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Mr Chancellor of the Exchequer

Amendment 71

Page 386, line 29 [*Schedule 20*], leave out ‘(“B”)’.

Amendment 72

Page 386, line 30 [*Schedule 20*], leave out ‘(“the current interest”)’.

Amendment 73

Page 386, line 33 [*Schedule 20*], leave out ‘the following conditions are met’ and insert ‘section 49BA or 49BB below so provides’.

Amendment 74

Page 386, line 34 [*Schedule 20*], at end insert—

‘49BA Transitional serial interest: interest to which person becomes entitled during period 22nd March 2006 to 5th April 2008

(1) Where a person (“B”) is beneficially entitled to an interest in possession in settled property (“the current interest”), that interest is a transitional serial interest for the purposes of this Chapter if the following conditions are met.’.

Amendment 75

Page 387, line 6 [*Schedule 20*], at end insert—

‘49BB Transitional serial interest: interest to which person becomes entitled on death of spouse or civil partner on or after 6th April 2008

(1) Where a person (“E”) is beneficially entitled to an interest in possession in settled property (“the

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successor interest”), that interest is a transitional serial interest for the purposes of this Chapter if the following conditions are met.

- (2) Condition 1 is that—
- (a) the settlement commenced before 22nd March 2006, and
 - (b) immediately before 22nd March 2006, the property then comprised in the settlement was property in which a person other than E was beneficially entitled to an interest in possession (“the previous interest”).
- (3) Condition 2 is that the previous interest came to an end on or after 6th April 2008 on the death of that other person (“F”).
- (4) Condition 3 is that, immediately before F died, F was the spouse or civil partner of E.
- (5) Condition 4 is that E became beneficially entitled to the successor interest on F’s death.
- (6) Condition 5 is that—
- (a) section 71A below does not apply to the property in which the successor interest subsists, and
 - (b) the successor interest is not a disabled person’s interest.’.

Amendment 76

Page 387, line 47 [*Schedule 20*], leave out ‘49B(1)(a)’ and insert ‘49BA’.

Amendment 77

Page 388, line 4 [*Schedule 20*], leave out ‘49B(1)(a)’ and insert ‘49BA’.

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Amendment 82

Page **400**, line **42** [*Schedule 20*], leave out from ‘applies’ to end of line 44 and insert

‘ –

- (a) as though for “an interest in possession” in each place where that appears in subsection (1) above there were substituted “a postponing interest”, and
- (b) as though, for the purposes of that subsection, each of the following were a “postponing interest” –
 - (i) an immediate post-death interest;
 - (ii) a disabled person’s interest.”.’.

SUMMARY

1. Clause 156 and Schedule 20 Finance Bill 2006 introduced new inheritance tax (IHT) rules for assets held in trust. They provided transitional arrangements for existing trusts and for interests in possession (IIPs) that arise before 6 April 2008 if they follow a previous IIP in effect before that date. These amendments extend that transitional treatment where a pre-Budget IIP for one spouse or civil partner comes to an end on their death on or after 6 April 2008, if at that time their surviving spouse becomes entitled to an IIP. They also provide for “disabled person’s interests” created for the settlor or their spouse to be disregarded when charging the trusts created by the same settlor.

DETAILS

2. Amendments 71 to 74 restructure the existing sections dealing with transitional serial interests (TSIs) in light of the changes being introduced by amendment 75.

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3. Amendment 75 introduces a new category of TSI. It provides that an IIP to which a person becomes entitled on the death of their spouse or civil partner on or after 6 April 2008 will be a TSI, and will therefore continue to be treated as owned by the surviving spouse or civil partner under new section 49(1A)(c) Inheritance Tax Act 1984.
4. Amendments 76 and 77 make consequential changes to references elsewhere in Schedule 20 to the existing TSI provisions.
5. Schedule 20 already amends section 80 IHTA so that “immediate post-death interests” 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. Amendment 82 makes parallel provision for “disabled person’s interests”.

BACKGROUND

6. Schedule 20 to the Finance Bill 2006 limits the circumstances in which the special IHT rules for IIP trusts will continue to apply. The changes take effect from 22 March 2006, but Schedule 20 provides transitional arrangements for existing trusts. Also, any new IIP that arises when an IIP created before 22 March 2006 comes to an end before 6 April 2008 will be treated as an IIP that was in place on Budget Day.
7. Where a pre-Budget IIP for one spouse or civil partner comes to an end on their death on or after 6 April 2008, and their surviving spouse or civil partner becomes entitled to an IIP as a result, these amendments ensure that spouse relief will continue to apply.