



Thursday 20th October 2011

David Gauke MP
Exchequer Secretary to the Treasury
HM Treasury
1 Horse Guards Road
London
SW1A 2HQ

Dear Minister,

We understand that representatives from HMRC and HM Treasury are due to report to you soon in relation to the implementation of the mandatory VAT cost-sharing exemption in Article 132(1)(f) of Council Directive 2006/112/EC. As you will be aware, the exemption has the potential to significantly benefit charities wanting to work efficiently and make cost savings by sharing services. We would like to take this opportunity to follow up on the meeting of 5th September (attended by Caron Bradshaw, CFDG, and Sir Stuart Etherington, NCVO) and clarify our position at this important juncture.

Firstly, thank you for taking the time to meet with us and hear our concerns about the exemption. As discussed, a follow up meeting to explore the 'independent group' condition was held on 6th October and attended by David Bond, Mark Hampson and Nicki Joad representing HMRC and HM Treasury, and a number of sector experts representing our three organisations.

The meeting was extremely constructive and we felt that HMRC was genuinely receptive to the concerns and views of charities. It was made clear that while constrained by the ambiguous wording of the exemption, and also by CJEU case law, they are keen to implement in a way that is as beneficial as possible to charities.

At the meeting we put forward an implementation model which we believe would allow charities to make use of the exemption, within the limitations of the wording. A copy of the briefing detailing these proposals, which we submitted to HMRC, is enclosed. HMRC informed us that this would be considered as part of their review of consultation responses and feedback from engagement with stakeholders.

We understand that you will be presented with findings shortly, and making a decision on how to proceed. In view of this, we would like to present a number of key observations:

- **The exemption should be implemented with the charity sector in mind.** We understand that there cannot be any charity-specific provisions within the

legislation; however, Government has been looking at the exemption in the context of the real benefits it could bring to the sector, for example in helping it compete more effectively for public sector contracts. We would strongly urge that the adopted end model is made as flexible and useful as possible for charities wishing to cooperate together and share common services to enhance and improve their service delivery to their communities, in line with the Government's Big Society programme and commissioning policy objectives.

- **To ensure take up from charities, any model adopted would need to allow one charity, with the existing systems, processes and specialisms, to supply their services to others.** (Our suggested model which would allow this is outlined in the enclosed briefing). Creating the formal, independent group structure with an umbrella body created to act as the supply company as proposed in the consultation document would be too large an undertaking for most charities – the associated costs in money and time, and the risks, would outweigh the benefits. There would be significant staff secondment issues and costs. We recognise that there are concerns that implementing too liberal a model would lead to abuse or a significant decrease in VAT receipts within other sectors. However we would highlight that the 'distortion of competition' clause is there to be used as mechanism to protect against misuse or abuse, and there are other restrictions and conditions built into the relief, such as the 'at cost' condition.
- **Timing is critical – charities need support now.** Faced with a challenging economic climate and funding reductions, charities are working as hard as possible to continue delivering high quality services to beneficiaries at a time when need is increasing – thus identifying ways to cut costs is a matter of urgency. Pooling back office and other services could deliver real cost savings and help ensure that resources are being shared efficiently and effectively in these difficult times.
- **We would urge Government to include the legislation in Finance Bill 2012.** The situation for charities is likely to deteriorate in the months ahead and to ensure sustainability in the short and long term the sector needs support now. For charities the exemption is not about getting a hand out, but being equipped with a mechanism which will allow efficient, common sense modes of working. We would also reiterate that this is a mandatory exemption and implementation in the UK is long overdue. Since the exact wording of the directive is to be used, further detail about the scope and applicability of the exemption can be addressed later in guidance.
- **The exemption is no panacea and Government should explore other solutions.** Even with the proposed amendments, Article 132(1)(f) will not provide a definitive solution to the overarching problem of VAT on shared services for charities. The conditions attached to the exemption will mean that it is not suitable for all charities, in all circumstances. We would therefore urge the Government to explore other charity-specific measures which can be taken outside of the exemption to enable cost sharing arrangements and prevent them being disincentivised by the tax system.

These points and more are included in our organisations' responses to the consultation, copies of which are also enclosed.

We would strongly ask that you consider these points and the position of charities when making your decision about how to proceed with the legislation. The current VAT charge on shared services acts as a real barrier to collaboration and this exemption could go some way in addressing this huge structural inconsistency and levelling the playing field. Meaningful implementation of the exemption would be a positive, concrete measure the Government could take to help charities fulfil their central role in delivering the Big Society vision.

We look forward to hearing how you plan to take this measure forward and would be grateful if you could keep us abreast of any developments. Please contact Melora Jezierska, CFDG policy officer, at melora.jezierska@cfdg.org.uk.

Yours sincerely,



Caron Bradshaw
CEO, Charity Finance Directors' Group



Sir Stuart Etherington
CEO, National Council for Voluntary Organisations



John Hemming
Chair, Charity Tax Group

Enclosures:

CFDG and NCVO consultation response

CTG consultation response

Briefing – position following meeting with HMRC on 6th October 2011

cc. Nick Hurd MP, Minister for Civil Society