

**BOARD OF INLAND REVENUE
RESOLUTIONS:
PROCEDURE (FUTURE
TAXATION) (f)**

**FINANCE BILL 2004
COMMITTEE
CLAUSE 151**

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Amendment 298

Clause 151, page 137, line 31, at end insert '(or who was connected with a member at the date of the member's death)'.

Amendment 299

Clause 151, page 137, line 34, after 'employer' insert '(or who was connected with a member at the date of the member's death)'.

Amendment 319

Clause 162, page 143, line 38, leave out 'the' and insert 'a'.

Amendment 320

Clause 162, page 143, line 38, at end insert –

'(3A) A registered pension scheme is to be treated as having made an unauthorised payment in respect of a member of the pension scheme if after the member's death an asset held for the purposes of the pension scheme is used to provide a benefit (other than a payment) to a person who, at the date of the member's death, was a member of the member's family or household.

(3B) The person who receives the benefit is to be treated as having received the unauthorised payment.

(3C) If the benefit is received by reason of an employment which is not an excluded employment, subsections (3A) and (3B) do not apply.

(3D) If the benefit is received by reason of an excluded employment, subsections (3A) and (3B) only apply if –

- (a) paragraphs (a) and (b) of subsection (3) apply, and
- (b) at the date of the member's death the member, or a member of the member's family or household, was a director of, and had a material interest in, a sponsoring employer.'.

Amendment 321

Clause 162, page 143, line 39, leave out 'the unauthorised payment' and insert 'an unauthorised payment treated as having been made by this section.'

Amendment 322

Clause 163, page 144, line 22, at end insert –

'(1A) But if the event or the change in the value of the currency occurs after the member's death –

- (a) the pension scheme is to be treated as having made an unauthorised payment in respect of the member (rather than to the member), and
- (b) the person who holds the asset or is subject to the liability in relation to which subsection (1)(b) is satisfied is to be treated as having received the unauthorised payment.'

EXPLANATORY NOTE

SUMMARY

1. These amendments ensure that the unauthorised payments rules will apply where a registered pension scheme enters into certain transactions after the death of a member and those transactions benefit someone who was connected to the member at the time of death.
2. They also provide that the unauthorised payments rules will apply where a scheme asset is used by such a person after the death of

the member or where a transaction is carried out which shifts value out of scheme assets and into assets held by such a person.

DETAILS

3. Amendments 298 and 299 provide that assets held by persons who were connected with a member at the date of the members death and any increases in the value of those assets or reduction in any liabilities of such a person are deemed to be for the benefit of the member. This ensures that value shifting provisions at clause 163 apply to these assets.
4. Amendment 322 then provides that, if a pension scheme enters into a transaction which passes value out of assets held by the scheme and into assets held by a person who was connected to a member at the date of the death of that member, Clause 163 deems a payment to be made. This also applies to transactions which increase the liabilities of schemes and at the same time reduce the liabilities of such connected persons.
5. Amendment 320 provides that if a scheme asset is used by a person who was in the member's family or household at the time of the member's death an unauthorised payment will arise.
6. Amendment 319 deletes the word 'the' and inserts the word 'a'. This ensures that subsection 3(c) of clause 162 will have effect if there is more than one sponsoring employer .
7. Amendment 321 deletes the words 'the unauthorised payments' and substitutes the words 'an unauthorised payment treated as having being made by this section'. This clarifies the meaning of subsection (4) as this applies not to any actual payment but to a deemed amount relating to the value of the use of the scheme asset.

BACKGROUND NOTE

8. Clause 162 deems an unauthorised payment to be made when someone in a pension scheme member's family or household has personal use of an asset owned by the scheme. These amendments ensure that these rules will apply if the member of the family or

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household continues to use the asset, or starts to use a new asset, after the death of the member.

9. Clause 163 deems an unauthorised payment to arise when a transaction is undertaken which allows value to be passed from an asset owned by a pension scheme into an asset owned by a member or someone connected to the member. These amendments ensure that these rules will apply if the transaction is carried out with the person connected with the member after the death of that member. This also applies to transactions passing value from the pension scheme which reduce any liability of such a connected person.