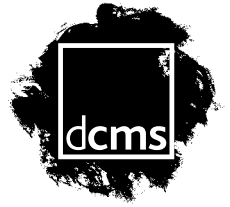




HM TREASURY



HM Revenue
& Customs



Gifts of pre-eminent objects and works of art to the nation

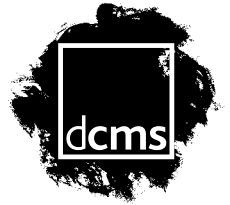
June 2011



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Subject of this consultation:	At Budget 2011 the Government announced that it would be consulting on proposals to encourage donations of pre-eminent works of art or historic objects (both referred to as “objects” in this document) to the nation in return for a tax reduction.
Scope of this consultation:	This consultation invites comments on an incentive for owners of pre-eminent objects, to donate them to the nation during their lifetime by providing a tax reduction based on a proportion of the value of the object. This consultation is to inform aspects of the policy detail that have not yet been decided and to consider how to implement the policy.
Who should read this:	<p>These proposals will be of interest to owners of pre-eminent works or historic objects who may be interested in donating an object to be saved for the nation. These proposals could also affect charities, museums and trusts that currently receive donations of pre-eminent works of art or historic objects or would be interested in displaying such objects in future.</p> <p>We particularly welcome views from anyone who has an interest in this area. In particular, we would welcome comments from charities, museums, other similar bodies and persons who may make use of the new scheme.</p>
Duration:	The consultation will run for 12 weeks from 29 June. The closing date for responses is 21 September.
Enquiries:	Enquiries should be directed by e-mail to: budgetexternal.mailbox@hmrc.gsi.gov.uk . Alternatively, please contact Keith Nichol (DCMS) in regards to the new scheme on 020 7211 6216 and Jo Shelling (HMRC) in regards to the tax implications on 020 7147 2401 or 02 7147 2778 (from a text phone prefix this number with 18001).
How to respond:	<p>Responses should be sent by e-mail to: budgetexternal.mailbox@hmrc.gsi.gov.uk or by post to:</p> <p>Consultation on gifts of pre eminent objects Room G67, 100 Parliament St, London, SW1A 2BQ.</p>
Additional ways to be involved:	The consultation team would welcome contact from bodies with an interest in meeting to discuss specific issues raised in the consultation. Please e-mail the team at the address above to register an interest in attending such a meeting.
After the consultation:	The consultation team would welcome contact from bodies with an interest in meeting to discuss specific issues raised in the consultation. Please email the team at the address below to register an interest in attending such a meeting.
Getting to this stage:	This is the first public consultation on encouraging the gift of pre-eminent objects to the nation since the Budget announcement on 23 March 2011.
Previous engagement:	The questions that are discussed in this consultation document have been developed following informal discussions with representative bodies and charities.

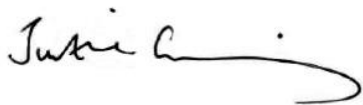
Foreword

The Government is committed to encouraging charitable giving and building a more socially conscious society. This is part of our vision for the Big Society. Key to this is our aim of building a stronger culture of giving, so that more people donate time, money, their assets, knowledge and skills, to support good causes.

At the Budget earlier this year, the Chancellor of the Exchequer set out a series of substantial reforms to support this cultural shift. These reforms are aimed at encouraging giving by donors at all stages of life, from the largest donors to those who give money through charity bucket donations. This summer we are consulting further on the details for this package of reforms, which represent the most radical and generous reforms to charitable giving for more than twenty years.

The package of measures, including a simplification of the Gift Aid regime, a reduction in inheritance tax for those who leave 10 per cent or more of their estate to charity, and tax incentives to encourage the donation of pre-eminent works of art and historical objects, is aimed at helping to raise the profile of philanthropy and make it the norm to give whatever you can.

This consultation document is focused on the proposal the Chancellor announced to encourage the donation of pre-eminent objects such as works of art and historical objects. We hope you will read the proposals set out in this consultation paper with interest, and work with us to ensure that this measure is a success.



Justine Greening MP,
Economic Secretary to the Treasury



Rt Hon. Jeremy Hunt MP,
Secretary of State,
Department for Culture, Media and Sport

1

Introduction

1.1 The Government is committed to encouraging charitable giving and building a more socially conscious society. At Budget 2011 the Government announced a package of measures to support philanthropy, encourage charitable giving and reduce the administrative burdens on charities. These measures support the Government's wider vision of building a Big Society, as set out in the Giving White Paper, published on 23 May 2010:

<http://www.cabinetoffice.gov.uk/resource-library/giving-white-paper>

1.2 The Budget 2011 measures encourage philanthropic and charitable giving across the whole of society and at all life stages:

- under the new Gift Aid Small Donations Scheme, to be introduced in April 2013, the Government will pay charities a top up equivalent to Gift Aid on up to £5,000 of small donations of money made without a Gift Aid declaration. This will reduce the administrative burdens on charities, supporting smaller charities in particular;
- from April 2011 the upper limit on benefits that charities may provide to Gift Aid donors will be increased from £500 to £2,500 to enable charities to better recognise the contributions of their largest donors;
- for deaths occurring from 6 April 2012, a reduced rate of inheritance tax (IHT) to 36% where 10% or more of a deceased's net estate (after deducting IHT exemptions, reliefs and the nil-rate band) is left to charity; and
- the subject of this consultation, to consult in summer 2011 on a scheme to provide a tax reduction to people who, during their lifetime, donate works of art or historical objects of pre-eminent importance to the nation.

1.3 More details of the full Budget package can be found at: http://www.hm-treasury.gov.uk/2011budget_documents.htm

Outline of the scheme

1.4 The aim of this new scheme is to stimulate lifetime giving by encouraging taxpayers to donate pre-eminent objects, or collections of objects, to the nation. In return, donors will receive a reduction in their tax liability based on a set percentage of the value of the object they are donating. The Government anticipates that this new scheme will appeal to owners of objects and collections who want to see them placed in appropriate institutions during their lifetime, and to be held in perpetuity for others to enjoy. Importantly, donating the object to the nation will ensure that the object will remain within the UK, bolstering our UK heritage. This approach will also provide the Government with the means to ensure that the objects are made available to the public and are maintained in good condition.

Fit with existing inheritance tax Acceptance In Lieu scheme

1.5 The new scheme for gifts of pre-eminent objects complements the separate Budget announcement of a reduced rate of inheritance tax (IHT) where at least 10% of a deceased's net

estate is left to charity, each seeking to encourage philanthropy at different stages in a person's life.

1.6 The new scheme will share some elements with the existing inheritance tax Acceptance in Lieu scheme (referred to in this document as 'the existing IHT AIL scheme'), which will continue to operate in parallel with this new scheme. As set out in Chapter 2, the Government envisages that the existing Acceptance in Lieu (AIL) panel of experts will form the basis of the expert panel that will assess gifts made to the nation under the new scheme. Both schemes will share the annual limit that has been available to date for the existing IHT AIL scheme (currently set at £20m per year).

1.7 There are also some differences between the two schemes. Importantly, to qualify for a tax reduction under the new scheme, the object has to be first and foremost a gift to the nation. Also, while the existing IHT AIL scheme covers pre-eminent objects, land and buildings, the new scheme will be limited to pre-eminent objects only. Donors may already claim income tax relief or corporation tax relief on gifts to charities of land and buildings. More information on the existing IHT AIL scheme can be found on the Museums, Libraries and Archives website http://www.mla.gov.uk/what/cultural/tax/acceptance_in_lieu

1.8 More detail on how the new scheme will work is set out in Chapter 2.

Scope of consultation

1.9 As mentioned above, the Government has decided that the new scheme should apply to items that are donated to the nation and that it should operate within an annual limit. The tax reductions offered under the new scheme will be equal to a set percentage of the value of the object being donated. The new scheme will only apply to pre-existing objects, and will not cater for, for example, commissioning the creation of new objects. The new scheme will be limited to chattels (moveable objects), given donors may already claim income tax relief or corporation tax relief on gifts to charities of land and buildings (real property).

1.10 However, there are a number of areas of detailed policy design still to be developed. These are:

- who will be eligible to apply for the new scheme;
- how to define pre-eminent and how these objects will qualify for the new scheme;
- acceptance of offers;
- which institutions will be eligible to receive objects;
- how objects should be allocated to institutions;
- what conditions should attach to objects allocated to institutions;
- how the tax reduction should be calculated; and
- whether there should be a cap on the amount of tax reduction per object or per donor (or both).

2

The proposed scheme

2.1 The scheme for gifts of pre-eminent objects will offer a reduction in tax liabilities of donors who make a lifetime gift of a pre-eminent object, or a collection of objects, to the nation.

2.2 To qualify for the tax reduction, the object has to be donated to the nation. The tax reduction will amount to only a set percentage of the value of the object, so the owner will first and foremost be making a gift of the object to the nation and not a payment of tax in kind. This contrasts with the existing IHT AIL scheme which accepts pre-eminent objects, land and buildings to pay for inheritance tax liabilities that are already owed. The existing IHT AIL scheme is designed to prevent estates being forced to sell pre-eminent objects, land and buildings to meet IHT liabilities, by allowing estates to offer such pre-eminent items against the IHT liability. In contrast, the new scheme aims to encourage gifts of pre-eminent objects to the nation and it is not a method of payment of tax in lieu.

2.3 The new scheme will, in combination with the existing IHT AIL scheme, operate within an annual limit. Both schemes will share the annual limit currently made available to the existing IHT AIL scheme. This means that when the new scheme is implemented, the total reduction in tax liabilities under both schemes each year must come within the annual £20m limit. The annual limit will be administered by the expert panel, who will take into account the amount available for total tax reductions when deciding whether to recommend acceptance of an object to the Secretary of State for the Department for Culture, Media and Sport (DCMS) or the Minister in the relevant devolved administration. DCMS will monitor and oversee the annual limit and, where the limit may be exceeded for that year, the Secretary of State for DCMS would make the final decision to ensure the limit is not exceeded.

2.4 The Government envisages that the existing AIL panel of experts will form the basis of the expert panel that will assess gifts made to the nation under the new scheme. As part of its remit in operating the new scheme, the expert panel will:

- recommend which objects should be accepted under the new scheme, using defined criteria;
- agree valuations of the objects for determining the amount of the tax reduction due;
- decide where the object should be located, taking into account a number of factors including where the best value for the public would be achieved.

2.5 The new scheme will work in the following way:

- A UK taxpayer will offer an object they considered to be a pre-eminent object as a gift to the nation. The donor will be able to indicate a preference for the ultimate destination of the object which will not be binding.
- The expert panel will consider whether the object is pre-eminent. If it is, the panel will agree a valuation with the donor. The potential value of the tax reduction will be based on a set percentage, for example 25%, of the agreed value of the object that is being donated.

- Once a valuation is agreed and the potential tax reduction calculated (based on the value of the object), the panel will make a recommendation, taking into account the annual limit, to the Secretary of State for DCMS or the Minister of the relevant devolved administration. DCMS will monitor and oversee the annual limit and, where the limit may be exceeded for that year, the Secretary of State for DCMS will make the final decision to ensure the limit is not exceeded.
- If the object is accepted DCMS will inform HM Revenue and Customs (HMRC) of the name and address of the donor, the nature of the object and its agreed value.
- HMRC will contact the donor confirming the calculation of the tax reduction and adjust the amount of tax payable. If the object is accepted as a gift to the nation the donor will not be liable for capital gains tax or inheritance tax on the gift. (Note however, that where an object is subject to conditional exemption and inheritance tax has been deferred as a result, any inheritance tax held over could become payable¹).
- On behalf of the Government, the panel will lend the object to an appropriate establishment in the UK that is open to the public. The establishment will not have to be a charity but it is envisaged most will be. That establishment will be responsible for ensuring the object remains in good condition, is available to the public and is fully protected while it is in its possession. At all times the donation will remain the property of the nation.

2.6 As mentioned in the introduction there are a number of design issues to be settled, on which the views of interested parties would be welcome. These issues, together with a number of other areas where the design is already decided, are set out below.

Who should be eligible to apply for the new scheme?

2.7 The new scheme will operate within a fixed annual limit for the total tax reductions resulting from the gift of pre-eminent objects. Extending the scope of potential donors beyond individuals to non-corporate bodies such as trusts, and corporate entities, may increase competition for the available funds but:

- it would increase the pool of objects that could be donated to the nation under the new scheme; and
- it may also encourage corporate bodies to give objects to the nation where there is currently no particular tax incentive for them to do so. That contrasts with individuals who, by waiting until after their death, would get a reduced rate of IHT on their estate if they leave 10% or more of the net estate to charity under the proposal announced in Budget 2011.

2.8 At first glance it would appear to be preferable to open up the new scheme to as many potential donors as possible. However, the Government is seeking evidence through this consultation that corporate and other bodies would donate objects they would not otherwise have donated, if they were included in the new scheme.

Question 1: Should the new scheme accept gifts only from individual donors? If so, why? Or should the new scheme be open to other donors including corporate bodies? Why?

Question 2: How many donors do you think might be interested in the new scheme?

¹ See Glossary for definition of conditional exemption

What objects should be eligible for the new scheme?

2.9 The existing IHT AIL scheme allows personal representatives to offer HMRC pre-eminent objects, land and buildings to offset inheritance tax charges. The current definition of pre-eminence set out in DCMS guidance is:

“Of particular historical, artistic, scientific or local significance, either individually or collectively, or associated with a building in public ownership, such as a National Trust property, which will be expected to have public access for at least 100 days each year. Objects must be in acceptable condition.”

2.10 Annex C sets out the guidelines the AIL panel currently uses to determine if an object is pre-eminent. It is important to note that the pre-eminence of an object is not judged solely by reference to the UK as a whole - an object may be pre-eminent in a regional or local context and may therefore qualify for the new scheme.

2.11 While a different set of definitions of a pre-eminent object could be used for the new scheme this could lead to unnecessary confusion for donors and for members of the expert panel. It therefore seems sensible to use the same definitions of a pre-eminent object eligible for the new scheme as already used for the existing IHT AIL scheme.

Question 3: Do you agree that pre-eminent objects should be defined for the new scheme in the same way as for the existing IHT AIL scheme? If you don't agree, what criteria or guidelines would you add to, or exclude from, the list, and why?

Question 4: What kind of objects might persons be interested in donating under this new scheme?

Valuation of objects

2.12 As under the existing IHT AIL scheme, donors will be responsible for valuing objects submitted under the new scheme. Objects will be valued at the fair market value. The costs to the donor of establishing and agreeing the valuation of the object, and of transferring the object to the nation, will not be taken into account when determining the fair market value and will be the sole responsibility of the donor. The expert panel will then confirm the valuation or, where appropriate, advise the donor of an alternative valuation at which it would recommend acceptance of the gift.

Acceptance of offers

2.13 As mentioned at paragraph 1.6 there will be a limit on the total amount of tax reductions available between the new scheme and the existing IHT AIL scheme combined. Once the expert panel has agreed the value of the object, which in turn will determine the associated tax reduction (see paragraphs 2.25 to 2.30, the panel will need to take into account offers it has already recommended under both the new scheme and the existing IHT AIL scheme, before making a new recommendation to the relevant Minister. The expert panel will need to be mindful that Ministers will be unable to accept a recommendation that pushes the total tax reduction for a given year above the annual limit.

2.14 The detail of how the two schemes will operate in parallel will be developed over coming months. However, following informal consultation the Government plans to operate the new scheme initially on a first come, first served basis, and then to review within two years how well this has worked.

2.15 This approach minimises the administrative burden on the expert panel, as there would be no need to agree a value for objects offered after the annual limit for that year has been reached. This approach does however run the risk of the annual limit being reached during the

tax year, with no means to accept an important object offered later on. Such gifts would need to be deferred and it is possible the donor might not wish to renew the offer the following year with the risk that the object could be lost to the nation.

2.16 An alternative approach would be for the expert panel to consider offers of gifts at one or more set points during or after the end of the tax year, and decide at those points which objects to accept and which to reject.

2.17 This alternative approach would enable the panel to take into account all offers of gifts made during a set period and, where the offers exceeded the limit, the panel could decide which ones were most important. There are however potential drawbacks to this approach. In order to decide which objects to accept within the limit the panel would have to agree the value of every object offered that was of pre-eminent importance. Where the associated tax reduction of all the objects was greater than the annual limit then some of the objects would have to be rejected, wasting the time and resource of the unsuccessful donor, their representatives and the expert panel. Deferring the decision until after the end of the tax year would create uncertainties for donors, as they would not be able to finalise their tax affairs until after the end of the year and may decide, as a result, not to offer the gift to the nation.

2.18 While this consultation should provide a better understanding of the possible demand, it is not possible to be sure what actual demand there will be for the new scheme, and whether a pooling process would be helpful in prioritising the acceptance of offers until the new scheme is underway.

2.19 Rather than introducing a potentially complicated procedure from the outset, which may not be needed, the Government therefore has decided to start the new scheme on a first come, first served basis, as is the case with the current IHT AIL scheme. The expert panel will therefore consider each object separately when it is offered by the donor rather than stockpiling offers for later consideration. The impact of this approach will be reviewed within two years to see if alternative arrangements needed to be put in place.

Question 5: If you think the new scheme should not be operated on a first come, first served basis, please explain why. If not on a first come, first served basis, how do you think the expert panel should prioritise the offers of gifts of pre-eminent objects if the value of gifts is over the annual limit?

What institutions will be eligible to receive objects and how should objects be allocated to institutions?

2.20 As well as promoting philanthropy and planned giving, this new scheme aims to broaden public access to pre-eminent objects by placing them on long-term loan to public collections. The expert panel will decide where the object will be allocated with a view to ensuring that public access is guaranteed to as many people as possible, subject to considering the condition of the object.

2.21 The existing IHT AIL scheme allows donors to nominate an institution, which the AIL panel tries to accommodate. If no nomination is made or, on the rare occasion that the nominated institution is not an appropriate location for the object, the panel asks other institutions to apply if they wish the object to be allocated to them. The new scheme could adopt this existing IHT AIL practice for the allocation of objects. Alternatively, the scope of the institutions that could be loaned an object, as part of the new scheme, could be broadened.

2.22 Aligning the allocation process of the new scheme with the existing IHT AIL scheme will reduce the scope for confusion among institutions, which will otherwise need to operate different procedures to apply for objects under what, to them, may appear to be similar schemes.

Question 6: Which institutions should the objects be loaned to? Should this differ from the institutions that can currently be allocated objects under the existing IHT AIL scheme and, if so, why?

Question 7: Do you agree the expert panel should follow the AIL process when it asks for applications from interested institutions for the allocation of an object? If not, what processes should be used?

What conditions should attach to objects allocated to institutions?

2.23 As objects will be gifted to the nation they will at all times remain the property of the nation. Objects will be allocated to an institution on a loan basis only. Conditions will need to be attached to the loan to ensure that the objects are protected and accessible. Some of these conditions will be essential and non-negotiable. For example the object will need to be maintained in good condition and made available to the public.

2.24 An institution will not be able to sell an object in its care. If an institution no longer wanted an object it would hand the object back to the expert panel for reallocation.

Question 8: What other conditions should be attached to the lending of objects? What level of public access should there be? How should public access be ensured?

How should the tax reduction be calculated?

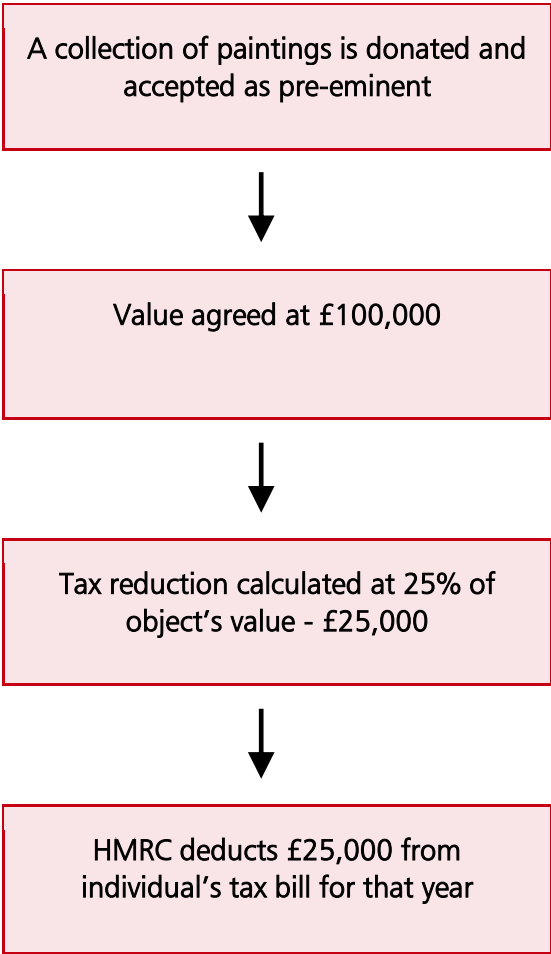
2.25 To encourage people to donate pre-eminent objects during their life time, the Government has decided that donors will receive a tax reduction equal to a fixed percentage of the value of the object they are donating, subject to the donor's status as a taxpaying individual, non-corporate or corporate body. This will minimise the administrative burden on donors who may wish to use the new scheme, as well as the expert panel, DCMS and HMRC.

2.26 An alternative approach would be to base the tax deduction on the donor's marginal rate of income or corporation tax. Under this approach, for individuals donating pre-eminent objects the amount of tax reduction received would depend on both their level of income, and their marginal rate of income or corporation tax. For example, additional rate (50%) taxpayers on larger incomes would receive larger tax deductions.

2.27 This approach would be very complex to administer. The donor would need to supply detailed information about their tax status to the expert panel, verified by HMRC, to determine the amount of tax reduction that should apply. This would add further complexity for the expert panel when they were calculating the reduction and prioritising offers of donations. The Government has therefore ruled out this approach.

2.28 One of the key design elements of the new scheme will be the level of tax reduction (in terms of a fixed percentage of an object's value). The Government's aim is to provide enough of an incentive to encourage people to use the new scheme, while maintaining capacity within the annual limit of total tax reductions to attract as many donations as possible. Informal discussions with interested parties suggest that a rate of 25% of the donated object may be enough to attract people to make donations under this new scheme. A worked example showing the principle of how the tax reduction will be calculated is given overleaf.

Chart 2.A: : Worked example on how the tax reduction will be calculated



2.29 The Government is seeking evidence through this consultation of the likely impact of different rates on donor behaviour.

2.30 However, it is worth remembering that the higher the percentage reduction, the fewer items will be able to be accepted each year. The table below shows for illustrative purposes how varying the rate of reduction would affect the value of objects accepted by the expert panel.

Table 2.A: Impact of varying the tax reduction rate

% of tax reduction against objects value	Total value of objects that can be accepted under new scheme
20%	£50m
25%	£40m
30%	£30m
40%	£25m
50%	£20m

Source: HMRC

(Note: this table assumes that around half the current £20m annual limit is used for the new scheme, with the other half used by people transferring pre-eminent items to the nation in lieu of payment for IHT. In practice it is yet to be seen how the annual limit will break down between the two schemes.)

Question 9: What rate of an object's value do you think would be sufficient to encourage donors to give objects to the nation, and why?

Question 10: If people other than individuals are eligible to make a donation under the new scheme, for example corporate bodies, should a different rate of reduction be used? If so what should the rate or rates be, and why?

Applying the tax reduction

2.31 There are a number of options for administering the tax reductions once the expert panel has recommended acceptance of a donor's offer of an object.

2.32 Extending the reduction to taxes beyond income tax, CGT or corporation tax would make the new scheme much more complicated to operate. In order to ensure the administration is as streamlined as possible, the Government has decided that the reduction will be available against only the income tax and CGT liabilities of individuals and non-corporate donors, and, if corporate bodies are to be included, against the corporation tax liability (including liabilities on chargeable gains) or corporate donors.

2.33 The tax reduction will be offset against the donor's tax liabilities relating to the tax year in which the offer of the donation is registered by the expert panel. It is possible that some donors will not have enough tax liabilities in one year to offset the full tax reduction. Unused tax reductions will not be payable. The Government will consider whether, and to what extent, any unused tax reduction could be set against tax liabilities for other tax years.

Capping the tax reduction donated

2.34 As mentioned above, there will be a limit to the total tax reductions available each year under the new scheme. If the amount of the tax reduction is based on a percentage of the value of the object, the possibility might arise that the gift of one or two very valuable objects could exhaust the total tax reduction available for the year. One way of dealing with this possibility would be to cap the maximum amount of tax reduction available per object (or collection of objects) to an absolute amount. For example, if there were a tax reduction generally of 25% per object, but with a cap of £1 million per object, then for an object worth £10 million, only £1 million of tax reduction would be made available.

2.35 Alternatively, a cap could be applied on the total tax reduction each donor may receive in a tax year, or there could be a cap in respect of each object and on each donor. So, if there were a cap of £1 million of tax reduction on each object, and a cap of £2m on each donor, then if a donor gave three unrelated objects (that is, not forming part of the same collection) each worth £10m, the maximum tax reduction that donor could receive would be limited to £2m.

Question 11: Should the tax reduction available on each object be capped? If so, what should the cap be, and why?

Question 12: Should a cap be placed on the amount of tax reduction available per donor? If so, what amount?

Question 13: What difference do you think it would make if there was no cap on the overall relief available under the new scheme?

Question 14: Are there any other ways of accommodating gifts of very high value?

3

Taxes impact assessment

Summary of Impacts

3.1 It is difficult to fully quantify the potential costs, benefits and impacts of the new scheme until key areas of the policy are settled following this consultation. The Government acknowledges that impacts may vary, depending on the final policy design and implementation.

3.2 We welcome any comments on the Impact Assessment and any estimates of costs or savings that may accrue as a result of these proposals.

Exchequer impact (£m)	This measure is expected to decrease tax receipts by approximately £10 million per annum. The final costing will be subject to scrutiny by the Office for Budget Responsibility, and will be set out at Budget 2012.
Economic impact	This measure is not expected to have significant economic impacts.
Impact on individuals and households	This measure will affect only a small number of individuals who are owners of pre-eminent works or objects who might wish to consider donating them to the nation.
Equalities impacts	There are no identified impacts on different equality groups as a result of this scheme.
Impact on businesses including civil society organisations	There will be negligible impact on businesses as the scheme will be of interest to only a very few businesses. Museums, galleries, archives etc, many of which are charities, will be interested in the new scheme as it will open a new route for them to borrow pre-eminent objects on long term loan. There may be an impact on third sector bodies as people may decide to use this scheme and choose to donate objects to the nation rather than directly to a charity.
Impact on HMRC or other public sector delivery organisations	HMRC will need to set up processes to apply and monitor tax reductions given to taxpayers under the new scheme. The extent of the processes and the costs will depend on the number of donors using the scheme. DCMS will need to refresh the panel of experts currently serving on the Acceptance In Lieu (AIL) panel.
Other impacts	No other impacts have been identified.

Question 15: Impact on individuals and households - the Government would welcome information from advisers or their representative groups about how likely they are to promote this measure and what they expect the take up and the value of the objects donated might be.

Question 16: Impact on business and the third sector - the Government would welcome information from advisers or their representative groups on the impact of this measure on charities, museums and other institutions.

4

Summary of consultation questions

4.1 The Government is keen to receive general comments on the outlined proposals, as well as responses to the specific questions listed below.

Question 1: Should the new scheme accept gifts only from individual donors? If so, why? Or should the new scheme be open to other donors including corporate bodies? Why?

Question 2: How many donors do you think might be interested in the new scheme?

Question 3: Do you agree that pre-eminent objects should be defined for the new scheme in the same way as for the existing IHT AIL scheme? If you don't agree, what criteria or guideline would you add to, or exclude from, the list, and why?

Question 4: What kind of objects might persons be interested in donating under this new scheme?

Question 5: If you think the new scheme should not be operated on a first come, first served basis, please explain why. If not on a first come, first served basis, how do you think the expert panel should prioritise the offers of gifts of pre-eminent objects if the value of gifts is over the annual limit?

Question 6: Which institutions should the objects be loaned to? Should this differ from the institutions that can currently be allocated objects under the existing IHT AIL scheme, and if so, why?

Question 7: Do you agree the expert panel should follow the AIL process when it asks for applications from interested institutions for the allocation of an object? If not, what processes should be used?

Question 8: What other conditions should be attached to the lending of objects? What level of public access should there be? How should public access be ensured?

Question 9: What rate of an object's value do you think would be sufficient to encourage donors to give objects to the nation, and why?

Question 10: If people other than individuals are eligible to make a donation under the new scheme, for example corporate bodies, should a different rate of reduction be used? If so what should the rate or rates be, and why?

Question 11: Should the tax reduction available on each individual object be capped? If so, what should the cap be, and why?

Question 12: Should a cap be placed on the amount of tax reduction available per donor? If so, what amount?

Question 13: What difference do you think it would make if there was no cap on the overall relief available under the new scheme?

Question 14: Are there any other ways of accommodating gifts of very high value?

Question 15: Impact on individuals and households - the Government would welcome information from advisers or their representative groups about how likely they are to

promote this measure and what they expect the take up and the value of the objects donated might be.

Question 16: Impact on business and the third sector – the Government would welcome information from advisers or their representative groups on the impact of this measure on charities, museums and other institutions.

5

The consultation process

5.1 This consultation is being conducted in line with the Tax Consultation Framework. There are 5 stages to tax policy development:

Stage 1	Setting out objectives and identifying options.
Stage 2	Determining the best option and developing a framework for implementation including detailed policy design.
Stage 3	Drafting legislation to effect the proposed change.
Stage 4	Implementing and monitoring the change.
Stage 5	Reviewing and evaluating the change.

5.2 This consultation is taking place during stage 2 of the process. The purpose of the consultation is to seek views on the detailed policy design and a framework for implementation of a specific proposal, rather than to seek views on alternative proposals.

How to respond

5.3 The consultation will run for 12 weeks from 29 June. The closing date for responses is 21 September.

5.4 The questions that are discussed in this consultation document have been developed following informal discussion with representative bodies and charities. A summary of the questions is included at chapter 4.

5.5 Responses should be sent by 21 September, by e-mail to: budgetexternal.mailbox@hmrc.gsi.gov.uk or by post to:

Consultation on gifts of pre eminent objects
Room G67
100, Parliament St
London, SW1A 2BQ.

5.6 If there are any queries please contact Keith Nichol (DCMS) in regards to the new scheme on 020 7211 6216 and Jo Shelling (HMRC) in regards to the tax implications on 020 7147 2401 or 02 7147 2778 (from a text phone prefix this number with 18001).

5.7 Paper copies of this document or copies in Welsh and alternative formats (large print, audio and Braille) may be obtained free of charge from the above address. This document can also be accessed from the HMRC Internet site at <http://www.hmrc.gov.uk/consultations/index.htm>. All responses will be acknowledged, but it will not be possible to give substantive replies to individual representations.

5.8 When responding please say if you are a business, individual or representative body. In the case of representative bodies please provide information on the number and nature of people you represent.

After the consultation

5.9 The consultation team will consider responses to the consultation when developing the detail of the policy for encouraging the donation of pre-eminent objects to the nation. This will form the basis for draft legislation to be published for further consultation before Budget 2012. A summary of responses will be published later in the year.

Confidentiality

5.10 Information provided in response to this consultation, including personal information, may be published or disclosed in accordance with the access to information regimes. These are primarily the Freedom of Information Act 2000 (FOIA), the Data Protection Act 1998 (DPA) and the Environmental Information Regulations 2004.

5.11 If you want the information that you provide to be treated as confidential, please be aware that, under the FOIA, there is a statutory Code of Practice with which public authorities must comply and which deals with, amongst other things, obligations of confidence. In view of this it would be helpful if you could explain to us why you regard the information you have provided as confidential. If we receive a request for disclosure of the information we will take full account of your explanation, but we cannot give an assurance that confidentiality can be maintained in all circumstances. An automatic confidentiality disclaimer generated by your IT system will not, of itself, be regarded as binding on HM Revenue and Customs (HMRC).

5.12 HMRC will process your personal data in accordance with the DPA and in the majority of circumstances this will mean that your personal data will not be disclosed to third parties.

The Consultation Code of Practice

5.13 This consultation is being conducted in accordance with the Code of Practice on Consultation. A copy of the Code of Practice criteria and a contact for any comments on the consultation process can be found in Annex A.

A

The code of practice on consultation

About the consultation process

A.1 This consultation is being conducted in accordance with the Code of Practice on Consultation.

The consultation criteria

- 1 When to consult - Formal consultation should take place at a stage when there is scope to influence the policy outcome.
- 2 Duration of consultation exercises - Consultations should normally last for at least 12 weeks with consideration given to longer timescales where feasible and sensible.
- 3 Clarity of scope and impact - Consultation documents should be clear about the consultation process, what is being proposed, the scope to influence and the expected costs and benefits of the proposals.
- 4 Accessibility of consultation exercise - Consultation exercises should be designed to be accessible to, and clearly targeted at, those people the exercise is intended to reach.
- 5 The burden of consultation - Keeping the burden of consultation to a minimum is essential if consultations are to be effective and if consultees' buy-in to the process is to be obtained.
- 6 Responsiveness of consultation exercises - Consultation responses should be analysed carefully and clear feedback should be provided to participants following the consultation.
- 7 Capacity to consult - Officials running consultations should seek guidance in how to run an effective consultation exercise and share what they have learned from the experience.

A.2 If you feel that this consultation does not satisfy these criteria, or if you have any complaints or comments about the process, please contact:

Richard Bowyer, Consultation Coordinator, Better Regulation and Policy Team, H M Revenue & Customs, Room 3E13, 100 Parliament Street, London, SWA 2BQ

020 7147 0062 or e-mail hmrc-consultation.co-ordinator@hmrc.gsi.gov.uk

B

Acceptance in lieu expenditure table 2001-2010

B.1 Acceptance in Lieu Expenditure Table

Year to 31 March	Number of Cases	Value of objects accepted	Tax settled
2001	23	£24.6m	£16.0m
2002	27	£35.1m	£26.6m
2003	37	£39.9m	£15.8m
2004	23	£21.7m	£15.0m
2005	28	£13.0m	£8.9m
2006	38	£25.2m	£13.2m
2007	32	£25.3m	£13.9m
2008	32	£15.2m	£10.3m
2009	36	£19.8m	£10.8m
2010	33	£15.7m	£10.8m
Totals	309	£235.5m	£141.3m



Acceptance in lieu definition of pre-eminent

Statutory definition of pre–eminence

IHTA 1984 S.230 Acceptance of property in satisfaction of tax.

(1) The Board may, if they think fit and the Secretary of State agrees, on the application of any person liable to pay tax or interest payable under section 233 below, accept in satisfaction of the whole or any part of it any property to which this section applies.

(2) This section applies to any such land as may be agreed upon between the Board and the person liable to pay tax.

(3) This section also applies to any objects which are or have been kept in any building —

(a) if the Board have determined to accept or have accepted that building in satisfaction or part satisfaction of tax or of estate duty, or

(b) if the building or any interest in it belongs to Her Majesty in right of the Crown or of the Duchy of Lancaster, or belongs to the Duchy of Cornwall or belongs to a Government department or is held for the purposes of a Government department, or

(c) if the building is one of which the Secretary of State is guardian under the M1 Ancient Monuments and Archaeological Areas Act 1979 or of which the Department of the Environment for Northern Ireland is guardian under

<http://www.legislation.gov.uk/ukpga/1984/51/section/230> - commentary-c1361422#commentary-c1361422 the Historic Monuments and Archaeological Objects (Northern Ireland) Order 1995, or

(d) if the building belongs to anybody within Schedule 3 to this Act,

in any case where it appears to the Secretary of State desirable for the objects to remain associated with the building.

(4) This section also applies to —

(a) any picture, print, book, manuscript, work of art, scientific object or other thing which the Secretary of State is satisfied is pre-eminent for its national, scientific, historic or artistic interest, and

(b) any collection or group of pictures, prints, books, manuscripts, works of art, scientific objects or other things if the Secretary of State is satisfied that the collection or group, taken as a whole, is pre-eminent for its national, scientific, historic or artistic interest.

(5) In this section—

- “national interest” includes interest within any part of the United Kingdom;

and in determining under subsection (4) above whether an object or collection or group of objects is pre-eminent, regard shall be had to any significant association of the object, collection or group with a particular place.

(6) The functions of the Ministers under this section in relation to the acceptance, in satisfaction of tax, of property in which there is a Scottish interest may be exercised separately.

(7) For the purposes of subsection (6) a Scottish interest in the property exists –

(a) where the property is located in Scotland; or

(b) the person liable to pay the tax has expressed a wish or imposed a condition on his offer of the property in satisfaction of tax that it be displayed in Scotland or disposed of or transferred to a body or institution in Scotland.

Pre-eminent objects

Objects: pictures, prints, books, manuscripts, works of art, scientific objects, etc., may be accepted if it is considered that they will constitute a 'pre-eminent' addition to a national, local authority university or independent museum, or that they are pre-eminent in association with a particular building.

For an object to be considered pre-eminent it must fall within one of the following categories:

1) Does the object have an especially close association with our history and national life?

This category includes foreign as well as British works, for example gifts from foreign sovereigns or governments that have been acquired abroad in circumstances closely associated with our history. It includes objects closely associated with some part of the United Kingdom, or with the development of its institutions or industries. Some objects that fall under this category will be of such national importance that they deserve to enter a national museum or gallery. Others may well be of a lesser degree of national importance, though they will nonetheless be significant in a local context. This category will also include works which derive their significance from a local connection, and which may therefore qualify as a pre eminent addition to a local authority, university or independent museum.

2) Is the object of especial artistic or art-historical interest?

This category, like (3) below, includes objects deserving of entering a national museum or gallery as well as other objects which might not be pre-eminent in a national gallery or museum in London, Edinburgh, Cardiff or Belfast but which will be a pre-eminent addition to a local authority, university or independent museum or gallery elsewhere which does not already possess items of a similar genre or quality.

3) Is the object of special importance for the study of some particular form of art, learning or history?

This category includes a wide variety of objects, not restricted to works of art, which are of special importance for the study of, say, a particular scientific development. This category also includes objects forming part of an historical unity, series or collection either in one place or the country as a whole. Without a particular object or group of objects both a unity and a series may be impaired.

4) Does the object have an especially close association with a particular historic setting?

This category will include primarily works of art, manuscripts, furniture or other items that have an especially close association with an important historic building. They will fall to be considered pre-eminent by virtue of the specific contribution they make to the understanding of an outstanding historic building. Thus the category may include paintings or furniture specially commissioned for a particular house or a group of paintings having an association with a particular location.

D

Glossary

Acceptance in Lieu

A scheme designed to prevent estates being forced to sell pre-eminent art works to meet IHT liabilities. It allows an estate to offer pre-eminent works (and land / buildings and contents) against the IHT liability. The reduction is the market value of the work less the notional tax due on it. Referred to in this document as 'the existing IHT AIL scheme', to avoid confusion with the new scheme.

Annual Limit

The new scheme will, in combination with the existing IHT AIL scheme, operate under an annual limit, currently set at £20m. This annual limit will be administered by the expert panel, who will take the amount available for total tax reductions into account when deciding whether to recommend acceptance to the Secretary of State for the Department of Culture, Media and Sport (DCMS) or the Minister in the relevant administration. DCMS will monitor and oversee the annual limit and, where it may be exceeded for that year, the Secretary of State for DCMS will make the final decision to ensure the limit is not exceeded.

Capital Gains Tax

Capital Gains Tax is a tax on the profit or gain made when an individual, or other SA taxpayer such as a trustee or personal representative disposes of an asset, for example by selling it or by giving it to someone else.

Charity

An organisation is a charity for UK tax purposes if it is located in the UK, or other EU member state, Iceland or Norway, and meets the definition of a charity under the law of England Wales and certain other conditions.

Chattels

A chattel is defined as anything which is tangible moveable property. Common examples of chattels include:

- paintings and other works of art
- antiques
- furniture
- non-sterling coins and bank notes
- ornaments
- jewellery
- stamps
- books and magazines

militaria

models and toys.

Conditional Exemption

Conditional Exemption (CE) is designed to prevent estates selling pre-eminent objects or top quality heritage land / buildings (and contents) to meet IHT liabilities. It allows the estate to defer IHT liabilities in return for binding undertakings to make artwork etc available to the public, take care of it, etc. Unlike the existing IHT AIL scheme, the object remains in private ownership, and the IHT is deferred, not relieved. If a work in the CE regime is sold by the owner (or undertakings broken) IHT is due on the sale price. CGT may also be due on any gain net of inheritance tax.

Corporation Tax

Corporation tax is a tax on the income and chargeable gains of corporate bodies and unincorporated associations.

Estate

All the assets that an individual owns or is treated as owning for the purposes of calculating the liability to IHT.

Expert Panel

A panel of experts, envisaged by the Government as being based on the Acceptance in Lieu panel that operates the existing IHT AIL scheme, who will operate the new scheme.

Fair market value

The price at which the property would change hands between a willing buyer and a willing seller in an open and unrestricted market, where buyer and seller are both knowledgeable, informed and prudent, with neither being under any compulsion to buy and sell and where the value is unaffected by any consideration relating to past or future transaction between the two parties.

Income Tax

Income Tax is a tax on income.

Inheritance tax

Inheritance Tax (IHT) is usually paid on an estate when somebody dies. It is also sometimes payable on trusts or gifts made during someone's lifetime.

Lifetime gifts

A gift made by a living person while still alive.

Real Property

Land and physical buildings.

E

Relevant (current) government legislation

S.9 of the National Heritage Act 1980

S.230 IHTA Acceptance in Lieu

HM Treasury contacts

This document can be found in full on our website at:
hm-treasury.gov.uk

If you require this information in another language, format or have general enquiries about HM Treasury and its work, contact:

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