

Irish Charities Tax Reform Group

Pre-Budget 2006 Submission

Introduction

In framing the Budget for 2006 ICTRG would like to see Minister Cowen introduce further reform of the taxation system as it applies to charities and approved bodies as follows. We request that the following are considered:

1. In this year's Budget and subsequent Finance Act, ICTRG would like to see the Minister build on the changes previously introduced (2001 – by Minister McCreevy) on tax effective donations to eligible charities and approved bodies by:
 - Reducing the minimum donation threshold for tax relief purposes from €250 to €100 to take effect from January 2006. Research carried out in the past year reveals that only 13% of charities currently avail of the scheme at the €250 threshold but reducing it to €100 would spread the benefit to 45% of charities i.e. a further 32% would benefit. The research suggests that the maximum additional cost to the Exchequer of making this change would be €31m. (See attached report for details)
 - extending the definition of “relevant donation”, currently confined to gifts of **money** to eligible charities or approved bodies, to cover **gifts of assets, such as shares, securities, property and other investments**, to such organisations.

ICTRG makes these proposals in the light of research and experience with the scheme to date and on the basis that such extended reliefs already apply in those jurisdictions including the U.S., the U.K., Canada, and Australia which share with Ireland a similar legal understanding of “charitable purpose” and “charitable activity”.

2. The introduction of a VAT refund mechanism for charities allowing them to reclaim input VAT. Recent research puts the annual VAT bill of Irish charities at €18million of which 52% is paid for out of publicly fund-raised income so that a refund scheme would cost the exchequer €9.4million (see attached report summary for details). The EU Commission confirms that it is within the powers of the Minister for Finance to introduce a refund scheme without contravening the Sixth EU VAT Directive (see Commissioner's letter Appendix One)

As the Minister is aware, charities are treated as exempt from VAT under the Sixth EU VAT Directive which means that they cannot recover the Vat they pay on inputs. This places a significant tax burden on charities which was never the intention of EU VAT law and has the effect of reducing the level of

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services that charities can provide to the homeless, people with a disability, children, older people, and the amount that can be devoted to medical research etc.

1. Tax Effective Donations

ICTRG is on record (both publicly and privately) as warmly welcoming the Scheme of Tax Relief for donations to Eligible Charities and Approved Bodies under the terms of Section 45, Finance Act 2001. The Group gives full credit to the Minister for Finance, Charlie McCreevy T.D. for introducing major tax reform in this area, which has dramatically changed the landscape for Irish charities in terms of tax-efficient giving. The scheme has a number of very important features, which are of great benefit to the charities sector:

1. The scheme applies to all eligible charities and approved bodies in Ireland in contrast to previous schemes, which had limited application.
2. The removal of the upper limit on donations for tax relief purposes is a major development.
3. The fact that the tax reliefs are applied at the taxpayer's marginal rate of tax is of significant benefit to both donors and charities.
4. The scheme streamlines and simplifies the operation of the tax reliefs compared to the previous plethora of schemes.
5. Donations made by instalments (e.g. standing orders) also qualify.

At ICTRG's 10th Annual Conference (Sept. 2001) where Minister McCreevy delivered the keynote address we were interested to hear that the Minister looked to the US model in framing the new legislation and we were encouraged by the fact that he did not see the current de minimus of €250 as written in stone, rather that it was initially set at this level for administrative reasons. The Minister is on the record in the Oireachtas (during the debate on the Finance Bill 2002) as not having a principled objection to reducing the figure further and of being willing to look at this issue again.

In the context of Minister Cowen's current review of the tax relief scheme and in light of the findings from new research carried out by Irish Charities Tax Research Ltd with independent validation by Ernst & Young, we believe that the case for reducing the donation threshold from €250 to €100 in 2006 is a compelling one.

Reduction of the Minimum donation threshold to €100

ICTRG proposes that ultimately there should be no minimum donation threshold for tax relief purposes in line with other similar jurisdictions as summarised below:

Country	Lower Limit
United Kingdom	£0
United States	\$0
Australia	AUS\$2
Canada	\$0
New Zealand	NZ\$5

However, we recognise that there are significant administrative difficulties in introducing this immediately and that a phased introduction would be more acceptable. In this context we request that the minimum should be reduced from €250 to €100 from January 2006 and that this be revised downward over coming years to zero to bring us in line with international norms.

Research carried out in the past ten months (see attached report) reveals that:

- ❑ Only 13% of charities currently benefit from the tax relief scheme based on the €250 threshold. These charities tend to be longer established (>10 years old) and larger as measured by annual income and number of employees than those charities not in a position to benefit.
- ❑ If the threshold was reduced to €100 then a further 32% of charities could potentially benefit bringing the total benefiting up to 45%. This would have the effect of spreading the benefit to smaller and less well established charities.
- ❑ 31% of donations to sampled charities in the research were €100 or less and 27% of donations ranged between €100 and €249 – all with no tax benefits.
- ❑ The estimated total annual cost to the Exchequer of extending the benefit of the tax relief scheme to 45% of charities by reducing the threshold from €250 to €100 is €44.8m taking into account the potential stimulus to fundraising effort that could be expected to result. This compares to circa €22m currently given in refunds. This is a maximum figure and would not take effect immediately.

Proposal

That the minimum donation for the purposes of the Scheme of Tax Relief for donations to Eligible Charities and Approved Bodies under the terms of Section 45, Finance Act 2001 be reduced to **€100** to take effect from the 1st January 2006.

Extension of the definition of 'relevant donation' to cover gifts of assets, such as shares, securities, property and other investments.

Under the existing legislation as introduced in the Finance Act 2001, in addition to meeting the €250 minimum requirement, a relevant donation for the purposes of the scheme must satisfy the following conditions:

1. **It must be in the form of money (our emphasis)**
2. It must not be repayable
3. It must not confer any benefit on the donor or any person connected with the donor
4. It must not be conditional on, or associated with, any arrangement involving the acquisition of property by the charity or the approved body.

ICTRG requests that the definition be extended to cover gifts of assets, such as shares, securities, property and other investments, so that these too would qualify for tax relief in the same way as gifts of money and subject to the same provisos as set out in points 2-4 above. Extending the scope of qualifying donations in this way would bring Ireland into line with current practice in the U.S., the U.K., Canada and Australia. (C.f. Appendix Two for details of the operation of the UK scheme).

UK System – summary

- Individuals can get income tax relief on gifts to charities of certain shares, securities and other investments. This is **in addition to** the capital gains tax relief on gifts of assets to charity. (Gifts of shares in private companies are **not eligible** for the relief)
- Companies can get corporation tax relief for gifts to charities of the same types of investments and this is in **addition to** relief from corporation tax on capital gains on such gifts
- The tax relief applies if you give, or sell at less than market value, any qualifying investments to a UK charity.
- 'Qualifying Investments' are defined in the legislation (C.f. Appendix Two)
- Individuals deduct the relief when calculating their income for the tax year in which the gift of shares or securities are made.
- Companies deduct the relief as a charge on income for the accounting period in which they make the gift.
- The amount that can be deducted is the market value of the investments at the date of the gift to charity **plus** any incidental costs incurred in transferring the investments (e.g. broker' fee or stamp duty) **less** any disposal proceeds or other money, or the value of any other benefits that you or a person connected with you (e.g. relative), receive in consequence of you giving or selling the investments to charity.

(Source: Inland Revenue IR178 leaflet on "Giving shares and securities to charity" issued by the External Communications Unit of the Inland Revenue December 2000 <http://www.inlandrevenue.gov.uk/>)

This compares unfavourably with the current situation in Ireland as outlined below.

The Current Situation in Ireland

A donor (regardless of whether they are assessed for tax under the PAYE, self-assessment or Corporation tax system) who makes a donation of assets, such as shares, securities etc., to an eligible charity qualifies for capital gains tax relief on the disposal in that the disposal is deemed to be made for such amount as will give rise to no gain/no loss for the donor for capital gains tax purposes. However, because the donation is not in the form of money it does not qualify for the new tax relief. In order to benefit from the new scheme the donor would have to realise the cash value of the asset, pay the capital gains tax and then make the donation in the form of money, which acts as a disincentive to making such donations.

Proposal

That the current definition of a 'relevant donation' for the purposes of the Scheme of Tax Relief for donations to Eligible Charities and Approved Bodies under the terms of Section 45, Finance Act 2001 be amended/extended to cover donations of assets, such as shares, securities, property and other investments, to eligible charities or approved bodies **in addition** to existing capital gains tax relief which already applies.

2 VAT Refund Mechanism for Charities & Approved Bodies

Irish Charities pay out more than €18m in irrecoverable VAT each year according to a report from tax experts Ernst and Young (Report summary attached). The comprehensive report was prepared for Irish Charities' Tax Research Ltd and is based on the first detailed survey of the VAT burden imposed on the Irish charitable sector.

- The report demonstrates that VAT is a significant burden on Irish Charities costing the sampled charities €18million in 2001
- The VAT burden can be relieved by way of a Ministerial Order under Irish VAT law without contravening EU law. This has been confirmed by the EU Commissioner (see letter Appendix One)
- The actual cost to the Exchequer of introducing a refund mechanism is 52% of the total VAT bill since the remainder is paid for from public funding - in the case of the sampled charities a VAT refund would cost the exchequer €9.4m
- The advantage of a VAT refund mechanism is that control remains with the Revenue Commissioners as to what organisations qualify for refunds

The Minister has the power under sections 6(2), 11(8)a and 20 of the VAT Act 1972 to introduce a refund scheme without falling foul of EU law.

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As the Minister is aware there is significant public support for refunding VAT to charities as witnessed by the number of people who signed up to our web-based petition in 2002 (12,867) and who directly lobbied their local candidates in the run up to the 2002 general election and the recent local and European elections - sending almost 30,000 emails on the issue.

Conclusion

ICTRG recognises the value of the Scheme of Tax Relief for donations to Eligible Charities and Approved Bodies introduced under the terms of Section 45, Finance Act 2001 to the sector and commends the previous Minister for its introduction. However, we believe that the scheme would be greatly improved by

1. The reduction of the minimum donation threshold to €100, which would extend the current benefits to the majority of individual donors and their charities as appropriate (PAYE / Self-assessed) rather than restricting it to the more well off.
2. The extension of the definition of ‘relevant donation’ to cover donations of assets, such as shares, securities, property and other investments, to eligible charities and approved bodies.

These changes would bring Ireland more into line with international practice and would provide an increased stimulus for philanthropy in this country.

ICTRG would like to see the Minister introduce a VAT Refund Scheme for Charities by means of a Ministerial Refund Order as provided for under the VAT Act 1972.

APPENDIX ONE

Letter from Commissioner Frits Bolkestein

APPENDIX TWO

Details of UK Scheme of tax relief on Shares