

# VAT ON CHARITIES WORKING GROUP REPORT

OCTOBER 2015



An Roinn Airgeadais  
Department of Finance

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## Contents >

Executive Summary	2
1. Introduction	4
1.1 Overview	4
1.2 Background	4
1.3 Scope of Charities Sector	4
1.4 Charities Regulatory Authority	5
2. Context	6
2.1 Public finances	6
2.2 Report on Tax Expenditure Guidelines	6
2.3 Commission views on VAT in Ireland	6
2.4 Commission views on VAT compensation for Charities	7
3. Current treatment of Charities under the Irish Tax Code	8
4. Profile of fundraising organisations in Ireland	10
5. VAT on Charities	11
5.1 VAT Burden on Charities	11
5.2 Opportunity cost of VAT on Charities	11
6. VAT Compensation Schemes in operation across the EU	12
6.1 Danish Model	12
6.2 UK Scheme	13
6.3 Netherlands Scheme	13
7. Options	14
7.1 Limited Sectorial Scheme (e.g. UK/Dutch model)	14
7.2 Compensation scheme similar to Danish model	14
7.2.1 Overview of Danish Scheme	14
7.2.2 Issues for consideration	15
7.2.3 Administrative options	15
8. Conclusions	17
Appendix 1 – Working Group Membership	18
Appendix 2 – Ministerial Refund Orders in Ireland	19

## Executive Summary

**1.1** Following representations made by the Irish Charities Tax Reform Group (ICTR), the Minister for Finance agreed to the formation of a Working Group to examine proposals to reduce the VAT burden on charities. Comprising representatives from the Department of Finance, the Revenue Commissioners and ICTR, the objective was to provide options for the Minister of Finance's deliberation ahead of Budget 2016.

**1.2** EU VAT exemptions governing charities were originally conceived with a view to minimising their tax burden. Due to the way that exemptions operate they have had the opposite effect.

**1.3** Charitable organisations, including ICTR, have been seeking a compensation mechanism operating outside of the VAT system for some years.

**1.4.** The charities' view is that the VAT burden carries a heavy human toll by diminishing the capacity of charities such as St Vincent DePaul, whose annual VAT Bill is around €3.5m, to deliver services; that it promotes over-reliance by charities on state grants and the taxpayer; and is at odds with Government efforts to regulate the sector in that it penalises good governance in organisations that use professional financial, legal and training services.

**1.5** The Working Group identified that:

- Irish VAT law must comply with EU VAT law as determined by the EU VAT Directive. In this context, the EU Commission have consistently referred to VAT-related concerns in Ireland's Country Specific Recommendations.
- In 2005, EU Commissioner for Taxation and Customs, Mr. Lazlo Kovacs stated: *"The Commission has always considered that any scheme designed to relieve the VAT burden for charitable activities can be regarded as compatible with EU legislation if it is clearly separated from the VAT system."* The Department of Finance understands that the position still accurately reflects the Commission's views.

**1.6** Figures provided by ICTR suggest that income in the charities sector dropped significantly between 2008 and 2013, in the case of publicly fundraised income by in excess of 20% and as high as 35% in some cases. This has led to job losses in the sector and consequent cutbacks in the services.

**1.7** A 2003 report<sup>1</sup> by EY to Irish Charities Tax Research Limited as updated in 2010 indicated that the total expenditure of Irish charities was €1.7 billion; total VAT incurred was €77.4m or 4.5% of total expenditure; and the proportion of fundraised income to total income was 59%.

**1.8** The Department of Finance consulted with colleagues across Europe to learn of their VAT treatment of charities and identified special VAT treatment to charities in Denmark, the UK and the Netherlands.

**1.9** The Working Group examined these three models in the context of the Taxes Consolidation Act 1997 which provides for a uniform scheme of tax relief for donations to "approved bodies" (in 2013 approximately 1,400 bodies). It is probable that up to a similar number of charities would avail of a VAT compensation scheme.

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<sup>1</sup> Ernst & Young - Report to Irish Charities Tax Research Ltd. on the VAT burden imposed on Charities (2003) with financials as updated in 2010.

**1.10** The options presented below recognise the limited fiscal space available to the Minister and are informed by established if limited international practice in this area:

**i) Limited Sectoral Scheme (e.g. UK/Dutch models)**

A scheme similar to the UK/Dutch models whereby a series of refund orders are in place for targeted sectors/activities, could be put on a statutory footing by way of Ministerial Order setting out the criteria and conditions applicable to the scheme.

- The UK scheme is quite targeted and does not benefit all charities. Introducing such a scheme in Ireland would raise the question of how to identify what groups/causes etc. should benefit which could prove challenging.
- The Dutch scheme focuses on international aid only. The refund is given on VAT paid on goods exported to countries outside the EU, or goods that have been stored in a customs warehouse.

**ii) Danish Scheme**

A scheme similar to that in place in Denmark in 2007 could be introduced by Ministerial Order and would involve Charities reclaiming VAT as a direct proportion to fundraised income i.e. if 60% of the charity's income is by way of private donation, 60% of the VAT paid may be reclaimed.

Charities registered for the scheme submit their details on independently fundraised income and now receive a *pro rata* payment based on the overall claims submitted. In Denmark the compensation payment currently amounts to around 33% of the overall qualifying VAT claimed and is capped at €20m annually. It both provides charities with a significant compensation payment and limits the cost to the Danish Exchequer to an agreed sum. It is the preferred mechanism of ICTR.

**1.11** The scope of all the above schemes could be limited by the application of a *de-minimis*.

**1.12** Given that there is an administrative cost to charities of submitting a claim, it is unlikely that charities would object to a reasonable *de-minimus*.

# 1. Introduction

## 1.1 Overview

Following representations made by the Irish Charities Tax Reform Group (ICTR), the Minister for Finance agreed to the formation of a working group to examine proposals to reduce the VAT burden on charities.

Comprising representatives from the Department of Finance, the Revenue Commissioners and the ICTR, the Group's objective is to provide options for the Minister of Finance's deliberation ahead of Budget 2016. (Working Group members at Appendix 1).

## 1.2 Background

Charities and non-profit groups engaged in non-commercial activity are exempt from VAT under the EU VAT Directive (Council Directive 2006/112/EC), with which Irish VAT law must comply. This means they do not charge VAT on the services they provide and cannot recover VAT incurred on goods and services that they purchase. Only VAT registered charities which charge VAT are able to recover VAT, with the exception of exported goods and donations of certain medical research equipment.

The ICTR estimate that the VAT take from charitable expenditure on goods and services out of fundraised income is between €35m-€40m per annum.<sup>2</sup> The ICTR believe that this represents a disincentive to giving and promotes over-reliance of charities on State grants and the taxpayer. It also carries a heavy human cost by diminishing the capacity of charities such as the Society of St Vincent de Paul, which has an annual VAT Bill of around €3.5m., to deliver services. Their view is that the VAT burden on charities is also at odds with Government efforts to regulate charities in that it penalises good governance in organisations that use professional financial, legal and training services.

Charitable organisations, including members of the ICTR, have been for some years seeking to have a compensation mechanism operating outside of the VAT system introduced, such as the Danish model introduced in 2007, to compensate them for the VAT they pay.

The economic downturn has impacted the charities sector in the same way it has affected all areas of Irish society. State transfers to the sector have fallen as a result of cost saving measures across government. Fundraising has suffered as disposable incomes were impacted on by reductions in pay levels and social transfers, high unemployment, higher taxation, as well as a series of controversies that affected public trust in the charities sector.

## 1.3 Scope of Charities Sector

Under the Charities Act 2009 a "Charitable Organisation" is defined as follows:

- (a) the trustees of a charitable trust, or
- (b) a body corporate or an unincorporated body of persons:
  - (i) that promotes a charitable purpose only,

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<sup>2</sup> Ernst & Young - Report to Irish Charities Tax Research Ltd. on the VAT burden imposed on Charities (2003) with financials as updated in 2010.



- (ii) that, under its constitution, is required to apply all of its property (both real and personal) in furtherance of that purpose, except for moneys expended:
- (I) in the operation and maintenance of the body, including moneys paid in remuneration and superannuation of members of the staff of the body, and
  - (II) in the case of a religious organisation or community, on accommodation and care of members of the organisation or community, and
  - (III) none of the property of which is payable to the members of the body

In accordance with section 3 (1) of the Charities Act 2009 each of the following, subject to subsection (2), shall be a charitable purpose:

- The prevention or relief of poverty or economic hardship;
- The advancement of education;
- The advancement of religion;
- Any other purpose that is of benefit to the community

3 (2) A purpose shall not be a charitable purpose unless it is of public benefit.

#### 1.4 Charities Regulatory Authority

The Charities Act 2009 also provided for the establishment of the Charities Regulatory Authority (CRA). The CRA was established in October 2014. Organisations that held a valid CHY charity tax exemption number from the Revenue Commissioners on the 15<sup>th</sup> of October 2014 are automatically deemed to be registered with the CRA and did not need to apply for registration.

Any organisation wishing to operate as a charity in Ireland post 15<sup>th</sup> October 2014 must apply to the CRA to be added to the Register. All charities operating in Ireland must apply for registration (if not automatically registered through CHY status). If the charity's gross income in the financial year to which the accounts relates was equal to or greater than €100,000, the accounts must be audited and a copy of the auditors cert included in the annual return to the CRA. Charities with annual income between €10,000 and €100,000 are required to have their accounts independently examined and charities under €10,000 are not required to submit accounts to the CRA but as is the case for all charities must submit an annual report to the regulator.

Part 4 of the Charities Act 2009 gives the Charities Regulatory Authority statutory powers of investigation with respect to charitable organisations. This Part of the Act has not yet been commenced so the CRA are not currently empowered or resourced to conduct statutory investigations of charities.

## 2. Context

### 2.1 Public finances

The Spring Economic Statement published in April 2015 set out that Ireland's tax and spending policies will be made on the basis of a medium-term view of the economy and public finances. This has been the guiding principle over the last prudent four years and remains the guiding principle for the remainder of the term of the Government.

### 2.2 Report on Tax Expenditure Guidelines<sup>3</sup>

The report published in late 2014 noted the following with regard to official policy on tax expenditures:

The Government will:

- Support economic growth by ensuring any tax increases be effected in the first instance by base broadening through the elimination or curtailment of overly-generous, poorly targeted or otherwise unaffordable tax reliefs.
- Use the tax system in limited circumstances where there are demonstrable market failures and where a tax-based incentive is more efficient than a direct expenditure intervention.
- Time-limit all tax expenditures and subject those with higher costs to ex ante evaluation.
- Conduct a regular programme of tax relief reviews using public consultation as appropriate and publish the results.

The report also states that there is an opportunity cost of public funds to be considered for tax expenditure evaluations:

*"It is understood that when a tax expenditure is introduced, one group benefits, but the rest of society must pay additional taxes to compensate the exchequer for the loss of revenue from the scheme. The actual costs associated with a scheme must be adjusted upwards to account for the cost to society of the tax imposed to finance the scheme."*

The report also states that whilst a market failure may require State assistance, a tax expenditure may not be the most efficient approach. Such failure could also be addressed by means of direct expenditure or by regulation.

### 2.3 Commission views on VAT in Ireland

Irish VAT law must comply with EU VAT law as determined by the EU VAT Directive. In this context, the EU Commission have consistently referred to VAT-related concerns in Ireland's Country Specific Recommendations. Although they accept that Ireland's tax reforms have contributed to the fiscal adjustment, the Commission advise that there is further scope to improve the efficiency and growth-friendliness of the tax system.

The Commission had the following comments about Ireland's tax system in 2015:

*"The tax bases for consumption and environment taxes are limited by reduced rates and exemptions. Zero and reduced rates for value-added tax make it less efficient than the EU average and there seems to be no systematic evaluation of such tax expenditures."*

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<sup>3</sup> [http://www.budget.gov.ie/Budgets/2015/Documents/Tax\\_Expenditures\\_Oct14.pdf](http://www.budget.gov.ie/Budgets/2015/Documents/Tax_Expenditures_Oct14.pdf)



Given the Commission's comments on over-reliance on reduced and zero VAT rates, any further VAT-related concessions are unlikely to be welcomed. The options outlined in this report are all specifically outside the scope of VAT as explained in 2.4 below.

## 2.4 Commission views on VAT compensation for Charities

In 2005, EU Commissioner for Taxation and Customs, Mr. Lazlo Kovacs stated:

*“The Commission has always considered that any scheme designed to relieve the VAT burden for charitable activities can be regarded as compatible with EU legislation if it is clearly separated from the VAT system (since under this system VAT can only be refunded if it is connected with taxable supplies) and does not affect the own resources of the Community. The essential difference is that, under such a scheme the tax is collected in the first place and then the Government chooses to allocate it back to the bodies from which it has been collected. This is a subtle but important distinction.*

*I have to underline that the decision to set up such a refund mechanism is strictly a national budgetary issue over which the Commission has no say or influence.”* (Source: Commissioner Lazlo Kovacs, speaking at an ECCVAT Conference Brussels, 2005)

The Department of Finance understands that the position stated in 2005 still accurately reflects the Commission's views in this area.

In a more recent Communication from the Commission to the European Parliament, the Council and the European Economic and Social Committee on the future of VAT (*Towards a simpler, more robust and efficient VAT system tailored to the single market*<sup>4</sup>) the following recommendation was made:

### *“S.5.2.1 – Recommendation 10 (page 10)*

*The VAT treatment of non-profit –making organisations has prompted numerous reactions. However, those organisations already benefit from an exemption which covers their activities in the general interest. The residual activities not covered by this exemption are the only cause of concern. However, these activities could be covered by the general exemption scheme for small businesses that have a turnover below a certain threshold and through further simplification measures and procedures which Member States can introduce. Member States can also introduce targeted compensation mechanisms, outside the VAT system, to alleviate the cost of VAT on their acquisitions.*

*(10) The Commission calls on Member States to make use of existing options to alleviate the burden of VAT on non-profit making organisations. It can provide them with guidance on the VAT regime applicable to them.”*

As is clear from the foregoing the Commission recognises the VAT burden on charities in relation to their acquisitions and has no objection to targeted VAT compensation schemes so long as the compensation scheme is clearly “outside the VAT system”. The decision to set up such a scheme is strictly a national budgetary issue.

<sup>4</sup> [http://www.eccvat.org/images/com\\_2011\\_851\\_en.pdf](http://www.eccvat.org/images/com_2011_851_en.pdf)

### 3. Current treatment of Charities under the Irish Tax Code

The Irish tax code currently provides exemptions for charities under several tax heads including:

- **Income Tax** - Sections 207 and 208, Taxes Consolidation Act, 1997  
Exemption for income tax on rental income or profits of a trade by a charity in the course of carrying out their primary purpose.
- **Capital Gains Tax (CGT)** - Section 609, Taxes Consolidation Act, 1997.  
Capital gains made by eligible charities which are used for charitable purposes are exempt from Capital Gains Tax. In addition, where an asset is transferred to an eligible charity for no consideration (i.e. as a gift) or for a consideration not exceeding the cost of the asset, the disposal is treated as having been made for no gain or no loss.
- **Corporation Tax** (in the case of charities which are companies) - Sections 76 and 78 Taxes Consolidation Act:
  - Section 76 is concerned with the application of income tax principles to corporation tax and provides that, in general, the amount of any income to be brought into charge to corporation tax is to be computed in accordance with income tax law and practice. Section 76(6) provides that the income tax provisions concerning exemptions from tax are carried over into corporation tax. Examples of such exemptions would include those available to charities under sections 207 and 208 of the TCA (see Income Tax point above).
  - Section 78 is the capital gains tax (CGT) “equivalent” whereby, it provides that for corporation tax purposes, chargeable gains are computed in accordance with CGT principles. This means that the CGT exemption for charities in section 609 of the TCA (see Capital Gains Tax point above) is also available to charities which are companies.
- **Deposit Interest Retention Tax (DIRT)** - Section 266 Taxes Consolidation Act, 1997.  
Deposit Interest Retention Tax, which currently applies at 41%, does not apply to deposits of charities entitled to charitable exemption from tax.
- **Capital Acquisitions Tax** - Sections 17, 22 and 76 of the Capital Acquisitions Taxes Consolidation Act 2003.  
Trusts which are set up exclusively for charitable purposes are exempt from Discretionary Trust Tax. Where the Revenue Commissioners are satisfied that a Gift or Inheritance is taken for purposes which are regarded as charitable by the law of the State, that gift or inheritance is exempt from Capital Acquisitions Tax.
- **Stamp Duty** - Section 82, Stamp Duties Consolidation Act 1999.  
In certain circumstances, charities (and sporting bodies) enjoy relief from stamp duty when acquiring property; the charity needs to have been granted charitable tax exemption by the Revenue Commissioners.
- **Dividend Withholding Tax (DWT) - Chapter 8A, Part 6, Taxes Consolidation Act, 1997.**  
In general, DWT applies at the standard rate of income tax for the year in which the dividends are paid. However, there are a number of exemptions from DWT for persons who are beneficially entitled to the distributions in question, including persons who are exempt from tax by virtue of section 207 of the TCA.
- **Local Property Tax (LPT)** - Sections 7 and 7A Finance (Local Property Tax) Act 2012.  
Special Needs Accommodation - An exemption from LPT applies to residential properties used to provide special needs accommodation. The exemption applies where the property is owned by a charity or a public body and used to provide accommodation and support for people who have a particular need in addition to a general housing need to enable them to live in the community, such as sheltered accommodation for the elderly or the disabled. A "charity" must be granted an exemption for tax purposes by the Revenue Commissioners to avail of this exemption.

Recreational activities - Exemption from LPT may also apply to residential properties owned and used by a charity in connection with recreational activities; this exemption applies to properties used by charitable bodies as residential accommodation in connection with recreational activities that are an integral part of the body's charitable purpose, e.g. guiding and scouting activities.

Limited information is available in respect of the various exemptions as Revenue do not generally request returns from charities as they are exempt on any such income, gains or gifts under the various sections of the Taxes Consolidation Act. Revenue do publish overall estimated costs to the Exchequer of the exemption from income of charities, colleges, hospitals, schools, friendly societies, etc. as well as the cost of tax relief for donations to 'approved bodies' and stamp duty for charities, these costs in 2012 were estimated at €29.7 million, €46.8 million and €3.9 million respectively.

## 4. Profile of fundraising organisations in Ireland

Figures provided by the ICTR suggest that income in the charities sector dropped significantly between 2008 and 2013. In the case of the top 400 charities in Ireland, ICTR estimates indicate that total income dropped from €3.25 billion to €2.78 billion in the five year period. The average reduction in the case of publicly fundraised income over the period was estimated to be in excess of 20%, with some charities experiencing reductions as high as 35%. This has led to job losses in the sector and consequent cutbacks in the services.

There are positive signs as the charities sector begins to regain public trust and benefit from the improving economic sentiment.

A report<sup>5</sup> on the practice and scale of charitable fundraising from the public in Ireland was carried out in 2007 by Trinity College Dublin (TCD) on behalf of Irish Charities Tax Research Limited. While Ireland has changed significantly over the past eight years, it is the most recent study of its type and still provides a useful insight into the overall profile of the sector.

State support was the most important source of income for non-profit organisations who have registered with the Revenue Commissioners for a CHY number (illustrated below in Table 1) providing almost 60% of total income. After State funding the next largest contribution category was fees which accounted for 14.3%. Evidence suggests that larger fundraising charities are less dependent on State support relative to smaller fundraising organisations.

The average income of non-profit organisations (NPOs) was estimated to be €1,215,436.

**Table 1: Percentage of Income Reported from Each Source**

Source	Charities with CHY numbers (%)	Average (€)
State	59.4	€721,969
Private donations	12.7	€154,360
Fees	14.3	€173,807
Deposit accounts	7.8	€94,804
Corporate donations	1.8	€21,879
Membership	1.5	€18,232
Other	2.5	€30,386

<sup>5</sup> "Exploring the Irish Fundraising Landscape | A report on the practice and scale of charitable fundraising from the Public in Ireland" – Centre for non-profit management, School of Business, University of Dublin, Trinity College

## 5. VAT on Charities

### 5.1 VAT Burden on Charities

In 2003, EY presented a report<sup>6</sup> to Irish Charities Tax Research Limited on the VAT burden imposed on charities for the calendar year 2001. In the 2003 report, the total expenditure of the charities surveyed was €500 million and the VAT incurred was €18 million resulting in VAT incurred as a percentage of total expenditure of 3.6%. The figures were updated in 2010 and a summary of the main points are below.

In the 2010 report, total expenditure of the charities surveyed was €1.7 billion. The total VAT incurred was €77.4 million resulting in VAT incurred as a percentage of total expenditure of 4.5%. The respective percentage of total VAT by activity are detailed below:

- Property/Office overheads (42.4%)
- Building costs (25.5%)
- Charitable activities (24.2%)
- Fundraising activities (5.5%)
- Professional fees (1.4%)
- Promotional activities (1.1%)

### 5.2 Opportunity cost of VAT on Charities

Charities are exempt from charging VAT on their services (most charities don't charge for services) and therefore cannot recover VAT on their input costs. The ICTR argue that the burden is felt most keenly in relation to fundraised income and therefore has an opportunity cost for investment in vital public benefit initiatives.

The ICTR have outlined some of the specific opportunity costs related to the VAT burden associated with specific charities<sup>7</sup>:

- **SVP** incurs around €3.5 million in VAT annually. These funds could be used to provide food, fuel, education, shelters, resource centres etc.
- **Build4Life** estimates that it will incur around €500,000 in VAT payments from €3.7 million raised to provide outpatient clinic and inpatient ward services for adults and children with cystic fibrosis.
- **The Irish Heart Foundation** paid €525,000 in VAT on its FAST stroke campaign, which is estimated could fund more than an extra year of a campaign that the HSE's National Stroke Programme says has made a key contribution to a 13% reduction in stroke deaths in Ireland and a 28% reduction in discharge to nursing homes.
- **Focus Ireland's** VAT on independently raised funds was €266,000 last year – the cost of 6 project workers providing services to approx. 180 homeless adults and children.

<sup>6</sup> "A report to Irish Charities Tax Research Limited on the VAT Burden imposed on Charities" – Ernst & Young 2003

<sup>7</sup> All figures are estimates provided by ICTR

## 6. VAT Compensation Schemes in operation across the EU

The Department of Finance consulted with colleagues across Europe to learn of their VAT treatment of charities. Most of the 28 Member States do not offer any special VAT treatment to charities. Denmark, the UK and the Netherlands appear to be the exceptions. Appendix 2 details the Refund Orders Ireland already has in place which provides relief from VAT for goods purchased by individual, charitable and community organisations.

### 6.1 Danish Model

The compensation scheme was introduced in 2007. It specified that the amount of VAT to be refunded be proportionate to the fundraising capacity of the charity. The model was part of a broader agenda to incentivise charities to increase their privately sourced income.

To apply for compensation, each charity was to provide audited details of their VAT expenditure for the year and audited details of the proportion of income sourced from the state and that from private sources. To qualify for a refund, the amount paid out on VAT must have exceeded the 2004 threshold. i.e. 2004 was used as the base year and only fundraising income in excess of that raised in 2004 would qualify. In addition, the amount of VAT that could be reclaimed was in direct proportion to the privately sourced income i.e. if a charity's income was 60% funded by the state and 40% funded from private sources then only 40% of the excess VAT could be reclaimed.

All registered charities must make an annual return giving details on their income and fundraising, and to confirm their existence and continued participation in the scheme. There is no provision to reclaim years in arrears. Charities are liable to random audit by the taxation authorities on the scheme.

Only about 1,000 of almost 100,000 charities in Denmark qualify for the scheme and of these only about half claim a compensation payment each year (not necessarily the same charities every year). To qualify charities must have a "National/International Focus" which is defined by the Tax Authorities as providing benefit to a min. of 40,000 members of the public – this is based on the population of the smallest island in Denmark. (Note: Denmark allows both public and private benefit foundations/charities unlike Ireland whereby the definition in the Charities Act 2009 applies to public benefit charities only)

ISOBRO – the national umbrella organisation for fundraising charities in Denmark – claim the scheme has proved very effective in increasing charity activity and contribution to the Danish economy and society.

In 2007, the first year of the scheme, KR25m (€3.3 million) was claimed in VAT refunds. The scheme proved successful and as a result the cost of the scheme to the Exchequer had risen to KR 203m (€27 million) in 2012. As a consequence of the rapid increase in payments, agreement was reached between ISOBRO and the Danish Department of Taxation (in 2013) to limit the compensation annually to Kr150m - the equivalent of €20 million. The original threshold basis for the scheme (increase in fundraised income since the base year of 2004) has now been replaced by a set agreed gross payment available to all registered charities which they refer to as a "Pooled Scheme".

Charities registered for the scheme now submit their details on independently fundraised income and receive a *pro rata* payment based on the overall claims submitted. The compensation payment currently amounts to around 33% of overall qualifying VAT claimed. This situation both provides charities with a significant compensation payment and limits the cost to the Danish Exchequer to an agreed sum.



## 6.2 UK Scheme

The country which has by far the most comprehensive and longest standing VAT reliefs for charities is the UK. There are two mechanisms used in the UK to provide VAT relief to charities.

In the first instance VAT legislation in the UK provides that a range of goods and services can be supplied to charities at a zero rate of VAT and a reduced rate of 5%.

Amongst other things the rates apply to buildings/construction, advertising services and goods for fund raising, drugs used for research, imports of certain goods, talking books, and a broad range of goods for the disabled. The zero rate of VAT can also apply to purchases of goods donated to charities. Under the EU VAT Directive, Member States may retain the zero rates on goods and services which were in place on 1 January 1991.

The UK also provides VAT relief to charities by way of a VAT Refund Scheme (outside the VAT system), in the following areas:

- i. Repairs to Listed places of worship
- ii. National Museums and Galleries giving free right of admission
- iii. VAT Refund Scheme for certain charities (2015):
  - a. palliative care charities
  - b. air ambulance charities
  - c. search and rescue charities
  - d. medical courier charities

The UK scheme is quite targeted and does not benefit all charities. Introducing such a scheme in Ireland would raise the question of how to identify what groups/causes etc. should benefit which could prove challenging.

## 6.3 Netherlands Scheme

The Dutch scheme focuses on international aid.

The refund is given on VAT paid on goods exported to countries outside the EU, or goods that have been stored in a customs warehouse. To qualify for the VAT refund, the institution needs to meet the following requirements: - 1) The goods are intended for charitable, educational or humanitarian work outside the EU. 2) The goods are not used by the institution. 3) The institution has an export certificate signed by Customs.

## 7. Options

The options presented below recognise the limited fiscal space available to the Minister and are informed by established if limited international practice in this area.

The Taxes Consolidation Act 1997 provides for a uniform scheme of tax relief for donations to “approved bodies”. In 2013 approximately 1,400 bodies received refunds under the scheme. It is probable that up to a ceiling of a similar number of charities would avail of a VAT compensation scheme. However, some form of de-minimus could be introduced to reduce the administrative burden on the Revenue Commissioners.

### 7.1 Limited Sectorial Scheme (e.g. UK/Dutch model)

If relief was provided on a sectorial basis, this could be done by way of a Ministerial Refund Order. Ministerial Refund Orders provide in certain circumstances for refunds of VAT incurred by businesses and individuals where no deduction is allowable under the provisions of the VAT Acts. The existing refund orders (see Appendix 2) are all historic, going back to the 1970s and 1980s, and any changes in this area in the interim period have been either by EU requirement or making minor changes to existing refund orders.

A scheme similar to the UK/Dutch model could be put on a statutory footing by way of Ministerial Order setting out the criteria and conditions applicable to the scheme. As it stands, refund orders are currently processed by the VAT Unregistered Repayments Section or the Central Repayments Office in Monaghan. Therefore, while resources in these areas would have to be increased, the relevant processes could be put in place to implement such a scheme. The requirement for increased resources/IT systems would be determined by the nature and scope of the scheme (i.e. the number of eligible charities and the qualifying costs, whether a de minimus is applied to individual eligible invoices or the total claim etc).

### 7.2 Compensation scheme similar to Danish model

#### 7.2.1 Overview of Danish Scheme

A scheme similar to that in place in Denmark could be introduced by Ministerial Order and would involve:

- (i) Charities reclaiming VAT as a direct proportion to fundraised income i.e. if 60% of the charity’s income is by way of private donation, 60% of the VAT paid may be reclaimed.
- (ii) All registered charities must make an annual return providing income and fundraising details, together with confirmation of their participation in the scheme. There is no provision to reclaim for years in arrear and charities are liable to random audit under the scheme. A claim can be submitted once a year no later than 1 July of the year following the calendar year for which compensation is applied for.

## 7.2.2 Issues for consideration

### a) Scope of the Scheme

The main concern with such a scheme is that there are currently 8,500 charities in the State that hold a tax exemption, although only approx. 1,400 charities avail of the donations scheme which may provide a more accurate barometer. While sports bodies are not considered charities they could seek to be included in any VAT compensation scheme.

### b) De-minimis

The scope of the scheme could be limited by the application of a de-minimis. This could be implemented in several ways such as:

- A claim could only be made in respect of a VAT invoice over €250; or
- A claim can only be made where VAT incurred exceeds €1,000 on aggregate in any 12 month period.

Given that there is an administrative cost to charities of submitting a claim, it is unlikely that charities would object to a reasonable de-minimis being introduced. In this regard, the latter is the most practical and least administratively burdensome approach from a charity perspective

## 7.2.3 Administrative options

There are various methods for implementing a part VAT compensation scheme similar to the Danish System. These include a (i) threshold basis (ii) refund an agreed % of VAT incurred basis or (iii) capped pooled scheme arrangement.

Mechanisms for processing the claims under each of these potential schemes would have to be put in place which would involve significant IT development and staffing costs for Revenue.

### (i) Threshold Basis

A threshold basis compensation scheme similar to the scheme originally set up in Denmark<sup>8</sup> would require charities to track the amount of input VAT in their accounting systems and monitor the organisation's self-financing ratio. This method would not place any limit on the potential cost to the Exchequer.

### (ii) Refund an agreed % of VAT incurred

Instead of applying a threshold basis scheme, a scheme that refunds a set percentage of each claim submitted (i.e. 10%, 20% etc.) could be considered. Such a scheme would ensure that all charities who fundraise would benefit regardless of whether they increased their fundraised income or VAT expenditure from a base year. Limiting the cost to the Exchequer with this option may be challenging.

### (iii) Pooled Scheme

Currently the Danish scheme operates on a pooled basis with a cap on the level of refund available. Charities registered for the scheme submit details of their independently fundraised income and

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<sup>8</sup> The scheme stated that to qualify for a refund the amount paid out on VAT must exceed the 2004 threshold. In addition the amount of VAT that could be reclaimed is in direct proportion to the source of income i.e. if a Charity's income is 60% funded by the state and 40% funded from private sources then only 40% of the VAT can be reclaimed.

receive a pro-rata payment based on the overall claims submitted. From an administrative viewpoint Revenue consider that such a scheme would be resource intensive given the likely large volume of claims. This burden could be reduced through the adoption of a de-minimis arrangement as outlined in 7.2.2. This has the advantage of placing a limit on the cost to the Exchequer, is working smoothly in Denmark and is also the preferred mechanism of ICTR.

## 8. Conclusions

It has been established that introducing a refund mechanism for the VAT incurred by charities is not contrary to the EU VAT Directive. Having examined existing practice across EU Member States, the Working Group have put forward several options that would alleviate some of the VAT burden of charities while respecting the limited fiscal space available to the Minister for Finance.

The options set out in section 7 would come at a cost to the Exchequer but would provide some level of relief from VAT on activities undertaken by Charities and may encourage greater privately sourced fundraising by the sector.

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## Appendix 1 – Working Group Membership

Gerry Kenny (chair)	Department of Finance
Colm Forde	Department of Finance
Sinéad Hart Moran	Department of Finance
Dermot Donegan	Revenue Commissioners
Maeve O'Malley	Revenue Commissioners
Sheila Nordon	Irish Charities Tax Reform Group
John Gallagher	Irish Charities Tax Reform Group
Chris Macey	Irish Charities Tax Reform Group
Jim Hynes	Irish Charities Tax Reform Group
Breen Cassidy	EY



## Appendix 2 – Ministerial Refund Orders in Ireland

**Donated Medical Equipment: 2014 refund €642,190.09** (2013: €577,690.28). Repayment of VAT incurred in the purchase of or importation of medical instruments and appliances, costing in excess of €25,390, purchased through voluntary donations may be claimed by hospitals or donors, as appropriate, subject to conditions. *Value-Added Tax (Refund of Tax)(No 14) Order, 1980 (S.I. No. 264 of 1980) Value Added Tax (Refund of Tax) (No. 23) Order, 1992 (SI No. 58 of 1992) Value-Added Tax (Refund of Tax)(No 27) Order, 1995 (S.I. No. 38 of 1995).*

**Disabled Equipment: 2014 refund €2,974,355.38** (2013: €3,787,663.76). A refund of VAT is allowed on certain aids and appliances purchased by disabled persons. *Value Added Tax (Refund of Tax) (No.15) Order 1981 (SI No. 428 of 1981).*

**Water Rescue Craft and Equipment: 2014 refund €18,256.44** (2013: €50,644.36). Repayment may be claimed by qualifying groups, of VAT incurred on outlay on small sea and inland waterway rescue craft, ancillary equipment and special boat buildings used exclusively in connection with rescue or assistance at sea and on inland waterway or with the training of persons for such purposes. *Value-Added Tax (Refund of Tax) (Rescue Boats and Related Equipment) Order 2013 (S.I. No. 249 of 2013).*

**Exports by Philanthropic Organisations: 2014 refund €107,743.47** (2013: €43,444.25). Goods purchased by philanthropic organisations for use in their activities abroad can avail of a VAT refund. *Value Added Tax (Refund of Tax) (No. 21) Order, 1987 (SI No. 308 of 1987).*

**Disabled Drivers: 2014 refund €5,116,562.31** (2013: €4,296,211.66) Who drive themselves. These Regulations set out the medical criteria, certification procedures, repayment limits and other relevant matters. It provides for tax concessions for disabled drivers and disabled passengers. *Disabled Drivers & Disabled Passengers (Tax Concessions) Regulations, 1994 S.I. No. 343 of 1994.*

**Disabled Vans Drivers: 2014 refund €133,481.73** (2013: €168,818.78) Who drive themselves. These Regulations set out the medical criteria, certification procedures, repayment limits and other relevant matters. It provides for tax concessions for disabled drivers and disabled passengers. *Disabled Drivers & Disabled Passengers (Tax Concessions) Regulations, 1994 S.I. No. 343 of 1994.*

**Disabled Car Passengers: 2014 refund €12,717,921.47** (2013: €10,518,977.50) Who cannot drive themselves and purchase a vehicle for their use as a passenger. These Regulations set out the medical criteria, certification procedures, repayment limits and other relevant matters. It provides for tax concessions for disabled drivers and disabled passengers. *Disabled Drivers & Disabled Passengers (Tax Concessions) Regulations, 1994 S.I. No. 343 of 1994.*

**Disabled Vans Passengers: 2014 refund €340,368.25** (2013: €367,714.38) Who cannot drive themselves and purchase a vehicle for their use as a passenger. These Regulations set out the medical criteria, certification procedures, repayment limits and other relevant matters. It provides for tax concessions for disabled drivers and disabled passengers. *Disabled Drivers & Disabled Passengers (Tax Concessions) Regulations, 1994 S.I. No. 343 of 1994.*

**Disabled Car Organisation: 2014 refund €24,049.56** (2013: €12,878.69) Organisations are entitled to repayment of VRT and VAT paid on specially constructed or adapted vehicles, which are used for the transport of Persons with Disabilities. *Disabled Drivers & Disabled Passengers (Tax Concessions) Regulations, 1994 S.I. No. 343 of 1994.*

**Disabled Vans Organisation: 2014 refund €7,366.35** (2013: €37,166.41) Organisations are entitled to repayment of VRT and VAT paid on specially constructed or adapted vehicles, which are used for the transport of Persons with Disabilities. *Disabled Drivers & Disabled Passengers (Tax Concessions) Regulations, 1994 S.I. No. 343 of 1994.*