

Amendment	Page	Line
SC 359	115	12-25
SC 360	115	30
SC 361	115	32
SC 362	118	33
SC 363	119	2
SC 364	119	2
SC 368	119	41
SC 370	121	7
SC 373	124	31

Dawn Primarolo

(Bristol South - Lab)

**Amendment 359**

Schedule 20, page 115, [Vol II], leave out lines 12 to 25

**Amendment 360**

Schedule 20, page 115, line 30 [Vol II], leave out 'Conditions 3 to 5 have' and insert 'Condition 5 has'.

**Amendment 361**

Schedule 20, page 115, line 32 [Vol II], leave out from beginning to end of line 18 on page 116.

**Amendment 362**

Schedule 20, page 118, line 33 [Vol II], at end insert, or

- (iii) a gift into a bereaved minor's trust on the coming to an end of a immediate post-death interest.

**Amendment 363**

Schedule 20, page 119, line 2 [Vol II], at end insert -

- (3B) A transfer of value falls within subsection (1A)(c)(iii) above to the extent that the value transferred is attributable to settled property (whenever settled) that becomes property to which

Amendment	Page	Line
SC 359	115	12-25
SC 360	115	30
SC 361	115	32
SC 362	118	33
SC 363	119	2
SC 364	119	2
SC 368	119	41
SC 370	121	7
SC 373	124	31

section 71A below applied in the following circumstances –

- (a) under the settlement, a person (“L”) is beneficially entitled to an interest in possession in the settled property.
- (b) the interest in possession is an immediate post-death interest,
- (c) on or after 22<sup>nd</sup> March 2006, but during L’s life, the interest in possession come to an end,
- (d) L is beneficially entitled to the interest in possession immediately before it comes to an end, and
- (e) on the interest in possession coming to an end, the property –
  - (i) continues to be held on the trusts of the settlement, and
  - (ii) becomes property to which section 71A below applies”.

Amendment	Page	Line
SC 359	115	12-25
SC 360	115	30
SC 361	115	32
SC 362	118	33
SC 363	119	2
SC 364	119	2
SC 368	119	41
SC 370	121	7
SC 373	124	31

**Amendment 364**

Schedule 20, page 119, line 2 [Vol II], at end insert -

( ) In subsection (7) (application of section in relation to charge to tax under section 52), after “subsection (1)(a)” insert “or (1A)(a)”.

**Amendment 368**

Schedule 20, page 119, line 41 [Vol II], leave out paragraph 12.

**Amendment 370**

Schedule 20, page 121, line 7 [Vol II], leave out sub-paragraph (4).

**Amendment 373**

Schedule 20, page 124 line 31 [Vol II], leave out from ‘section’ to end of line 33 and insert ‘80 of IHTA 1984 (postponement of commencement date of settlement where settlor, or spouse or civil partner or surviving spouse or surviving civil partner, has interest in possession at outset), after subsection (3) insert –

“(4) Where the occasion first referred to in subsection (1) above occurs on or after 22<sup>nd</sup> March 2006, this section applies only if the interest in possession first referred to in that subsection is an immediate post-death interest”.

Amendment	Page	Line
SC 359	115	12-25
SC 360	115	30
SC 361	115	32
SC 362	118	33
SC 363	119	2
SC 364	119	2
SC 368	119	41
SC 370	121	7
SC 373	124	31

### **SUMMARY**

1. These amendments refine the provisions of Schedule 20 which determine what interests-in-possession of trust property are eligible to be “immediate post death interest” (IPDIs) for IHT purposes, and for the consequences of that in certain circumstances. They remove the third and fourth conditions necessary for a trust to qualify as an IPDI i.e. that the interest can only be terminated with the consent of the person with the interest (in their favour); and that once the trust comes to an end the trust assets must generally pass into absolute ownership. They also provide for termination of an IPDI in favour of ongoing trusts for a bereaved minor or a “transitional serial interest” to be counted as a potentially exempt transfer by the person whose interest ends; and provide for IPDIs created in favour of a spouse to be disregarded when charging the trusts created in the death of the same testator.

### **DETAILS**

2. Amendment 359 deletes conditions 3 and 4 of the tests to be satisfied by an IPDI. They are set out at subsections (4) and (5) of new section 49A, inserted into the Inheritance Tax Act 1984 (IHTA) by paragraph 5 of Schedule 20.
3. Amendment 360 makes a consequential change; and amendment 361 deletes the provision for interpreting conditions 3 and 4.
4. Amendment 362 extends the circumstances set out in new section 3A(1A)(c) of IHTA, – inserted by paragraph 9 of Schedule 20 – in which the termination of an IPDI in the lifetime of the tenant

Amendment	Page	Line
SC 359	115	12-25
SC 360	115	30
SC 361	115	32
SC 362	118	33
SC 363	119	2
SC 364	119	2
SC 368	119	41
SC 370	121	7
SC 373	124	31

counts as a potentially exempt transfer by them to include the case where the trust property passes on to trusts – defined in new section 3A(3B) IHTA, inserted by amendment 363 – for a bereaved minor child of the settlor.

5. Amendment 364 extends the potentially exempt transfer treatment provided by section 3A(7) IHTA to transfers of value made on or after 22 March 2006.
6. Amendments 368 and 370 remove provisions at new section 51A IHTA, inserted by paragraph 12 of Schedule 20: the situation they address will no longer arise once conditions 3 and 4 are omitted from new section 49A IHTA.
7. Amendment 373 restricts the effect of paragraph 23 of Schedule 20, so as to preserve those correct treatment of IPDIs (but not other interest-in-possession trusts) under section 80 IHTA: so IPDIs created in favour of a surviving spouse will continue to be disregarded in calculating the periodic and exit charges on any other trusts created by the same testator.

### **BACKGROUND NOTE**

8. Where an interest in possession trust satisfies the conditions necessary to qualify as an IPDI, the trust assets are treated for IHT purposes as if they were owned by the person with the interest in possession. And when such an interest comes to an end, the assets are treated for IHT purposes as if they had been transferred by that person. Where a trust set up on death does not satisfy these conditions (or any of the other conditions that qualify for special treatment, such as those for a trust for a

**HM REVENUE AND CUSTOMS  
RESOLUTION 55**

**FINANCE (No.2) BILL 2006  
COMMITTEE  
SCHEDULE 20**

Amendment	Page	Line
SC 359	115	12-25
SC 360	115	30
SC 361	115	32
SC 362	118	33
SC 363	119	2
SC 364	119	2
SC 368	119	41
SC 370	121	7
SC 373	124	31

disabled person), the trust assets are subject to the mainstream IHT rules for discretionary trusts. These rules levy a periodic charge while assets in excess of the IHT threshold remain in trust, and an exit charge (proportional to any outstanding periodic charge) when the interest comes to an end.