

CLAS CIRCULAR 2010/20 (6 December 2010)

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EMPLOYMENT

Government Equality Strategy

**For information: but note the impending response on the
Default Retirement Age.**

The Government has published its [Equality Strategy: Building a Fairer Britain](#). The accompanying press release says that the strategy is built on two principles of equality - equal treatment and equal opportunity – and is aimed at changing culture and attitudes rather than dictating from the centre. It is also claimed that the Strategy sets out a new approach to delivering equality, moving away from identity politics towards an approach that recognises individuality. Government will promote equality through transparency and behaviour change and by working with businesses, the voluntary sector and wider civil society to create equal opportunities. In detail:

- the Government will continue to make targeted interventions where there is clear evidence that legislation is needed.
- the Government will work with employers, employees and wider society as an advocate for change instead of dictating what the right approach should be through regulation.
- the Government will support people to make the right choices, help to create equal opportunities and use transparency to drive accountability. Legislation is only part of this approach.
- in spite of the current economic situation, the Government recognises that 'money does matter when it comes to equality' and over the course of the current spending period will continue to prioritise interventions that will advance equality of opportunity and make the greatest difference to people's lives.

The approach will be based on five related principles:

- creating equal opportunities for all: moving from looking at solutions geared to special treatment for 'groups' to developing frameworks that help create fairness and opportunities for everyone by, for example, extending the right to request flexible working to all, and not simply those with caring responsibilities.
- devolving power to people: supporting everyone to participate in democratic structures and communities, to access the services they need and shape their own lives: instead of top-down targets the Government will devolve power, free up

businesses, public services, the voluntary sector, communities and citizens to develop solutions, and promote good practice.

- transparency: giving people the necessary information to challenge organisations that are not offering fair opportunities, and public services that are not delivering effectively for all the people they serve: the reshaped public sector Equality Duty will require public bodies to publish more information on equality than before, and demonstrate how they are delivering improvement, replacing bureaucratic accountability with democratic accountability.
- supporting social action: giving the voluntary sector and the public sector freedom to work together to innovate and help build a more inclusive and cohesive society based on tolerance and respect for all, for example, through the National Citizen Service.
- embedding equality: leading by example and embedding equality in everything that Government does.

The Government intends to publish a report in a year's time setting out what it has achieved. In addition:

- the ability to apply voluntary positive action in recruitment and promotion will be brought into force in April 2011;
- it is intended that by the end of the current Parliament 50 per cent of all new appointments to public boards will be women;
- the Government intends to announce further steps to improve lesbian, gay, bisexual and transgender equality in the workplace;
- the Government will go ahead with extending the right to request flexible working to all employees;
- flexible parental leave, allowing parents of all types of families to share leave between, them will be developed; and
- the Government intends to publish its response to the consultation on the removal of the Default Retirement Age by the end of year (of which there is not much left).

As to the last, the assumption is that the DRA is almost certain to be heavily modified, if not abolished completely.

[Source: *Government Equalities Office Press Release* - 2 December 2010]

FAITH & SOCIETY

End of Life Assistance (Scotland) Bill

For information.

On 1 December after the [Stage 1 debate](#) on its principle, Margo MacDonald's End of Life Assistance (Scotland) Bill was defeated in a division on the motion, That the Parliament agrees to the general principles of the Bill, by 16 votes to 85 with two abstentions.

[Source: *Scottish Parliament Minutes of Proceedings* – 1 December 2010]

Forthcoming Lords debate on Christianity

For information.

Lord Parekh has been successful in the House of Lords Motions for Balloted Debate; and on **13 January 2011** there will be a 2½-hour time-limited debate in which he will 'call attention to the role of Christianity in British public life'. In January we will report the highlights of the debate.

[Source: *House of Lords Minute* – 1 December 2010]

FUNDING

Gift Aid and the Fanning Report

For information.

HM Treasury has published the report by Peter Fanning, Chief Executive of the Chartered Institute of Taxation, on Gift Aid (GA) which was submitted to the Treasury on 13 October 2010. The Treasury has also published an [official response](#) from Justine Greening MP, Economic Secretary, who is responsible for charity taxation. At the meeting of the Gift Aid Forum on 30 November Greening outlined the Government's initial response to the recommendations and confirmed that there was 'much in the report that could be taken forward'. The Fanning Report can be downloaded from [this link](#).

The main points of the Economic Secretary's response are summarised below.

Taking Recommendations Forward: Charity Tax Forum

The Minister recognised that Gift Aid has been a success but said that it was important to build on that. She announced that HMRC would be setting up a Charity Tax Forum, with a wider membership than the Gift Aid Forum, to look at a number of issues, including VAT; but it will also have a role in progressing some of the recommendations in the Fanning Report. She concluded that the Forum had been useful in identifying the concerns and priorities of different parts of the charity sector and that the Fanning Report would help the Government in the reform process.

Simplification and administrative improvements to GA

- HMRC will 'move quickly' on a number of recommendations where guidance could be improved or clarified, including on oral declarations, split payments and sponsored events.
- The cost and benefits of on-line filing for Gift Aid claims will continue to be explored and the sector's views will be sought through the HMRC Charity Tax Forum.
- There is strong support for a Gift Aid Database which would have real advantages for charities. HMRC is unable to fund such the creation of such a database currently but it will be able to work with the sector to ensure that it meets legislative and audit requirements. As the Minister notes, the Charity Tax Group has been exploring the development of a database with potential suppliers.
- 'Intelligent forms' for charities will be launched in the New Year.

The sector is to keep HMRC informed of new technological innovations so they can advise how Gift Aid can apply.

Higher-rate relief redirection

HMRC has been asked to take forward consideration of a system of redirecting the higher-rate relief to the charity as part of its work with the HMRC Charity Tax Forum.

Promotion of Gift Aid

There is recognition that there is work to be done both to raise awareness of Gift Aid – particularly among potential donors – and to improve the knowledge and capability of charities. There is support for the Fanning Report's proposal that tax professionals might volunteer time and skills to help charities benefit from Gift Aid.

*Measures which will **not** be introduced*

- Gift Aid should not be applied to money equivalents such as donated goods and donated expenses because the Treasury argues that it would take Gift Aid away from being a relief on donations and increase its complexity.
- Couples will not be able to claim Gift Aid when only one of them donates on behalf of the couple because that risks severing the link between the individual donor and the tax that he or she has paid. That, in turn, could result in Gift Aid being reclassified as expenditure rather than tax foregone.
- The Treasury will not roll up Payroll Giving into Gift Aid but will consider ways of improving it and encouraging its use.

Small Charities

Recommendation 6 of the Fanning Report was that Ministers should have regard to the particular needs of small charities in the implementation of these proposals and give them priority when there is less pressure on public expenditure. The Minister's reply does not appear to address this recommendation directly.

Transitional relief

Greening also confirmed that transitional relief will not be extended:

It was introduced to address a particular problem resulting from the change in the basic rate of tax and was always intended to be temporary. The Treasury recognises that many charities are finding it hard in the current economic climate but feels that transitional relief is not the most effective way of addressing this. The £100m transition fund that was announced in the Budget will better target those charities in most need.

[Source: HM Treasury Press Release – 3 December 2010]

Transition Fund

For information.

Minister for Civil Society Nick Hurd announced on 30 November 2010 that the £100million Transition Fund to support charities, voluntary groups and social enterprises affected by public spending reductions was now open for applications. The fund is available to organisations with a turnover between £50,000 and £10million which have derived much of their funding from state sources. It will provide grants of between £12,500 and £500,000 to enable organisations to make the changes they need to become sustainable in the longer-term.

The Transition Fund is managed by the Big Fund, the non-lottery funding arm of the Big Lottery Fund. Applications can be made by visiting www.biglotteryfund.org.uk/transitionfund or calling: 0330 303 0110. The application process will close on **21 January 2011**.

[Source: *Cabinet Office News* – 30 November 2010]

ODDS & ENDS

Radio microphones: compensation

For urgent action if you have equipment that operates on Channel 69.

Member organisations are reminded that congregations using radio microphones which intend to claim compensation to help pay for the replacement of channel 69 equipment need to register **now** if they have not already done so. The scheme closes on **31 December 2010** and any claim received after that date will not be accepted under the terms of the funding scheme.

Eligible applicants will have held a valid Wireless Telegraphy Act channel 69 licence for at least part of the period between 3 February 2008 and 2 February 2009 inclusive. The equipment must be in working condition and capable of tuning to channel 69 but not to channel 38 (the replacement frequency) and must have been bought before 30 June 2009.

Applicants can register and manage their claims online at <http://www.pmsefunding.co.uk/> . Alternatively, they can call the helpline free of charge on 0800 011 3617.

Members need to be aware that equipment working in the remainder of the cleared block, channels 61-68, will also cease to be usable in 2012; however, there is no compensation for the modification or replacement of this equipment since Ofcom judges that users have been given sufficient notice of the change.

[Source: *Ofcom Press Release* – 30 November 2010]

PROPERTY & PLANNING

Heritage Lottery Fund budget for 2011–12

For information.

The Heritage Lottery Fund (HLF) has announced an overall budget of £250m for new grants for financial year 2011–12 – £45m more than the budget for the current year. This is the result of the recently confirmed increase in the share of Lottery funding available for heritage, combined with continuing healthy National Lottery ticket sales

HLF's Trustees have decided to allocate £17m of this extra resource to four programmes:

- £11m for Townscape Heritage Initiative (for grants that help regenerate historic areas with particular social and economic need);
- £23m for repair grants for the places of worship scheme (funding for urgent, high-level repairs to listed places of worship - £10,000 to £250,000);
- £21m for 'Your Heritage' (small grants programme to conserve and enjoy local heritage);and
- £17m for Landscape Partnerships (programme to conserve distinctive landscapes, led by local partnerships).

A full business plan for 2011–12, detailing the remaining allocations within the £250m budget, will be agreed and announced in the spring.

[Source: *Heritage Lottery Fund News* – 30 November 2010]

TAXATION

PAYE: consultation on real-time information from employers

Members who employ staff (ie almost all of them) need to read this consultation and, if necessary, respond directly.

HMRC has published a consultation document, [Improving the operation of Pay As You Earn: Collecting Real Time Information](#). Under the proposal, employers will send HMRC information about tax and other deductions from employees' pay when the employee is paid, rather than at the end of the year as at present. The rationale is partly to contribute to the modernisation of PAYE and partly to support the introduction of the Universal Credit by making it quicker and easier for the Department of Work and Pensions to update information about claimants' financial circumstances.

HMRC envisages that

- real time information will mean that annual employer returns can be phased out;
- HMRC will use the real time information to update records when a taxpayer changes employer, obviating the need for employers to send forms P45 or P46
- it will be easier to prevent and detect errors and fraud within the welfare and PAYE systems;
- HMRC will not need to wait until year end to identify underpayments by employers and collect those debts; and
- in some circumstances, HMRC will be able to adjust employees' tax codes during the tax year to reflect their changing income and therefore, over time, reduce the need to send employees repayments or bills after the end of the year.

This is the second stage of consultation; the first was [Improving the operation of Pay As You Earn](#) in July 2010. The majority of respondents to that consultation were in favour of moving to a real time information system for PAYE. The new consultation document summarises responses to the July discussion document and looks in detail at options for implementing a new real time information system.

HMRC is inviting the views of employers, software suppliers and the payroll industry. The deadline for responses is **28 February 2011**. Responses should be sent to HM Revenue & Customs, PAYE Consultation, Room 1/40, 100 Parliament Street, London, SW1A 2BQ or e-mailed to paye.consultation@hmrc.gsi.gov.uk.

It is not, at the moment, intended to respond on behalf of CLAS collectively: the position of members in relation to how they pay their staff and the payroll systems that they have in place will vary widely. However, **members need to look at this carefully with a view to responding individually.**

[Source: *HMRC What's New* – 3 December 2010]

VAT: Commission Green Paper

In principle, for information – but this consultation is extremely important for churches and charities; and members might wish to make individual submissions.

The European Commission has [announced](#) a consultation its [Green Paper on the future of VAT– Towards a simpler, more robust and efficient VAT system](#). The Green Paper is accompanied by a [Commission Staff Working Document](#) and a *Study on the feasibility of alternative methods for improving and simplifying the collection of VAT through the means of modern technologies and/or financial intermediaries*, summarised [here](#).

The consultation runs from 1 December 2010 until **31 May 2011** and its aim is 'to launch a broad based debate with all the stakeholders on the evaluation of the current VAT system and the possible ways forward to strengthening its coherence with the single market and its capacity as a revenue raiser whilst reducing the cost of compliance'.

VAT constitutes a major source of revenue for national budgets of the Member States of the European Union. However, in the Commission's view the VAT system is not fully efficient and compatible with the requirements of the single market. The Green Paper covers in particular:

- the treatment of cross-border supplies and other key issues on tax neutrality;
- the degree of harmonisation required in the single market; and
- reducing red tape while ensuring VAT revenues for Member States.

The consultation poses 33 questions, of which the most important for churches are probably these:

Q4. What ...problems have you encountered in relation to the scope of VAT?

Q5. What should be done to overcome these problems?

Q6. Which of the current VAT exemptions should no longer be kept? Please explain why you consider them problematic. Are there any exemptions which should be kept and, if so, why?

Q9. What do you consider to be the main problems with the right of deduction?

Q10. What changes would you like to see to improve the neutrality and fairness of the rules on deduction of input VAT?

Q13. Which, if any, provisions of EU VAT law should be laid down in a Council regulation instead of a directive?

Q14. Do you consider that implementing rules should be laid down in a Commission decision?

Q15. If this is not achievable, might guidance on new EU VAT legislation be useful even if it is not legally binding on the Member States? Do you see any disadvantages to issuing such guidance?

Q19. Do you think that the current rates structure creates major obstacles for the smooth functioning of the single market (distortion of competition), unequal treatment of comparable products, notably online services by comparison with products or services providing similar content or leads to major compliance costs for businesses? If yes, in what situations?

Q20. Would you prefer to have no reduced rates (or a very short list), which might enable Member States to apply a lower standard VAT rate? Or would you support a compulsory and uniformly applied reduced VAT rates list in the EU notably in order to address specific policy objectives as laid out in particular in 'Europe 2020'?

Q21. What are the main problems you have experienced with the current rules on VAT obligations?

Q22. What should be done at EU level to overcome these problems?

Q33. Which issues, other than those already mentioned, should be addressed in considering the future of the EU VAT system? What solution would you recommend?

The preferred method of submitting responses is to do so on-line. Full details of how to do it (depending on whether or not the response is being submitted by a registered organisation) are available [here](#).

This consultation is extremely important: *it is the first time in decades that the Commission has looked at VAT from first principles.* It is particularly important for churches and charities, given that they benefit considerably from the current reduced and zero rates in areas such as purchases of fuel. There is also the problem of irrecoverable VAT, which costs the sector vast amounts in lost revenue and which remains unresolved.

CLAS will be submitting a response in consultation with other voluntary sector umbrella bodies – but individual members of CLAS should think seriously about responding on their own behalf.

[Source: *European Commission Press Release* – 4 December 2010]

VAT: joint employment and contracted services

For information.

Charities and charitable companies that outsource services to an external supplier and retain staff on joint contracts with that supplier may be liable for VAT on payments made to the other company to pay the shared staff.

In *CGI Group (Europe) Ltd v HMRC* [2010] UKFTT 396 (TC) and *CGI Group (Europe) Ltd v HMRC (No 2)* UKFTT (27 September) the facts were as follows: CGI had outsourced its IT to a sister company, Cox Services Ltd, but had retained the staff on joint employment contracts – and it was agreed that the relevant employees would be joint employees of Cox and CGI. HMRC issued an assessment to CGI charging output tax on the amounts which it received from Cox under the agreement. CGI contended that the payment was outside the scope of VAT or, alternatively, that it had a legitimate expectation that the effect of [Notice 700/34](#) was that there was 'no supply of staff for VAT purposes'.

The Tribunal dismissed the appeal. Notice 700/34 had to be understood as making a distinction

... between a supply of staff of which 'the determining factor is that the staff are not contractually employed by the recipient company, but come under the direction of that company'; and a supply of services where "your staff continue to operate under your own direction" which "is not a supply of staff, but is a supply of those services'.

In summary (para 30):

- (1) There was joint employment of the staff by CGI and Cox;
- (2) The VAT analysis was that there was a supply of services which was liable to VAT in full even though part of the consideration was referable to payments for staff who were jointly employed.
- (3) If the issue of abuse had been relevant the tribunal would have found that there was no abuse;
- (4) CGI did not have any legitimate expectation that the Notice would be applied in the circumstances of the appeal.

[Source: *Civil Society Finance* - 29 November 2010: *BAILII judgment* – 20 August 2010]