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(Brent South - Lab)

Amendment 297

Clause **162**, page **105**, line **32**, leave out paragraph (d) and insert-

‘(d) so much of Schedule 4C as amended as provides-

- (i) that gains treated as accruing to beneficiaries who are not chargeable to tax are treated as outstanding section 87/89 gains, or
- (ii) that gains in a settlement’s Schedule 4C pool are not to be treated as accruing to such beneficiaries,

applies only in relation to capital payments made on or after 9 April 2003;’.

EXPLANATORY NOTE**SUMMARY**

1. Clause 162 and Schedule 29 counter schemes designed to avoid a capital gains tax charge on UK beneficiaries who receive payments from trustees of offshore settlements who realise capital gains. The new provisions strengthen existing capital gains tax anti-avoidance legislation introduced in Finance Act 2000. The avoidance schemes aim to transfer value to one settlement whilst stranding gains which could be attributed to beneficiaries in another. The new rules bring the stranded gains into a common pool so that they can be attributed to, and become liable to capital gains tax on, any UK beneficiary who receives capital payments from relevant trustees.
2. This amendment deals with one of the commencement provisions for Clause 162 and Schedule 29.

BOARD OF INLAND REVENUE FINANCE BILL 2003
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DETAILS

3. Clause 162 and Schedule 29 amend Schedule 4C to the Taxation of Chargeable Gains Act 1992. They introduce a new rule that requires payments to beneficiaries who are not UK domiciled and resident to be ignored in computing the amounts that may be charged to capital gains tax on other beneficiaries.
4. Paragraph (d) of subsection (4) of Clause 162 sets out the commencement provision for this new rule. Paragraph (d) in the Bill as published is unclear. Sub-paragraphs (i) and (ii) of the new paragraph (d) ensure that the commencement provision applies to all aspects of the new rule. The new paragraph (d) provides that the new rule will apply to all capital payments to non-chargeable beneficiaries made on or after Budget Day. The treatment of payments to non-chargeable beneficiaries made before Budget Day remains unchanged.

BACKGROUND NOTE

5. There is a capital gains tax charge on UK beneficiaries of offshore settlements if the beneficiaries receive payments from the trustees, to the extent that capital gains arise to the trustees. Beneficiaries who are not UK domiciled and resident are not charged to UK tax when they receive payments from offshore settlements. Without the changes made by Clause 162 and Schedule 29 payments to non-chargeable beneficiaries may reduce the amounts which could be taxed when payments are made to UK beneficiaries, thereby enabling tax to be avoided. Clause 162 and Schedule 29 make changes to Schedule 4C to the Taxation of Chargeable Gains Act 1992 which prevent this. The intention of the legislation is for this new rule to come into effect in respect of payments to non-chargeable beneficiaries made on or after Budget Day. The amendment puts this operative date beyond doubt.