



## DRAFT FINANCE BILL: CHANGES TO CHARITY COMPLIANCE MEASURES

Issued 27 August 2025

ICAEW welcomes the opportunity to comment on the *Changes to charity compliance measures* draft Finance Bill legislation published by HMRC on 21 July 2025, a copy of which is available from this [link](#).

For questions on this response please contact us at [taxfac@icaew.com](mailto:taxfac@icaew.com) quoting REP 62/25.

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This response of 27 August 2025 has been prepared by the ICAEW Tax Faculty. Internationally recognised as a source of expertise, the ICAEW Tax Faculty is a leading authority on taxation and is the voice of tax for ICAEW. It is responsible for making all submissions to the tax authorities on behalf of ICAEW, drawing upon the knowledge and experience of ICAEW's membership. The Tax Faculty's work is directly supported by over 130 active members, many of them well-known names in the tax world, who work across the complete spectrum of tax, both in practice and in business. ICAEW Tax Faculty's Ten Tenets for a Better Tax System, by which we benchmark the tax system and changes to it, are summarised in Appendix 1.

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### ICAEW

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## KEY POINTS

1. We recommend that the proposed purpose test for the purposes of assessing approved charitable investments is amended to a “wholly or mainly” test. This will ensure that investments held for a secondary purpose, other than of benefitting the charitable trust, are not prevented from being treated as approved.
2. We consider that the proposed inclusion of property received by a charitable trust under a testamentary disposition within the definition of “attributable income” should be sufficient to remove this income from a charity’s non-exempt amount of income and expenditure.
3. We are also concerned that an extension of legacies subject to tax in the hands of the charity could cause a reduction in the number of charitable legacies because the donor cannot be sure that a simple cash legacy to a charity will not be taxed unless there is clear evidence that the charity will apply the amount to its charitable purposes.
4. We do not agree with the move from a ‘motive’ to an ‘outcome’ test in the tainted charitable donations rules as this could cause donations to be disallowed for tax relief in situations where the donor has no influence over the charity’s actions.
5. We note that only amendments to The Income Tax Act (ITA) 2007 have been shared and that equivalent amendments will also be required to the Corporation Tax Act 2010 to achieve the same treatment for charities incorporated under the Companies Act 2006. We would appreciate the opportunity to review these equivalent provisions before the publication of the Finance Bill.

## APPROVED CHARITABLE INVESTMENTS

### THE MEASURE

6. This measure changes the requirements for investments to be treated as “approved charitable investments” under s558 ITA 2007 and therefore exempt from tax in the hands of the charity.
7. The measure replaces the existing test (that the investment must be made for the benefit of the charity and not for the avoidance of tax) with a new test (that the investment is made for the sole purpose of benefitting the charitable trust).
8. The changes to the legislation insert a new s558 (3) which states that: “An officer of Revenue and Customs may approve a loan or other investment under this subsection if satisfied, on a claim, that it is made for an allowable purpose.”

### OUR CONCERNS

9. We are concerned that this test will exclude some investments that ought to be eligible for the exemption. This could apply, for example, where there is a legitimate secondary purpose that influences an investment decision – for example, the environmental impact of the investment concerned.
10. This test would be particularly difficult to meet where there is a connection between the parties eg, where there is a loan or other investment by a charitable trust to its trading subsidiary as this would also benefit the subsidiary.
11. It could also apply in situations where an investment comprises elements of personal benefit that are incidental to the public benefit purposes of the charity. One example is in the use of equity sharing arrangements where a university jointly with a faculty member purchases an interest in accommodation for use by that member.
12. As a separate point, it is not clear what form the claim referred to in new s558 (3) should take (ie, that the loan or other investment is made for an allowable purposes).

## OUR RECOMMENDATIONS

13. Our first recommendation is that the words “for the sole purpose of” in the proposed new s558 (4) ITA 2007 is replaced with “wholly or mainly for the purposes of”. This would bring this provision into line with the test for charitable rate relief and many other provisions in UK direct tax law. This should ensure that investments remain approved where there are other incidental purposes to the investment.
14. We also believe that further provisions should also be included in the updated legislation to confirm the nature and any other features of the claim that needs to be made for HMRC to confirm that the investment has been made for an allowable purpose.

## TAINTED CHARITABLE DONATIONS

### THE MEASURE

15. The measure amends s809ZJ ITA 2007, which is designed to deny gift aid in respect of charitable donations where each of conditions A, B and C of that section are met.
16. The measure replaces condition B, set out at s809ZJ (5). The current version of the condition is as follows:

“Condition B is that the main purpose, or one of the main purposes, of the linked person in entering into the arrangements is to obtain a financial advantage—

(a) directly or indirectly from the charity to which the donation is made or a connected charity,

(b) for one or more linked persons who are not charities (each of whom is referred to in this Chapter as “a potentially advantaged person”).

The new version of condition B is as follows:

“Condition B is that a linked person who is not a charity receives financial assistance—

(a) under or in connection with the arrangements, and

(b) directly or indirectly from the charity to which the donation is made or from a connected charity.”

### OUR CONCERNS

17. We are concerned that this condition is moving from a motive test to an outcome test. This is problematic because the donor may have limited influence over the outcome after the donation has been made.
18. We believe that the donor should not be denied tax relief if the donation was made for genuine charitable reasons and the donor did not expect an outcome which materialised later.
19. It is also possible that the donation which is otherwise untainted in a particular tax year could become tainted by some unexpected outcome in a future year.
20. The amended legislation also does not provide for an adjustment to be made where financial assistance is subsequently wholly or partly repaid to the charity, whether voluntarily or by order of a regulator.

### OUR RECOMMENDATION

21. We recommend that clause 3 and schedule 1 of the draft legislation is removed and the tainted charitable donations rules remain unchanged.

## LEGACIES TO CHARITIES

### THE MEASURE

22. This measure makes changes to the rules applicable when a charity receives an asset or funds under a testamentary disposition. The measure will provide that the legacy is non-taxable only when it is spent on the entity's charitable purpose.
23. The measure includes the insertion of a new s523A ITA 2007 which states that income tax is charged on property received by a charitable trust under a testamentary disposition. S540 of the same Act is also amended to include such property within the definition of attributable income. The net amount of attributable income and non-charitable expenditure received or incurred by the charity is treated as a non-exempt amount to which the provisions of Part 10 of the Act are deemed not to apply.

### OUR CONCERNS

24. Proposed new s523A ITA 2007 does not include a deadline by which the funds need to be spent or the asset disposed of. S523A (3) states that the income tax charge is on the total value of the property received in the tax year. Hence, there is a risk that if the relevant funds have not been used by the time it would be required to complete a tax return, HMRC may contend that a tax charge arises.
25. We are concerned that, even though a charity may have earmarked funds to be used for its purposes by this date, or planned to sell the asset concerned, it may still be taxable on the value received because that amount has not yet been spent or otherwise used for the charity's purpose.

### OUR RECOMMENDATION

26. We believe that the proposed amendment to s540 should be sufficient to achieve the objective of these changes and that the proposed addition of a new s523A is unnecessary. We therefore recommend that sub-clause (2) of the draft finance bill measure relating to legacies is removed. This should help to remove the uncertainty caused by the proposals around the timeframe within which funds received should be used for the purposes of the charity. This uncertainty may also have discouraged potential donors from leaving gifts to charities on death.

## APPENDIX 1

### ICAEW TAX FACULTY'S TEN TENETS FOR A BETTER TAX SYSTEM

The tax system should be:

1. Statutory: tax legislation should be enacted by statute and subject to proper democratic scrutiny by Parliament.
2. Certain: in virtually all circumstances the application of the tax rules should be certain. It should not normally be necessary for anyone to resort to the courts in order to resolve how the rules operate in relation to his or her tax affairs.
3. Simple: the tax rules should aim to be simple, understandable and clear in their objectives.
4. Easy to collect and to calculate: a person's tax liability should be easy to calculate and straightforward and cheap to collect.
5. Properly targeted: when anti-avoidance legislation is passed, due regard should be had to maintaining the simplicity and certainty of the tax system by targeting it to close specific loopholes.
6. Constant: Changes to the underlying rules should be kept to a minimum. There should be a justifiable economic and/or social basis for any change to the tax rules and this justification should be made public and the underlying policy made clear.
7. Subject to proper consultation: other than in exceptional circumstances, the Government should allow adequate time for both the drafting of tax legislation and full consultation on it.
8. Regularly reviewed: the tax rules should be subject to a regular public review to determine their continuing relevance and whether their original justification has been realised. If a tax rule is no longer relevant, then it should be repealed.
9. Fair and reasonable: the revenue authorities have a duty to exercise their powers reasonably. There should be a right of appeal to an independent tribunal against all their decisions.
10. Competitive: tax rules and rates should be framed so as to encourage investment, capital and trade in and with the UK.

These are explained in more detail in our discussion document published in October 1999 as TAXGUIDE 4/99 (see <https://goo.gl/x6UjJ5>).