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Letter about the importance of the Museums and Galleries Exhibitions Tax Relief on the Visual Arts and how to support an art form that plays a central role in the UK's economy and society.

Rishi Sunak MP, Chancellor of the Exchequer, HM Treasury
Kemi Badenoch MP, Exchequer Secretary to the Treasury, HM Treasury
Oliver Dowden MP, Secretary of State for Digital, Culture, Media and Sport, Department for Digital, Culture, Media & Sport

20 January 2021

Dear Ministers,

A UK alliance of visual art networks urge Ministers to consider removing the Museums and Galleries Exhibitions Tax Relief sunset clause, make adjustments to address significant barriers to applying, and expand the eligibility criteria for the relief that supports the sector in difficult economic times.

The Contemporary Visual Art Network for England, Crafts Council, Visual Arts Galleries Wales, Scottish Contemporary Art Network and Visual Artists Ireland [NI] and Belfast Visual Arts Forum have joined forces to impress the urgency and set out a series of recommendations to overcome the outstanding issues:

• Our primary recommendation is the retention of MGETR to provide certainty and reassurance to the sector ahead of the current expiration date of April 2022.

• The second recommendation calls for a number of reforms of MGETR to enhance take-up and improve alignment with exhibition activity between galleries and museums.

• The third recommendation calls on the Government to simplify the current tax incentives for galleries and museums to ensure that the social and economic benefits of culture are shared across the United Kingdom, and in the English regions, to support the Government's levelling up agenda.

As a sector, our commitment is to ensure that this tax credit is fully adopted by all intended recipients.

In implementing these recommendations, the Government can help support the recovery of the visual arts sector by considering the specific industry-focused challenges of the pandemic and ensuring that most appropriate support is available.

Given the devastating impact of Covid-19, action should be taken now to extend the life of the legislation and address the following identified aspects in need of reform that will ensure that museums and galleries can optimise the benefit of the scheme.

These are:

1. Extend the definition of charitable status as determined by HMRC to allow the inclusion of arts and heritage organisations who demonstrate public benefit through their constitution, articles and programme. Instead, apply a 'not-for profit' test.

2. Include digital online programme expenditure as eligible relief. 3. Include live programme, such as performance art and other live components of museum and gallery exhibition and display, through applying a 'live art' test. 4. Allow exhibitions which include works for sale.

This work should be completed over winter to allow changes and be introduced as part of the Spring 2021 Finance Bill.

Please view the attached supplementary information – collated by the UK Visual Arts Networks representing Scotland, Wales, Northern Ireland, England, galleries, artists, craft makers and workers.

We urge you to make these simple changes to the Museums, Galleries and Exhibition Tax Relief that will benefit the art form, economy, society, and communities across Great Britain and Northern Ireland.

Yours sincerely,

Paula Orrell, Director, Contemporary Visual Art Network for England

Sue Ball, Chief Executive, Yorkshire and Humber Visual Arts Network

Rosy Greenless, Chief Executive, Crafts Council

Chris Brown and Alfredo Cramerotti, Co-Chairs, Visual Arts Group Wales

Moira Jeffrey, Director, Scottish Contemporary Art Network

Rob Hilken, Visual Artists Ireland, Northern Ireland

Peter Richards, Chair, Belfast Visual Art Forum

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SUPPLEMENTARY INFORMATION IN SUPPORT OF THE RETENTION AND ENHANCEMENT OF MUSEUM AND GALLERY EXHIBITION TAX RELIEF

The impact of Covid-19 on the arts and heritage sector, and the economy as a whole, has highlighted the opportunity represented by the Creative Industry Tax Relief (CITR) schemes. It has brought MGETR into sharp focus as a key funding stream within organisational recovery and resilience strategies, if adopted.

1) KEY RECOMMENDATIONS

OUR PRIMARY RECOMMENDATION IS THE RETENTION OF MGETR AND TO PROVIDE CERTAINTY AND REASSURANCE TO THE SECTOR AHEAD OF THE CURRENT EXPIRATION DATE OF APRIL 2022.

The potential of MGETR for the visual arts and heritage sector cannot be underestimated and there is a clear case for the retention of MGETR and its positive impact on the UK museum and gallery sector. Data and case studies demonstrate the benefits for eligible organisations as a source of **unrestricted funds** that support core administrative functions, the commissioning of new work, artist residencies, and underwrites risk in artistic and curatorial practice.

From sector case studies, funding drawn down by MGETR claims have delivered a range of economic and social impacts including:

- increased organisational capacity
- investment in education activities
- investment in talent development and training
- staff retention and additional employment
- strengthening of digital presence
- stronger brand activity
- stronger marketing and audience development
- supported inbound tourism.

Although the scheme had slow uptake (see Second Recommendation), the backing of Arts Council England and a broad alliance of sector professional networks will continue to promote the scheme and mobilise the sector to access and evidence its tangible benefits. Peer-led support and training has brought organisations into readiness and clarified HMRCs eligibility requirements, which has enabled an increase in new exhibition and curatorial activity across all currently eligible types of visual arts organisation.

THE SECOND RECOMMENDATION CALLS FOR A NUMBER OF REFORMS OF MGETR TO COUNTERACT BARRIERS, ENHANCE TAKE-UP AND IMPROVE ALIGNMENT BETWEEN THE EXHIBITION ACTIVITY OF GALLERIES AND MUSEUMS.

There are a number of key barriers into MGETR adoption that prevent access which are **particularly obstructive for medium to small scale arts and heritage organisations**, as follows:

- The eligibility criterion of charitable status
- The time-limited nature of the current legislation
- Need for peer-to-peer support and training
- Lack of support and expertise from the accountancy infrastructure.

The technical aspects of making a claim requires investment into the skillset and competencies of the available accountancy infrastructure in many small to medium scale visual arts organisations, as claims have to be submitted using IXBRL software as part of the applicant company's corporation tax return. Those larger galleries or museum institutions who have made successful claims typically had a finance officer or resources to sub-contract the required skillset.

There is a reported lack of knowledge within the accountancy infrastructure of MGETR, with repeated reports from the sector of inaccurate or gaps in technical advice offered. Given the role of accountants within the UK tax system, organisations without internal finance staff and/or cash to procure such a service, face a tangible barrier to MGETR adoption.

However even within the eligible cohort, there was general agreement that **MGETR is not simple to claim** and the time and/or finance needed for organisational readiness for accountancy support was hard to find.

THE THIRD RECOMMENDATION CALLS ON THE GOVERNMENT TO SIMPLIFY THE CURRENT TAX INCENTIVES TO ENSURE THAT THE SOCIAL AND ECONOMIC BENEFITS OF CULTURE ARE SHARED ACROSS THE UNITED KINGDOM AND ENGLISH REGIONS TO SUPPORT THE GOVERNMENT'S LEVELING UP AGENDA.

MGETR is part of a UK Government strategic package that offers additional and ongoing investment into museums and galleries outside of London and the South East that can boost economic prosperity and offer social and cultural returns on investment.

Museums and Galleries play a crucial role in the Build Back Better agenda, as vital creative and community hubs and major contributors to local economies, in particular reviving beleaguered high streets.

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This is understood as a clear mandate by all political parties and arts and cultural are an essential part of an economic recovery plan that revitalizes the UK's cultural, rural, and urban economies.

2) ENHANCEMENT OF MUSEUMS AND GALLERY TAX RELIEF TO COUNTERACT BARRIERS, ENHANCE TAKE-UP AND IMPROVE ALIGNMENT

The following proposed changes to MGETR eligibility have been determined through consultation with the museum and gallery sector. These changes would increase the number of organisations with public benefit objectives able to claim, and by extension enable broader societal benefits as a consequence. These requests are not simply the sector lobbying for a free-for-all removal of all eligibility criteria but look to strengthen conditions to balance out the necessary absence within HMRC of an artistic quality criterion.

i) Revise the requirement for an organization to have charitable status as determined by HMRC and extend this definition through a 'not-for-profit' test.

The criterion of charitable status is a considerable block to many arts and heritage organisations supported by Arts Council England (ACE) via their National Portfolio Organisations (NPOs) and also to non-NPOs who receive project funding from ACE many of whom are not charities.

MGETR is the only CITR that requires charity status for company eligibility; other CITR, such as Theatre, Orchestra, and Digital, allow commercial companies to access respective Government tax schemes.

In research, many small to medium size organization with public benefit Company Objects had investigated the possibility of registering as charities but had been refused due to their focus on sector support and artist-led initiatives. They therefore looked to constitute as not-for-profit CICs and limited liability companies, which by HMRC determination do not currently meet the charitable criteria.

THE REQUEST IS THAT THE HMRC EXPAND THEIR DEFINITION OF CHARITABLE WITH A 'NOT FOR PROFIT' TEST THAT ALLOWS THE INCLUSION OF ARTS AND HERITAGE ORGANISATIONS WHO CLEARLY DEMONSTRATE PUBLIC BENEFIT THROUGH THEIR CONSTITUTION, ARTICLES AND PROGRAMME.

ii) Include digital online programme expenditure as eligible.

Currently MGETR allows claims on 'core' activity related to the development of new exhibitions and display and does not include marketing or other infrastructural expenditure. This demarcation **should be retained** when considering the digital.

However, the UK gallery, museum and artist-led sector is at the forefront of pioneering digital culture across the globe through the exhibition of work, support for the next generation of digital artists and experience designers and innovating with the new kinds audience interaction and participation. The rapid move of arts and museums activity onto digital and online platforms to reach and retain audiences, before and during Covid19 Lockdown means that "digital" is even more embedded as part of the cultural offer.

This makes the need for a review into the application and enforcement of this criterion all the more urgent.

Research shows that digital programming is now a central and/or a blended component of the rich mix of the contemporary exhibition and display in museums and galleries for in-venue and remote audience engagement. This includes works as diverse as remotely interactive sculptures incorporating audience movement; digitally programmed architectural interventions in gallery spaces and "Internet of Things" enabled remote audience interactions. The wide range of audience-responsive installations often combine online, digital and analogue technologies. There is no one clear sense of where the digital begins and end in this context. The digital experimental platform, media and exhibition hosted and curated by UK museums and galleries must be made eligible to help incrementally grow the digital and creative industry sector, one of the leading economies for the UK globally.

THE REQUEST IS THAT THE HMRC EXPAND THEIR DEFINITION OF ELIGIBILITY TO INCLUDE DIGITAL OR ONLINE EXPENDITURE, RELATED ONLY TO EXHIBITION AND DISPLAY.

iii) Include live art programme, including performance art and other live components of exhibition and display, as an eligible claim.

This was the exclusion most often cited as the reason a programmed exhibition was not claimed for by successful applicants. Research shows how an exhibition which included live medical leeches at the Thackray Museum; the publicly acclaimed work by Spencer Tunick *Sea of Hull* with 3,400 naked participants, and Marina Abramovic's *512 Hours* in the Serpentine Gallery are examples of works commissioned by MGETR eligible organisations, currently excluded because of this criterion.

The greater concern is that this exclusion will have a disproportionate impact on the small gallery and artist-led sector, emerging artists and for artists of Black, Indigenous and People of Colour, LGBTQ+, disabled artists and other cultural practitioners who locate their practice in the body as a means to articulate alternative subjective experiences of contemporary society.

Over time, this restriction will significantly skew curatorial programmes from the inclusion of specific and appropriate live art elements, reduce the opportunity for growing the diversity of arts practices in the UK, and disenfranchise already more marginalised communities of practice.

A series of 'live art' tests will be proposed that demarcate the eligibility criterion for live art/performance, as distinct from the ineligible activity of 'shows'.

THE REQUEST IS THAT THE HMRC EXPAND ELIGIBILITY CRITERION TO INCLUDE LIVE ART WITH A 'LIVE ART' TEST THAT ALLOWS A LIVE ART COMPONENT IN MUSEUMS' AND GALLERIES' EXHIBITIONS AND DISPLAY.

iv) Allow exhibitions that include works for sale.

Sales of artwork generate a variable proportion of the artist's income and commonly a larger percentage for the designer-maker and craftsperson. It is vital to optimize the income generation of living artists and designer makers and foster accessible art markets with opportunities for acquisition through regular sales of their work.

Museums and galleries can find that the total cost of the exhibition is deemed ineligible due to the sale of an artwork, whether as planned activity or a serendipitous purchase. To avoid potential clawback of MGETR claims, it has been evidenced that any sale has been discouraged by host organisations.

These kinds of sales benefit two sets of Arts Council England and HMRC constituencies - the galleries themselves and the living artists, whose contribution to economic regeneration as micro-enterprises often goes unmeasured and poorly remunerated.

In current MGETR regulations, there is a set of measures that could be brought to bear to facilitate sales whilst preventing exploitative use of MGETR by the commercial sector. These measures include companies with eligible costs below £100,000; expenditure within the EEA; exhibition for public engagement; and inclusion of primary market sales – all of which would benefit the museums and gallery sector and living artists, if the prohibition on sales were lifted.

THE REQUEST IS THAT THE HMRC EXPAND THEIR DEFINITION OF ELIGIBILITY TO INCLUDE PRIMARY SALES ON THE WORK OF LIVING ARTISTS IN EXHIBITIONS HOSTED BY ELIGIBLE MUSEUMS AND GALLERIES, USING THE EXPANDED DEFINITION OF CHARITABLE TO INCLUDE THOSE MEETING THE

'NOT FOR PROFIT' TEST.