLA and the Art Fund.

This response is part of wider work in which the NMDC and other members of cultural bodies are involved around the philanthropy agenda - going back to 2008, when a number of these bodies produced the document [Private Giving for the Public Good](#). We are firmly committed to maintaining current incentives which contribute towards promoting a culture of philanthropy. Support for museums and other cultural institutions to attract private donations is ever more important in the current economic climate. We feel strongly that, to support a change in the giving culture, all signals for promoting philanthropy should point in the same direction. Such an approach would include an unabashed celebration of philanthropy, public recognition of the contribution made by philanthropists, and fiscal incentives to encourage a culture of giving.

On this final point, we welcome the Government's commitment, noted in The Cabinet Office's Green Paper on Giving, to review the relationship between financial incentives and giving. We believe that this will offer a crucial opportunity to look at changes to the tax regime and other incentives to support one off and regular giving.

In our response we have, of course, been more specific to the tax regimes under review and submit our views on a number of the detailed areas below. Whilst we believe that these are important, we also believe that the way in which philanthropists are treated in the tax system is extremely important and links into the wider issue of how we recognise those who give generously to the nation.

The review criteria

The five criteria against which the OTS will assess each incentive seem logical and fair. However, the review currently takes no account of the public benefit of existing measures. The public 'good' offered by the three schemes outlined below far outweighs any individual benefit gained: each was put in place to preserve, acquire and/or make accessible important works of art and heritage objects, now and for future generations. We suggest that an additional criterion is needed to take into account the public benefit of incentives.

Conditional Exemption (692; IHT 1984 s30)

Owners of significant historical objects, buildings or land can defer paying capital taxes owed if he or she undertakes to properly care for and allow public access to them. The aim is to preserve the UK's cultural heritage for public enjoyment; and to provide public access which would not otherwise be available. If the owner fails to fulfil their side of the obligation, the exemption is withdrawn and tax is payable. Tax is also payable if the item is sold. We understand that Conditional Exemption scheme is currently a net contributor to HM Treasury

as there is more tax brought in from the sale of items previously granted conditional exemption than is not collected by virtue of new exemptions.

There are just over 100,000 assets currently on the Register of Exempt Arts, along with 360 historic houses, Areas of Outstanding Natural Beauty and Sites of Special Scientific Interest that the public are able to enjoy through the scheme. Just under 5 million people visited the historic properties designated for tax in the last year alone. In addition the museums which display conditionally exempted objects include most of the main national museums and galleries. The DCMS sponsored museums have a combined annual visitor number of over 42 million (2009-10 figures). Conditionally exempted objects are also on display in many of the main regional museums, providing access to the public across the UK.

The scheme additionally provides the basis for Private Treaty Sales (see below); to qualify for a PTS, objects must first be granted conditional exemption. We feel it is therefore critically important that conditional exemption is retained.

Private Treaty Sales (740; IHT 1984 s231)

Some objects can be purchased by private treaty by a body listed in Schedule 3 of the 1984 Inheritance Tax Act (which includes most UK public museums, galleries and archives) at a price which is beneficial to both the public purchaser and private vendor. The arrangement entails mutual sharing of the benefit of fiscal exemption between the vendor and the purchaser - the vendor typically obtains an incentive of 25% and the purchase price is reduced by 75%, of the IHT and/or CGT otherwise payable.

Private Treaty Sales (PTS) essentially encourage owners of significant works of art to sell their works to public collections rather than on the open market. This allows UK museums to acquire significant objects for the public at below market value. If the relief were repealed, a greater number of vendors would sell on the open market, increasing the competition to purchase and the price to UK museums.

While there is no central database of works acquired through PTS, it is estimated that 5% of all museum purchases are acquired using this scheme. In the last ten years the Art Fund, for example, has helped museums buy 77 works of art offered through a PTS, with a total value of almost £200 million.

There is no additional complexity or administrative burden in making use of the PTS mechanism as the calculation required for PTS is that which would be required for calculating the tax payable on the sale, were it subject to capital taxes.

We believe strongly that private treaty sales deliver significant public benefit to the nation and should be maintained.

Acceptance in Lieu (678; IHT 1984 s230-s231)

The Acceptance in Lieu (AIL) Scheme enables taxpayers to transfer important works of art and other heritage objects into public ownership while paying Inheritance Tax, or any of its earlier forms. The taxpayer in question's bill is reduced by the full open market value of the item, which is then allocated to a public museum, archive or library.

We welcome the fact that the review is not looking to repeal the AIL scheme, which has enabled thousands of important objects to pass into public ownership (over 300 in the last ten years alone, with a total value of more than £235 million). We believe, however, that there is potential to develop the scheme and achieve additional public benefit. This could be done in two ways – by extending the scheme to other taxes (for example CGT, Corporation Tax and Income Tax), to expand the range of objects and potential donors; and by introducing an element which incentivizes philanthropic giving. This would build on the strengths of the AIL scheme and encourage individuals to donate important art and heritage objects to the nation in their lifetime, in line with the government's commitment to boosting philanthropy. In

recent years the amount of tax settled by AIL has been well below previous levels of usage and the levels predicated a decade ago which would allow the scheme to be opened up to income tax and CGT, making the scheme cost neutral. We would be happy to provide more detail if needed.

Finally, we welcome the Government's commitment to simplifying the administration of the Gift Aid system. Gift aid is incredibly beneficial to our sector but we acknowledge that it is complicated to administer at present, for donor, recipient and Government. It is vital that Gift Aid retains its status as a tax relief, and crucially should remain linked to income tax rates. We are aware that Gift Aid is being treated slightly differently as part of this review and would be very happy to provide further detail on this area.

We would be very happy to attend a meeting to discuss this submission and please do contact lizzie.glithero-west@nationalmuseums.org.uk if you need any further information.