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Mr Chancellor of the Exchequer

Amendment 78

Page **389**, line **36** [*Schedule 20*], leave out from ‘person’ to ‘on’ in line 37 and insert ‘becomes beneficially entitled’.

Amendment 79

Page **392**, line **10** [*Schedule 20*], leave out ‘or 89A’.

Amendment 80

Page **396**, line **14** [*Schedule 20*], at end insert—
‘(ab) a disabled person’s interest within section 89B(1)(c) or (d) below, or’.

Amendment 81

Page **399**, line **44** [*Schedule 20*], after ‘interest,’ insert ‘or a disabled person’s interest within section 89B(1)(c) or (d) below’.

Amendment 83

Page **401**, line **20** [*Schedule 20*], at end insert—
‘(ia) a disabled person’s interest within section 89B(1)(c) or (d) below, or’.

Amendment 84

Page **401**, line **27** [*Schedule 20*], after first ‘interest’ insert ‘, disabled person’s interest’.

Amendment 85

Page **401**, line **29** [*Schedule 20*], after ‘or’ insert ‘disabled person’s interest or’.

Amendment 86

Page **401**, line **37** [*Schedule 20*], leave out ‘neither’ and insert ‘—
(i) not’.

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Amendment 87

Page **401**, line **37** [*Schedule 20*], leave out ‘nor’ and insert ‘,
(ii) not a disabled person’s interest within section
89B(1)(c) or (d) below, and
(iii) not’.

SUMMARY

1. S.89 Inheritance Tax Act (IHTA) makes special provision for discretionary trusts that are for a disabled person. Schedule 20 Finance Bill 2006 extends that treatment to interest in possession (IIP) trusts for a disabled person. Previously, such trusts were treated the same way as other IIP trusts that are now being restricted by Schedule 20. These amendments ensure that this treatment will apply to IIPs for a disabled person that arise on or after 22 March 2006, even where the settled property was transferred into settlement before that date. And they make a number of other consequential changes elsewhere in Schedule 20.

DETAILS

2. Amendment 78 amends section 89B(1)(c) IHTA. It provides that an interest in possession for a disabled person will qualify as a “disabled person’s interest” – and will therefore continue to be treated as owned by the disabled person for IHT purposes under new section 49(1A)(b) IHTA – where the disabled person became beneficially entitled to it on or after 22 March 2006.
3. Amendment 79 is a drafting amendment ensuring that no IHT charge arises where someone settles property on themselves on trusts that fall within section 89A IHTA.

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4. Amendment 80 extends the rules in Schedule 20 for disposals of IIPs arising on or after 22 March 2006 to actual IIPs to which a disabled person is beneficially entitled under sections 89B(1)(c) or (d) IHTA.
5. Trust property that is subject to a “qualifying IIP” as defined in section 59 IHTA is excluded from the IHT charges on “relevant property”. Amendment 81 modifies the definition where a company is beneficially entitled to an IIP to include interests that were previously “disabled person’s interests” within sections 89B(1)(c) or (d) IHTA.
6. Amendments 83 to 87 modify section 88 IHTA (as amended by Schedule 20) so that special treatment for protective trusts is available for trusts created on or after 22 March 2006 where the underlying interest is a “disabled person’s interest” within sections 89B(1)(c) or (d).

BACKGROUND

7. Trusts set up to provide benefits for a disabled person on a discretionary basis are treated for IHT purposes as if the assets were owned by the disabled person. Trusts may also be set up to give an IIP to a disabled person. No specific provisions have previously been needed for these IIP cases before now, because they were covered by the general rule treating all assets subject to IIP trusts as though they were owned by the person having the IIP. That treatment will no longer be generally available following the changes in Schedule 20 Finance Bill 2006.
8. Schedule 20 therefore makes special provision for trusts that give an IIP to a disabled person. As drafted, this would not cover interests to which the disabled person becomes beneficially entitled on or after 22 March 2006, if the settled property was transferred into settlement

**HM REVENUE AND CUSTOMS
RESOLUTION 55**

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

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before that date. These amendments address that and make a number of other consequential changes.