

Amendment	Page	Line
RS 88	403	7
RS 89	403	18

Mr Chancellor of the Exchequer

Amendment 88

Page 403, line 7 [*Schedule 20*], leave out ‘property comprised in the testator’s estate’ and insert ‘the property’.

Amendment 89

Page 403, line 18 [*Schedule 20*], at end insert—

‘(5) Subsection (4) above also applies where—

- (a) a person dies before 22nd March 2006,
 - (b) property comprised in the person’s estate immediately before his death is settled by his will,
 - (c) an event occurs—
 - (i) on or after 22nd March 2006, and
 - (ii) within the period of two years after the testator’s death, that involves causing the property to be held on trusts within subsection (6) below,
 - (d) no immediate post-death interest, and no disabled person’s interest, subsisted in the property at any time in the period beginning with the testator’s death and ending immediately before the event, and
 - (e) no other interest in possession subsisted in the property at any time in the period beginning with the testator’s death and ending immediately before 22nd March 2006.
- (6) Trusts are within this subsection if they would, had they in fact been established by the testator’s will and had the testator died at the time of the event mentioned in subsection (5)(c) above, have resulted in—
- (a) an immediate post-death interest subsisting in the property, or
 - (b) section 71A or 71D above applying to the property.”’.

SUMMARY

Amendment	Page	Line
RS 88	403	7
RS 89	403	18

1. These technical amendments concern the inheritance tax (IHT) provisions for distributions from discretionary trusts which have been set up under the arrangements made by someone in their will. Section 144 of the Inheritance Tax Act (IHTA) applies where the trustees make these distributions within two years of the date when the person who made the will died. Under this legislation these distributions are treated for IHT as if the will had provided for them. Schedule 20 Finance Bill 2006 already provided that this treatment would continue where the changes would – if they had been made under the will of the person who had died – have created a trust for a bereaved minor (TBM), an age 18-to-25 trust or an immediate post-death interest (IPDI). But this only applied where the person making the will died on or after 22 March 2006. These amendments extend the provision for distributions from discretionary trusts to deaths before that date.

DETAILS

2. Amendment 88 is a drafting correction to existing s.144(3)(c) IHTA.
3. Amendment 89 inserts a new subsection (5) into s.144 IHTA. Subsection (5) provides that subsection (4) will be met where
 - a person dies before 22 March 2006;
 - they settle property in their will;
 - there has been no IPDI or disabled person's interest in the property, and no other interest in possession subsisted in the property before 22 March 2006; and
 - the trustees use powers in the trust in a way that would have created a TBM, an age 18-to-25 trust or an IPDI if they had been created by the will of the person who had died and they had died at the time the powers were used.

BACKGROUND

4. Schedule 20 Finance Bill 2006 introduced certain new categories of trusts – TBMs, age 18-to-25 trusts and IPDIs – that can only be set up under a person's will, or the rules of intestacy if they did not

**HM REVENUE AND CUSTOMS
RESOLUTION 55**

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

Amendment	Page	Line
RS 88	403	7
RS 89	403	18

make a will. So, without express provision, an appointment out of a discretionary trust set up by someone's will would not create one of these new trusts. It would not trigger the event required by s.144(1) IHTA and could not therefore be treated as provided for in the will of the person who died. Schedule 20 already addressed that issue where the person died on or after 22 March 2006. These amendments do so where they died before that date.