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# Encouraging philanthropy through the tax system where are we now?

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There is no doubt that we are living in uncertain times. In early May of last year, when I was a panel member at the Philanthropy Impact Tax Update in the context of Philanthropic Giving, who would have predicted the outcome of the General Election? At that time everything was ‘strong and stable’ and the prospect of a minority government seemed fanciful.

**T**he election result has only served to compound the Brexit uncertainty that we were already so conscious of then. And in that context what prospect is there to stimulate philanthropy through new forms of tax-efficient giving?

## Updating tax-efficient giving measures

In an age of consumer choice I am firmly of the belief that we need an improved tax-efficient giving ‘toolkit’. By this I mean a set of measures that allow people to give using tax-efficient mechanisms that suit them best. The measures would need to be constantly reviewed to ensure that they are ‘fit for purpose’ and reflect the realities of modern life. This should take account of the differing and changing needs of those who want to give but need the right structures to make this work optimally for them. No one measure will deliver the knockout blow. This is where the giving toolkit comes into play.

That is not to say that we are starting off from a bad place. The existing measures are useful and varied including Gift Aid, payroll giving, gifts of shares and gifts of property. More recent tax reliefs include the reduced inheritance tax rate that is applied where more than 10% of the estate is left to charity, and there are measures for social investment tax relief. This is not to forget the cultural gifts exemption.

So the resources in the existing toolkit are many and they all play their part. Like any toolkit some of

the tools will be used all the time whilst others will be only brought into use occasionally in particular circumstances. But they may need refreshing from time to time if they are to be as effective as they might be and it is some time since there have been major changes to it so the toolkit is beginning to look a little bit worn. So are there new measures that might reinvigorate our toolkit?

Anyone hearing the last Budget would not be full of optimism about that. We clearly have a Government that is not minded to address anything other than what’s urgent as it has too many other things to focus on. But, it will not necessarily stay like this forever. And we need to be ready for that when it happens.

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So what principles should guide us in lobbying for change? Most importantly, the giving must always be the priority. Tax efficiency must be secondary to that. The ‘tax tail’ must not wag the ‘giving dog’.

In seeking change we also need to:

- Stick to the principle that what is given away to fund charity should not be taxed. What is given is no longer a person's income to spend on themselves. In other words, tax relief should be seen as an underlying right rather than as a simple stimulus for giving.
- Notwithstanding this, be practical and canny in understanding what appeals to Government in terms of impact and costing. To argue that giving to charity is simply a good thing is not sufficient reason in itself.
- Remember the UK's heritage of philanthropy and not let it become just another word for a business proposition.

The Government, through its Charity Tax Forum, is intending to review the effectiveness of Gift Aid. It is important that this review makes sure that Gift Aid is fit for the future. With changing payment methods and the increasing impact of the accelerating digital age, this is essential. This gives an opportunity to refresh the relief.

### Other ways of giving

But what of bigger and novel ideas for giving? In the UK our tax system is only geared to giving tax relief on absolute gifts. This does not reflect that many want to give significant sums but do not want to lose the financial security that would mean. There are ways to get around this problem though. In the US, for example, capital remainder trusts have been part of

the giving landscape for many years and have been very successful. They allow those wanting to give to do so while still receiving a modest income until death or for a given period of time. The income the donor receives is subject to tax and the donor receives tax relief on the discounted capital sum. The trusts can also be constructed in a way that is suitable for the mass affluent.

In the UK this concept has been badged as 'Living Legacies'. It is estimated that this giving mechanism would unlock an additional £400m each year for charities. Attempts to lobby for changes to UK tax legislation to allow this to happen have been going on for a number of years. Some may think that this means that it will never happen. But a good idea remains a good idea and, whilst nothing is guaranteed, I believe its time will come. Hopefully, it is a matter of when and not if. We simply need persistence.

### Conclusion

A final plea must be for more financial advisers to be aware that there is a tax-efficient toolkit in the first place and make that available to their clients.

The beginning of this article referred to the changing political scene we witnessed last year. And so it only seems appropriate to end it in a similar fashion. I don't often quote Donald Trump but we are living in unusual times! "As long as you are going to be thinking anyway, think big."

**Richard Bray** is a Chartered Accountant who joined Cancer Research UK shortly after its creation in 2002. Previously he worked for KPMG for 20 years in varied audit and tax roles. His current work involves responsibility for a wide range of technical and regulatory issues including tax work for the charity. He has been closely involved with the Charity Tax Group since 2002 and is currently its Vice Chairman. He is also a member of the ICAEW

Charities Committee, the HMRC Charity Tax Forum and the Charity SORP Committee. Richard has a keen interest in understanding how tax reliefs can best encourage philanthropic giving in a way that focuses on the donor rather than the technical. He has also worked closely with HMRC over many Gift Aid developments in recent years and was partly responsible for the Gift Aid Declaration wording that was introduced from April of 2016.