



## INTRODUCTION AND WHAT'S NEW

### *Scope of this book*

The subject of this book is the taxation of:

- (1) charities
- (2) other nonprofit organisations<sup>1</sup>
- (3) their donors and supporters

The importance of tax, and the tax cost of ignoring tax law, will be obvious to all our readers. It is the duty of charity trustees – and their professional advisers – to ensure that a charity's tax affairs are properly managed.

### *The years 2020-2022 in review*

HMRC have reversed their longstanding view and now accept that waiver of a debt qualifies for Gift Aid relief; an unexpected consequence of the Covid pandemic. In *Eynsham Cricket Club v HMRC*, the CoA confirmed that a registered club cannot be a charity. *Re Webster* illustrated the importance of inserting the correct figures in a tax return when claiming Gift Aid carry-back relief.

On VAT, the last couple of years saw the Court of Justice of the European Union deliver its ruling in *University of Cambridge* (on VAT recovery) and the Supreme Court hand down its judgment in *SAE Education Limited* (on the education exemption). They also saw new HMRC guidance on the VAT treatment of digital advertising, and the culmination of the dispute between local authorities across the UK and HMRC regarding the VAT liability of charges for access to sports and leisure

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<sup>1</sup> A note on terminology: The term “not for profit entity” is sometimes used. “Public benefit entity” has the same meaning; though it is more formally defined in FRS 100 as “an entity whose primary objective is to provide goods or services for the general public, community or social benefit and where any equity is provided with a view to supporting the entity's primary objectives rather than with a view to providing a financial return to equity providers, shareholders or members.”

facilities (in Chelmsford City Council, Midlothian Council and Mid Ulster District Council).

There have been many revisions to the HMRC Guidance Note, as usual, and new guidance from the Charity Commission. Many other parts of the book have been rewritten in an attempt to analyse the problems more deeply and more clearly.

*Thanks...*

We are very grateful to Robert Venables KC, joint author of the first two editions of this book, for enjoyable discussions on many aspects of tax, and to Setu Kamal, Harriet Brown, Mary Ashley and Ross Birkbeck, co-authors of previous editions. Yanpei Zhang as research assistant resolved many puzzles. We owe a great debt to Jane Hunt and Ruth Shaw who work diligently on this challenging text throughout the year.

*... and request for help*

Comments from readers would be of the greatest value and interest to the authors. The pleasure in writing this book consists in the interest of the questions which it raises and the success which it may have achieved in answering them. On the basis of what is known at 1 April 2022, it seeks to state the law for 2022/23.

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## OBTAINING FURTHER ADVICE - AND DISCLAIMER

### *Further advice*

If you want advice on which you are legally entitled to rely you can obtain it - but not from this work.

In particular you may instruct any of the authors to advise. We enjoy writing, but spend most of our time giving independent specialist professional advice, including, in particular, advice on the taxation of charities. For further details see <https://www.taxationofcharities.co.uk>.

In cases where a charity which we wish to support cannot be expected to pay a commercial fee, we will consider acting for less than a commercial fee or pro bono. If a matter is not suitable, for reasons of cost or any other reasons, we will give recommendations.

### *Taxation of Charities Online*

ToC Online is an online version of Taxation of Charities, and more. It can be used:

- (1) to search the text of this book or to access it online.
- (2) to see if the book has been updated.
- (3) to correct or contribute to the book.

ToC Online is available as a free service to individuals and firms who have purchased the current edition of this book.

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### *Disclaimer*

The views contained in this book are put forward for consideration and are not to be relied upon. Neither the authors nor the publisher accept any responsibility for any loss to any person arising as a result of any action taken or refrained from in reliance on this work.

### *Edition history*

1 <sup>st</sup> Edition 1989	Robert Venables KC & James Kessler
2 <sup>nd</sup> Edition 1994	James Kessler
3 <sup>rd</sup> Edition 2000	James Kessler
4 <sup>th</sup> Edition 2003	James Kessler
5 <sup>th</sup> Edition 2005	James Kessler QC
6 <sup>th</sup> Edition 2007	James Kessler QC & Setu Kamal
7 <sup>th</sup> Edition 2009	James Kessler QC & Harriet Brown
8 <sup>th</sup> Edition 2011	James Kessler QC & Harriet Brown
9 <sup>th</sup> Edition 2013	James Kessler QC & Oliver Marre
10 <sup>th</sup> Edition 2015	James Kessler QC & Oliver Marre
11 <sup>th</sup> Edition 2017	James Kessler QC Etienne Wong & Mary Ashley
12 <sup>th</sup> Edition 2019	James Kessler QC, Etienne Wong & Ross Birkbeck

*This work was entitled “Tax Planning and Fundraising for Charities” for the first three editions, “Taxation of Charities” for the next four editions, and renamed “Taxation of Charities and Nonprofit Organisations” in the 8<sup>th</sup> edition.*