



## Proposed Small Charitable Donations Regulations

30 November 2012

## **Introduction**

The ICAS Charities Committee welcomes the opportunity to comment on the draft Small Charitable Donations Regulations 2013.

Our CA qualification is internationally recognised and respected. We are a professional body for over 19,000 members who work in the UK and in more than 100 countries around the world. Our members represent different sizes of accountancy practice, financial services, industry, the investment community and the public and charity sectors.

Our Charter requires ICAS committees to act primarily in the public interest, and our responses to consultations are therefore intended to place the public interest first. Our Charter also requires us to represent our members' views and to protect their interests, but in the rare cases where these are at odds with the public interest, it is the public interest which must be paramount.

Any enquiries should be addressed to Christine Scott, Assistant Director, Charities and Pensions, at [cscott@icas.org.uk](mailto:cscott@icas.org.uk).

## **Comments on the proposed regulations**

Our deliberations on the draft regulations focused on the complexity and proportionality of the proposals.

We believe that the small charitable donations scheme, proposed in the draft bill, is unduly complex and could deter charities which could benefit from the arrangements from making top-up claims under the scheme. While the design of the scheme is outside the scope of this consultation, we believe that it will be necessary to review the operation of the scheme within a few years of its introduction to ensure that the scheme's policy objectives have been achieved. We understand that the UK Government has already rejected an initial call to timetable such a review and we would recommend that this decision is revisited.

The proposed arrangements for countering abuse of the scheme appear disproportionate relative to the amounts which can be claimed by charities. This is illustrated by regulations which only require one page on making and giving effect to top-up claims and over four pages on counter abuse measures, with numerous additional cross-references to tax law.

While we understand that the prevention of fraud or error is a concern and that arrangements need to be established to reduce the risk of fraud or error and to identify fraud or error, the regulations appear to have been designed without regard to other measures which are already in place, for example, the fit and proper persons test and the whistleblowing arrangements for charity independent examiners and auditors.

Given the nature of the donations, which are likely to be in the form of cash not linked to individuals, obtained from public collections, it may be difficult for charities to maintain the type of records which HMRC may perceive as being necessary to support or defend a claim for top-up payments. There is a possibility that charities could be deterred further from applying for top-up payments, if they believe that they are unable to prepare records likely to satisfy HMRC thereby putting their reputations at risk.

We support the regulations which enable a charity which changes its legal form to continue to participate in the small charitable donations scheme as before.