

1 Charge on termination of interest in possession where new interest acquired

- (1) In section 53 of IHTA 1984 (exceptions from charge on termination of interest in possession), for subsection (2A) substitute –
 - “(2A) Subsection (2) above applies by virtue of the person becoming beneficially entitled on or after 12 March 2008 to another interest in possession in the property only if that other interest is –
 - (a) a disabled person’s interest, or
 - (b) a transitional serial interest;and that is the case irrespective of whether the person’s beneficial entitlement to the interest in possession in the property which comes to an end is one which began before, or on or after, 22 March 2006.”
- (2) The amendment made by this section is treated as having come into force on 22 March 2006 (so that paragraph 14(3) of Schedule 20 to FA 2006 is treated as never having had effect).

2 Interest in possession settlements: extension of transitional period

- (1) In Chapter 2 of Part 3 of IHTA 1984 (interests in possession etc) –
 - (a) in section 49C (transitional serial interest: interest to which person becomes entitled on or after 22 March 2006 and before 6 April 2008), in subsection (3) and in the heading,
 - (b) in section 49D (transitional serial interest: interest to which person becomes entitled on death of spouse or civil partner on or after 6 April 2008), in subsection (3) and in the heading, and
 - (c) in section 49E (transitional serial interest: contracts of life insurance), in subsection (3),for “April” substitute “October”.
- (2) The amendments made by subsection (1) are treated as having come into force on 6 April 2008.

EXPLANATORY NOTE

CLAUSE [XX]: CHARGE ON INTEREST IN POSSESSION WHEN NEW INTEREST ACQUIRED

SUMMARY

1. Clause [XX] clarifies the inheritance tax (IHT) rules where interest in possession (IIP) trusts come to an end and are replaced with new IIP trusts for the same beneficiary.

DETAILS OF THE CLAUSE

2. Subsection (1) substitutes a replacement for section 53(2A) of the Inheritance Tax Act 1984 (IHTA). This provides that section 53(2) of IHTA has effect – and so there is no charge to IHT under section 52(1) of IHTA – where an IIP comes to an end on or after 12 March 2008 and on the same occasion the beneficiary becomes entitled to a new IIP, but only as long as the new IIP is a “transitional serial interest” under section 49C, 49D or 49E of IHTA or a “disabled person’s interest” under section 89B of IHTA. This is the case whether the previous IIP began before, on or after 22 March 2006.
3. Subsection (2) provides that the amendment is treated as having effect on and after 22 March 2006.

The effect of this is that, where an IIP comes to an end before 12 March 2008 and is replaced by another IIP for the same beneficiary, section 53(2) of IHTA applies.

BACKGROUND NOTE

4. Schedule 20 to the Finance Act 2006 changed the IHT rules for IIP trusts. It included a transitional period from Budget Day (22 March) 2006 to 5 April 2008 to enable trustees to reorganise trusts set up before 22 March 2006 without being subject to the new rules.
5. This clause clarifies the effect of the transitional provisions where pre-22 March 2006 IIP trusts are replaced with a “transitional serial interest” for the same beneficiary. It ensures that the new rules will not apply an IHT charge where this kind of replacement is made in the transitional period.
6. It also ensures that the new rules will apply as intended where an IIP trust is replaced after the transitional period with a new IIP trust for either the same or a different beneficiary. The replacement in such circumstances will result in an IHT charge, as intended.

EXPLANATORY NOTE**CLAUSE [XX]: INTEREST IN POSSESSION
SETTLEMENTS: EXTENSION OF TRANSITIONAL
PERIOD****SUMMARY**

1. Clause [XX] extends the transitional period in which interest in possession (IIP) trusts in place before 22 March 2006 can be rearranged without the new inheritance tax (IHT) rules for trusts in Schedule 20 to the Finance Act (FA) 2006 taking effect.

DETAILS OF THE CLAUSE

2. Subsection 1 amends sections 49C, 49D and 49E of the Inheritance Tax Act 1984 (IHTA). It provides that the period in which a “transitional serial interest” (TSI) can arise under section 49C is extended by six months and ends now at 5 October 2008. Accordingly, it provides that TSIs will arise under sections 49D and 49E of IHTA only on or after 6 October 2008.
3. Subsection 2 provides that the amendments shall be treated as having effect on and after 6 April 2008.

BACKGROUND NOTE

4. Schedule 20 to FA 2006 changed the IHT rules for IIP trusts. It included a transitional period from Budget Day (22 March) 2006 to 5 April 2008 to enable trustees to reorganise trusts set up before 22 March 2006 without being subject to the new rules.
5. This clause extends the transitional period so that it ends at 5 October 2008 and re-sets the starting date for other TSIs that can arise after the end of that period to 6 October 2008.