**MUSEUMS ASSOCIATION RESPONSE TO THE CONSULTATION ON TAX RELIEF FOR MUSEUMS AND GALLERIES**

**ABOUT THE MUSEUMS ASSOCIATION**

The Museums Association is a membership organisation representing and supporting museums and people who work for them, throughout the UK. Our membership of over 8000 includes all types of museums, from small volunteer-run locals to large nationals and people working in all types of roles from directors to trainees. Founded 125 years ago, in 1889, the Museums Association was the world’s first professional body for museums. We lead thinking in UK museums with initiatives such as *Collections for the Future*, *Museums 2020* and, most recently, *Museums Change Lives*. We receive no regular public funding, and we do not wish to do so.

**KEY ISSUES**

The Museums Association believes that it is of the greatest importance that the proposed tax credit should be available to permanent exhibitions as well as temporary and touring exhibitions. Under the existing proposals, only national museums and a few large regional museums will be able to benefit. This would not be in keeping with the criteria set out in the proposal for the tax credit to “encourage the sector to develop creative exhibitions across the UK.” The inclusion of permanent exhibitions would ensure that smaller and medium-sized museums are able to benefit from the relief, and would ensure that the design of the scheme is equitable for all stakeholders.

We believe that it would be practical to extend the proposed scheme to permanent exhibitions. Permanent exhibition project costs are clearly delineated and are accounted for separately to running costs.

We recognise that the extension of the scheme to permanent exhibitions could result in inflated costs to Treasury. While we do not believe that the inclusion of permanent exhibitions in the proposed tax relief will lead to a large increase in the cost or number of claims, we believe that Treasury should consider mitigating options that would help to limit risk, including the use of a cap on claims. We outline some options for this within the document below, and would welcome further discussions on how such a cap might work for the sector as a whole, as well as for Treasury and HMRC.

**RESPONSE TO CONSULTATION QUESTIONS**

1. **Criteria**

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| *Criteria for museums and galleries tax relief:*   * *effective. Any proposed policy change must be effective in supporting institutions to deliver cultural benefits, encouraging the sector to develop creative exhibitions across the UK, and incentivising touring exhibitions to ensure that a wide range of audiences can enjoy them* * *affordable. The proposed relief must represent value for money to the taxpayer and must be affordable in line with the government’s objective for long-term sustainability in the public finances* * *simple and straightforward to administer. The government is committed to simplifying the tax system as well as modernising it through its Making Tax Digital programme. Any proposed change should not result in unnecessary burdens for companies, charities or other groups, for individuals or for the administration of the tax system* * *sustainable. Any proposed change must be designed, as far as possible, to fit both the current and future states of the sector* * *not open to abuse. Tax reliefs should not create any additional avoidance opportunities* * *compliant with EU law. The UK must meet all obligations as a member of the EU whilst the exit from the European Union is negotiated. Because of this, any proposed policy change must be consistent with the principles of the Single Market and will need to be achievable in the context of EU rules on State aid*   **Question 1**  Do you agree with the proposed criteria for assessing the options to provide support to the museum and gallery sector? Please provide any comments as appropriate. |

We agree with the proposed criteria.

1. **Definition of Qualifying Institutions**

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| *Proposed definitions of qualifying institutions for the purposes of tax relief:*   * *The proposed definition of a museum is “a building or place devoted to the conservation, exhibition and educational interpretation of collections having scientific, historical or artistic interest.”* * *The proposed definition of a gallery is “a building or place that is used for the exhibition and educational interpretation of a collection of objects having scientific, historical or artistic interest.”*   *Proposed exclusions:*   * *commercial companies run on a for-profit basis other than trading subsidiaries of charities.*   Questions 2-4   * Would these definitions allow appropriate institutions to be in a position to claim the relief? * Would adopting the definitions outlined above be an effective way of meeting the governments objectives as set out in chapter 3? * Is there an alternative definition of a qualifying institution that would more accurately permit the most appropriate range of museums and galleries to qualify for the relief? If so, please provide details. |

The proposed definition creates a false division between a museum and a gallery as it suggests that the major difference between a museum and a gallery is the responsibility to conserve collections. Many galleries hold substantial collections and work actively to conserve them.

It may not be necessary to distinguish between the terms ‘museum’ and ‘gallery’ for the purpose of the tax relief. It may instead be useful to distinguish between institutions holding collections (the vast majority of museums and galleries) and those which do not hold collections (some galleries and visual arts organisations, such as Turner Contemporary Margate).

In addition, we believe that the definition of ‘collections’ should also be reviewed. Museum and gallery collections are hugely diverse, and can include:

* scientific specimens
* diverse objects of social, historical, cultural or religious interest and importance
* collections of art works
* non-material works, such as oral histories and video installations
* single objects or works

We believe that it would therefore be better to define a collection as being made up of ‘object(s) or work(s)’.

1. **Definition of Exhibition**

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| *Proposed definition of an exhibition for purposes of a tax relief:*  *The proposed definition of an exhibition is “an organised and temporary display of a selection of works of art or items of interest held in a qualifying museum or art gallery. The exhibition must be open and accessible to the general public.” To qualify as temporary, the period between opening and closing the exhibition to the general public must not exceed one year at a single location.*  *An exhibition will not qualify for relief if:*   * *one of the main purposes is to advertise or promote goods or services* * *it is not open and accessible to the general public* * *it is exhibited in a museum or gallery that does not meet the definitions above* * *the purpose is to sell the exhibit or exhibits*   Questions 5-7   * Is there a more accurate definition of an exhibition that would allow qualifying institutions to claim relief for the most appropriate range of displays? * Does a period of up to one year accurately reflect the length of time a temporary exhibition would remain open to the public? * In addition to those mentioned in box 4B, are there any types or characteristics of an exhibition that you think should be excluded from the relief? |

As noted above, we believe that the proposed restriction of the tax credit to temporary and touring exhibitions will result in a scheme that is unequitable. Many smaller and medium-sized museums lack the space and/or the resources to mount regular temporary exhibitions. The current definition of exhibition would render the scheme accessible only to a small number of national and larger regional museums. It would also mean that the relief would fail to support smaller and medium-sized museums which have been most vulnerable to public sector cuts, and which will need the most support over the next decade.

Given the concerns that Treasury has expressed over the total cost of a scheme that includes permanent exhibitions, we have set out a range of potential mitigating caps below:

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| **Type of Cap** | **Key issues** |
| Cap on total annual claim per museum/gallery  e.g. Museum X can only submit claims in one financial year up to the value of £x | * Limits total amount that any single museum or gallery can apply for, so provides greater certainty on overall cost of scheme. * Cap likely to impact only on national museums (and possibly larger MPMs). |
| Cap on claim per exhibition project  e.g. Each individual exhibition project can claim up to a maximum of £x per year. Multiple projects from the same museum can claim per year. | * Encourages larger number of new exhibition projects * Does not limit total amount that individual museums can claim. * Possibly encourages artificial division of large projects into multiple ‘smaller’ projects. * May cause accounting and planning problems within museums. |
| Maintain 12 month definition for temporary exhibitions and introduce capped offer for exhibitions over 12 months. Museums would choose either to claim for temporary or permanent exhibitions each year – they could not do so for both.  e.g. Museum X chooses either to make an uncapped claim for temporary exhibitions or chooses to claim for longer term exhibitions capped at £x per year. | * Encourages nationals and larger museums to create temporary exhibitions. * Allows smaller and medium-sized museums to claim for permanent displays. * Possibility of separate Special Purpose Vehicles from same museum applying under each category. * May cause accounting and planning problems within museums. |

These potential scheme designs have individual pros and cons, which we have sketched out above. We would be happy to discuss these further and help to provide additional evidence to inform the setting of a cap that does not unfairly disadvantage any type of museum. Any cap that is introduced should rise annually in line with inflation.

1. **Definition of a Touring Exhibition**

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| *What constitutes a touring exhibition:*  *An exhibition will only qualify as touring if the institution shows evidence at the beginning of the planning phase of the exhibition that it will present the exhibition in at least one other museum or gallery in a different location falling within the proposed definitions above. A museum or gallery that tours an exhibition to a different branch of that same institution will still be eligible for relief.*  Questions 8-12   * Is there a more accurate definition of a touring exhibition that would allow institutions to tour their exhibitions to other museums and galleries? * How soon in advance is it decided that an exhibition will be toured? * What kind of model is most likely to be employed for touring, i.e. would it be led by one organisation, split between two institutions, etc? * How are the costs split up between the touring institution and the institution that is hosting the tour and how do the two interact more widely? * If an exhibition is toured internationally, when and where are the costs normally paid? |

There are a huge range of different models for touring exhibitions.

* Co-productions: where one or two partner venues collaborate on the development, inputting into the look, feel, scale, design and marketing. In these instances, co-producers contribute a substantial portion of the originating budget, ie more than a conventional tour partner.
* Tour Partners: where a museum takes full responsibility from concept to delivery/launch and then operates a ‘traditional’ tour of the show to one or multiple partner venues.
* Tour partnerships on the origination of an exhibition which may not launch in the originating museum.
* Tours that did not begin as touring exhibitions, but are continuations of successful temporary exhibitions.

Given the complexity of the touring landscape, we believe that it would only be logical to create a separate Touring Exhibition definition if it is to be subject to a higher rate of relief. If this is not the case, it would be sufficient for individual venues to make separate claims for their individual costs relating to their leg of the exhibition. In the case of exhibitions created in partnership, we would propose that the partners select one lead organisation which would claim the relief on behalf of all partner organisations.

In addition, the requirement for touring exhibitions to be presented in at least one other museum or gallery could be restrictive, since exhibition venues are increasingly diverse and a touring exhibition might not be presented in any other formal museum or gallery setting after leaving the originating institution. We therefore propose that the wording ‘at least one other museum or gallery’ is replaced by ‘at least one other venue’.

1. **Qualifying Core Costs**

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| Question 13   * What costs are integral to the exhibition process itself and should therefore be eligible for relief? Please explain your choices. |

The proposed lists of core costs are broadly correct. However, we believe that some changes would provide extra clarity for the sector on what can be included. These changes are noted in bold below.

Qualifying ‘core’ expenditure – to qualify, the cost must be directly linked to the exhibition:

* curator and research costs
* **costs of commissioning artists (not acquisition costs)**
* exhibition installation **and deinstallation**
* exhibit loan costs
* **conservation costs for exhibition objects or works**
* digital ~~spending~~ **content**
* insurance and transportation costs
* **costs of temporary storage for loan items**
* exhibition specific venue costs (including set-up) and exhibition hire
* administration **and legal fees** that are linked directly to the exhibition

Ineligible costs:

* general museum costs and running costs of exhibition
* cost of financing
* fees, including **general** legal and accounting fees
* acquisition costs
* storage costs
* marketing and advertising
* infrastructure costs not solely related to the new exhibition

1. **Claims Process**

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| Questions 14-16   * Does the requirement to be incorporated and operate separate trades within the company cause significant administrative burdens for museums and galleries? Please explain in what way. * Would the requirement to be incorporated affect current funding or subsidy/exemptions that are received by some museums? If so, please explain how. * Are there any other specific design points which need to be addressed? |

We understand that claims can be made either within the existing organisation (provided it is incorporated and therefore in the scope of corporation tax) or through the creation of a Special Purpose Vehicle. National and independent museums are generally incorporated as charities and will be able to benefit from the tax relief, although several have noted the additional administrative burden.

A large proportion of museums are operated by local authorities, and would therefore need to set up Special Purpose Vehicles in order to benefit from the relief. This is likely to be a substantial burden for some local authority museums which are already subject to serious resource constraints. However, the tax relief may also have the positive effect of encouraging local authorities to provide museums with additional freedoms to set up trading subsidiaries.

Several local authority members have expressed concerns about the impact that setting up subsidiaries can have on VAT arrangements. However, we understand that this issue has been largely resolved for theatres under the theatre tax credit and would welcome guidance for the museum sector that will encourage uptake of the relief.

1. **Other Issues**

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| Question 17   * Can you give examples of other sources of funding that you receive for exhibitions? |

Exhibitions funding can come from a wide range of sources, including:

* Central museum budgets (including local authority budgets)
* EU Funding – e.g. Creative Europe Fund
* Lottery funding – Heritage Lottery Fund and Arts Council England
* Other government departments and bodies
* UK research councils
* Trusts and foundations
* Private donations and philanthropy
* Members, friends and patrons
* Corporate sponsorship

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| Questions 18-19   * Would the strategy outlined above be an appropriate way of preventing abuse of the new tax relief? * Are there specific areas in addition to those mentioned above that create the opportunity for abuse? |

As far as we are aware, the proposals would not be open to widespread abuse. We reiterate the need for the scheme to be designed specifically for not-for-profit museums and galleries which deliver public benefits and which work in the public interest.

1. **Further Supporting Evidence**

HLF Figures

The Heritage Lottery Fund (HLF) provide grants for the majority of new exhibitions created as part of capital redevelopment projects or permanent gallery redisplays in UK museums. This includes major, once in a generation, projects such as the recent redevelopments of Imperial War Museum London or the Ashmolean Museum. This therefore provides the most complete data available for museums, although it does not include data for some visual arts organisations.

In each of the past five years HLF has contributed to an average of 39 projects with exhibitions that last longer than a year, with values ranging from £55.9m to £125.9m (an average of £87.2m).

Of this typically 20-25% of the total project cost is spent on exhibitions – so at 25% this would mean £21.8m in total, 80% of which would be eligible for the relief (£17.44m). At a rate of 20% this would result in a total tax relief claim across the sector of £3.5m, in addition to claims for short term temporary and touring exhibitions.

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| **Year** | **Total no. of projects funded by HLF\*** | **Total project cost\*** | **Exhibition cost (based on typical rate of 25%)** | ***Tax relief claim***  ***at 20%*** |
| 2011/12 | 38 | £55.9m | £14m | *£2.2m* |
| 2012/13 | 51 | £114m | £28.5m | *£4.6m* |
| 2013/14 | 31 | £70.5m | £17.6m | *£2.8m* |
| 2014/15 | 35 | £69.9m | £17.5m | *£2.8m* |
| 2015/16 | 41 | £125.9m | £31.5m | *£5m* |
| **Average** | **39** | **£87.2m** | **£21.8m** | ***£3.5m*** |

1. \* Figures supplied by HLF, October 2016.

Case Study: Medium-Sized Regional Museum

“The budget for each temporary exhibition is £50,000 which includes loans, insurance, transport of loans, design, mounts, image costs, production costs etc. This doesn't include the cases as they are permanent fixtures which are re-used each time. Ideally we would replace the exhibition once a year minimum but our budget for this year was removed. The tax relief would help to make the case for more regular temporary exhibitions. Regarding the permanent exhibition, it has been there for nearly 3 years now, and we are not intending to do major revisions for at least 10 years and probably much longer.”

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