Museums and Galleries Exhibition Tax Relief – for Local Authority Museums and Galleries

This resource accompanies an online webinar which can be viewed here:
https://www.youtube.com/watch?v=angz6wT_sA0

The webinar and resource were commissioned by Art Fund and authored by Azets.

Museums & Galleries Exhibition Tax Relief (MGETR) provides a tax break or a cash repayment for charities and their subsidiaries that are engaged in maintaining a museum or gallery.

The relief is designed to recognise the unique cultural value that museums and galleries bring to the UK and encourage greater and more diverse exhibitions. MGETR is available for expenditure incurred from 1 April 2017.

MGETR provides the entity with either a reduction in their corporation tax liability or a repayable tax credit.

MGETR was due to end on 31 March 2026 but has now been made a permanent tax relief.

Who can make a claim?

The tax relief will be available to museums and galleries with charitable or educational objectives. A museum or gallery includes a library or archive and a site where a collection of objects or works is held.

To qualify for the relief the entity will need to maintain a museum or gallery and be:

- A charitable company;
- A trading subsidiary of a charitable company; or
- A company wholly owned by a local authority.

Although the majority of income in charitable companies is exempt from tax, they are still within the charge of corporation tax so can take advantage of MGETR.

How can Local Authority Museums and Galleries claim?

Local authorities themselves are not able to claim MGETR as they are not within the charge to corporation tax. Therefore, to be able to claim a local authority needs to set up either a charity or a trading company structure beneath the local authority, and run the exhibitions through this new entity.

One of the conditions of claiming MGETR is that the qualifying charity or company maintains a museum or gallery, it is therefore essential that new entity itself is maintaining the museum or gallery and not the local authority.

The use of a charity (rather than a trading subsidiary) is by far the most common structure set up by local authorities to operate museums and galleries. Usual practice is for the local authority to issue a service level agreement and charge a peppercorn rent for the use of the property. The local authority remains responsible for capital works while the charity will be responsible for repairs, maintenance and general upkeep of the building.

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Before changing the structure, the local authority should take legal advice, weight up the extra costs (both internal staffing and external e.g. audit costs) of running a new entity. Attention needs to be given to the VAT status of income and activities and any recovery of VAT (see below for more details), the impact on pensions, rates relief and how to recharge costs.

Example calculation

As an example, if a loss making exhibition in a charity had the following costs it could be entitled to a repayment of MGETR of £15,090 (Core costs of £47,158 × 80% x 40%)

	Core	Non core
Exhibition curator	£14,000	
Staff time - loan processing, installation / deinstallation	£6,384	
Staff time – exhibition administration	£2,129	
Interpretation	£1,000	
Framing / glazing / plinths	£3,120	
Exhibition build	£3,217	
Painting and preparation of space	£1,180	
Exhibition overheads – pre opening	£16,128	
Launch event		£1,626
Promotional materials		£2,000
Total:	£47,158	£3,626

Before moving the activities out of the local authority, it should weight up the potential new source of income from MGETR with the extra costs of running a separate charity. The table below illustrates this point.

	Extra income	Extra costs
MGETR x 3 exhibitions (£15,090 × 3)	£45,272	
Annual accounts		£3,000
Annual tax return		£1,000
Audit		£10,000
Reduction in VAT recovery		£?
Rates relief	£?	
Additional admin	£?	£?
Total	£?	£?

The charity will need to register with The Charity Commission, The Charity Commission Northern Ireland or OSCR (in Scotland), once this is done, they will need to register with HMRC to obtain charitable tax exemptions.

The charity should consider if all its activities transferred out the local authority are within it's primary purpose objectives as set out in its governing documents (running the museum or gallery), if this is not the case a trading subsidiary may be needed to sit below the charity. For example, if part of the charity's activities are the operation of café which is open to the general public a trading subsidiary may be needed.

Primary and secondary production companies

In addition to the above, to claim the relief, the company must either be a primary of secondary production company for the exhibition. These terms exist to recognise that exhibitions often tour and responsibility for the exhibition can be passed to other museums and galleries. The relief is available to a primary or secondary qualifying production company that:

- Is responsible for producing and running an exhibition at a venue;
- Where the exhibition is at the venue for a limited time, is responsible for deinstalling and closing the exhibition at the venue;
- Is actively engaged in decision making; and
- Directly negotiates for, contracts for and pays for rights, goods and services.

A primary production company is one which, along with the above, is responsible for the production at a single venue. Where the exhibition is held at more than one venue, it must be responsible for the exhibition at, at least one venue.

A secondary production company is one which, along with the above, is responsible for the exhibition at a venue but is not the primary production company.

There can only be one primary production company, but there could be many secondary production companies. There is no difference in what can be claimed by a primary and secondary production company. Both are able to claim on their own costs.

What is a qualifying exhibition?

An exhibition is a curated public display of an organised collection of objects or works that is open to the general public. The public do not have to be charged for admission.

The exhibition must be a collection of objects or works which are considered to be scientific, historic, artistic or of cultural interest. A single object or work can also constitute an exhibition.

At least 10% of the core expenditure on the production must be used or consumed in the UK. 'Used or consumed' looks at the location of the recipient. E.g. goods bought from Chile to be used in an exhibition displayed in the UK with will be UK expenditure.

The exhibition must not be:

- Organised in connection with a competition;
- Promoting or selling displayed goods (related merchandise, such as mugs with a picture of the artwork in a gift shop, can be sold within invalidating the exhibition);

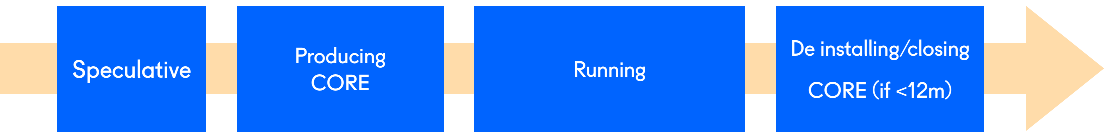
- Displaying live objects e.g. animals or plants:
    - As plants are living organisms, they count as live objects and therefore a display of plants in a botanical garden, for example, would be an ineligible exhibition;
    - Where an exhibition is held outside and the exhibition space contains plants, this will not make the exhibition ineligible on the basis the plants are not the items being exhibited. For example an outdoor sculpture park. In this case, the plants would be merely incidental to the exhibition;
- Used to promote goods or services;
- It is not an exhibition if the display is subordinate to the use of the object e.g. historic train transporting passengers;
- In a public space where the space is not maintained by the production company.

If an exhibition is abandoned at any point during the production phase, a claim can still be made for the qualifying production expenditure incurred before the exhibition was abandoned.

What costs can be included in the claim?

An exhibition has four phases:

- Developing: the speculative time before an exhibition is given the go-ahead/green light;
- Producing: planning and preparing;
- Running: where the exhibition is open to the public;
- De-installing and closing: taking down the exhibition.



Only costs incurred in the producing phase qualify for the enhanced relief. If the exhibition runs for less than 12 month enhanced relief can also be claimed on the de-installing and closing costs. An example of the core costs which should qualify for enhanced relief include:

- Curator and research costs (including costs paid externally);
- Staff costs (including payments made to external curators) during the producing and closing phase;
- Travel & subsistence of staff costs during the producing phase;
- Exhibition installation;
- Exhibition deinstallation (unless the period between opening and closing the exhibition exceeds 12 months at each qualifying venue);
- Exhibit loan costs;
- Digital spending;
- Insurance and transportation costs;

- Exhibition specific venue set up costs (set up and equipment hire);
- Storage costs for touring exhibitions, for up to 4 months only, where,:
  - The exhibition is held at two or more venues;
  - The expenditure is incurred between the deinstallation at one venue and the opening at the next venue; and
  - The exhibits are not stored at a venue at which the exhibition has been or is to be held.

Costs which **do not qualify** for the enhanced relief but should be included in determining whether the exhibition makes a profit or loss include:

- Expenditure on development of initial concepts and feasibility, i.e. costs incurred before the decision is made to go ahead with the exhibition;
- General museum and running costs of the exhibition;
- Cost of financing;
- Fees, including legal and accounting fees;
- Acquisition costs;
- Storage costs, except where the above conditions are met;
- Marketing and advertising;
- Infrastructure costs not solely related to the new exhibition.

Costs for putting on related events (such as study days, family festivals, etc.) should not be included as these are not part of the exhibition.

In calculating the MGETR, each exhibition must be treated as a separate trade. The first stage of the calculation is to work out the profit or loss on the production of the exhibition.

The total estimated expenditure for the exhibition as a whole should be included on the claim, not just the expenditure incurred to date. A reasonable estimate can be included if actual figures are not known.

Income

For the purposes of calculating the profit or loss on the separate trade, income should include:

- Sale of tickets;
- Grants specific to the exhibition – where grants are received for expenditure, these are also included as income;
- Payments for rights to produce merchandise;
- Royalties or other payments for rights;
- Income from profit sharing agreements.

The total estimated income for the exhibition as a whole should be included on the claim, not just the income received to date. A reasonable estimate can be included if actual figures are not known.

Amount of relief

The additional relief available is the lower of 80% of the qualifying core expenditure and the expenditure which related to activities in the UK. This will reduce the company's taxable profit or increase a loss. A charitable company with only primary purpose income will not have a taxable profit. Where the company has a loss the amount that can then be surrendered to HMRC as a repayable credit is 80% of the qualifying core expenditure restricted to the adjusted loss. The rates of repayment are:

- 45% for touring exhibitions;
- 40% for all other qualifying exhibitions.

There is currently a temporary rate of 50% and 45% respectively for qualifying exhibitions where the producing activities commenced on or after 27 October 2021. The rate will reduce to 45% and 40% from 1 April 2025.

Touring exhibitions

An exhibition will qualify as a touring exhibition if:

- It will be held at two or more geographically distinct venues;
- At least 25% of the objects or works displayed at the first venue are also to be displayed at each subsequent venue. Reproductions of the original piece displayed would count as a new piece and not count towards the 25%;
- The time between de-installation at one venue and installation at the next venue will not exceed six months.
- These conditions must be intended to be met at an early stage, i.e. in the planning phase. If the intention at the outset is to tour and for unforeseen circumstances the exhibition does not tour, the exhibition can still be claimed at the touring rate.

Maximum claim

The maximum repayable credit claimable per exhibition by each production company is restricted to:

- £100,000 for a touring exhibition;
- £80,000 for a non-touring exhibition.

Additional information form

- For all claims submitted after 1 April 2024, an additional information form must be submitted in support of the claim. Details can be found at Support your claim for creative industry tax reliefs - GOV.UK (www.gov.uk).

Example one: loss making exhibition

A charitable company creates a (touring) exhibition. Expected income from the exhibition is £100,000 (made up of ticket sales of £90,000, a grant of £4,000 and related merchandise income of £6,000).

The cost of the exhibition is £125,000 (of which £80,000 is core expenditure i.e. only qualifying costs during the producing and closing phase).

Stage one: calculate profit or loss of the separate trade		
Income: proportion of estimated total income as earned at end of period		£100,000
Less: costs of exhibition to date		(£125,000)
		(£25,000)

Stage two: calculate enhancement		
Enhancement is the lower of:		
Qualifying expenditure which is UK	£80,000	
80% of total qualifying expenditure to date (80% x £80,000)	£64,000	(£64,000)
Loss after MGETR claim		(£89,000)

Stage three: calculate repayable credit		
Surrender the enhancement unless restricted by loss after MGETR		
Repayable tax credit	£(64,000) x 45%	£(28,800)
Repayment from HMRC should be £28,800 for this production.		

Example two: profitable production

If all the information in example one remains the same, except the income is £170,000, the calculation would be as follows:

Stage one: Calculate profit or loss of the separate trade		
Income: Proportion of estimated total income as earned at end of period	£170,000	
Less: Costs of exhibition to date	£(125,000)	
		£45,000

Stage two: calculate enhancement		
Enhancement is the lower of:		
Qualifying expenditure which is UK	£80,000	
80% of total qualifying expenditure to date (80% x £80,000)	£(64,000)	£(64,000)
Loss after MGETR claim		£(19,000)

Stage three: calculate repayable credit		
Surrender the enhancement unless restricted by loss after MGETR		
Repayable tax credit	£(19,000) x 45%	£(8,550)
Repayment from HMRC should be £8,550 for this production.		

How do you make a claim?

The MGETR claim must be submitted to HMRC as part of the company tax return. This may involve charitable companies, which have not previously had to file a tax return, completing a company tax return with charitable pages. Further information can be found within HMRC's guidance at: Museums and Galleries Exhibition Tax Relief - HMRC internal manual - GOV.UK (www.gov.uk)

VAT

Whilst VAT is a separate tax it will have an impact on the organisations involved in the arrangements.

The VAT liability of the income and activities need to be confirmed in advance to ensure that VAT is accounted for correctly and at the correct time. This includes the requirement to register for VAT in the UK and potentially overseas if supplies are made there. The VAT liability of income and activities will determine the amount of VAT that can be recovered and this will ultimately affect the financial position and funding requirements of the organisations involved.

In general terms local authorities can recover most - if not all - of the VAT they incur on expenses. Arts and culture charities will normally have free of charge and exempt activities (admissions , education and fundraising) and this results in a element of the VAT they incur on expenses being blocked from recovery. Specific calculations and procedures need to be followed to calculate the value of recoverable VAT in a way that is acceptable to HMRC.

Specific VAT advice should be taken in each case to ensure the VAT accounting model is complaint and effective.

The VAT areas that will need to be considered and confirmed are:

Income

- Who makes the supply of cultural activities to the public? This determines who must record and account for the income received and whether VAT is applicable to that income.
- Will VAT be charged on admission income? If specific conditions are met admission income may not be liable to VAT. This can result in a subsequent restriction to the recovery of VAT incurred on expenses.
- Grant funding - this is normally outside the scope of VAT but could be classified as liable to VAT if the associated conditions are considered to result in a supply being made to the funder.
- Services supplied under management agreements are normally liable to standard rate VAT.
- Pay specific attention to box office and venue rental arrangements as these are areas where VAT mistakes are commonly made and unbudgeted costs arise.

Expenditure

- Can VAT on associated expenses be recovered in full? This will depend on the VAT status of the suppler and the associated activities and income. Where VAT cannot be recovered the irrecoverable VAT cost should be added to the MGETR claim
- Look out for changes to intended activities as this could result in changes to the initial recovery of VAT.
- Always consider the VAT recovery position of capital expenditure. These can be significant and subject to 10 year monitoring periods.
- VAT reverse charges apply to overseas services. UK VAT may have to be accounted for even when it has not been charged by the overseas supplier.

Inter – organisation supplies and transactions

- Record and account for VAT on all intercompany charges. Consider implementing a VAT group registration to remove any costs associated with these arrangements.
- Barters and in-kind arrangements are still supplies for VAT purposes and must be documented and recorded correctly.
- International transactions – the VAT accounting position of supplies of services and movements of goods must be considered and confirmed.

FAQ's

Are local authorities eligible?

Local authorities are exempt from Corporation Tax and are therefore not a qualifying company and are not eligible to claim the relief. A company owned by a local authority should be eligible to claim.

Would a charity be eligible if the museum is owned by the local authority but the charity wholly maintained and run the museum?

As long as the charity maintains the museum, they will be eligible for the relief.

Does the charity / company set up by the local authority need to have ownership of the collections display?

Collections could be borrowed from the local authority, as long as the charity meets the condition of maintaining a museum, gallery, library or achieve it should qualify.

Can exhibition operated by the local authority before the charity is set up be claimed?

No, the charity would need to be the primary or secondary production company for the exhibition to claim on costs incurred.

Are staff costs for working on the exhibition eligible?

Staff costs for working on the exhibition during the producing and closing phases are eligible.

What is classed as irrevocable VAT?

Charities often incur VAT on goods and services but depending on their VAT status may not be able to recover all of the VAT they incur due to their exempt or non-business activities. This VAT is known as 'Irrecoverable'. If this is the case, the claim can include the irrecoverable VAT element of the costs being claimed on. This should be allocated against core and non-core in line with the costs they are associated with.

Are donations from visitors classed as an income stream of the exhibition?

Income is only included as part of the MGETR calculation if it is specifically related to the exhibition, i.e. if a donation is made with the condition that the money is used to create the exhibition, that would be specific. If visitors make general donations when they are visiting the exhibition, this would not be included.

Is an exhibition ineligible if associated work is for sale in a gift shop?

As long as the items for sale are not the actual pieces on display the exhibition will be eligible. It will not impact the eligibility of an exhibition of replicates or related items such as postcards, mugs, tea towels, etc. with the works on them are sold in the gift shop. the exhibition will qualify.

As the income generated from the sale of the merchandise is specifically related to the exhibition, it should be brought into the tax relief calculation as income if it is received by the entity making the claim. If the income is received by another entity, for example a trading subsidiary the income can be excluded from the claim.

Important information

This publication is for general information only and is not intended to be advice to any specific person. You are recommended to seek professional advice before taking or refraining from taking action on the basis of the contents of this publication.

For more information and advice, contact:

Kirsty Murray
Tax Partner
kirsty.murray@azets.co.uk
0131 473 3500

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