

TRUSTS AND RELEVANT BENEFITS

This Help Sheet will help you fill in the third and fourth parts of Question 7 on the Trust and Estate Tax Return.

BACKGROUND

Trustees who have a duty or power to accumulate income are normally charged to tax at the rate applicable to trusts (34% for 1998-99) rather than at the basic or lower rate. However, trustees of a fund or scheme **established** for the sole purpose of providing **relevant benefits** are specifically excluded from that charge in respect of income from investments, deposits and other property.

WHAT DOES 'ESTABLISHED' MEAN?

It is necessary to look beyond the actual terms of the trust document and to examine whether as a matter of fact you have provided non-relevant benefits. If you have, the fund or scheme cannot be said to have been established for the sole purpose of providing relevant benefits.

WHAT ARE 'RELEVANT BENEFITS'?

Relevant benefits are:

- pensions
- lump sums
- gratuities
- other like benefits

provided they are given, or to be given:

- on retirement or on death, **or**
- in anticipation of retirement, **or**
- in connection with past service, after retirement or death, **or**
- in anticipation of, or in connection with, any change in the nature of the service of the employee in question.

WHAT ARE 'NON-RELEVANT BENEFITS' ?

Non-relevant benefits are any benefits given or to be given which do not fall into the above description. In particular a benefit given or to be given solely because of the disablement by accident of a person occurring:

- during his service, **or**
- on his death by accident occurring during his service,

and for no other reason is **not** a relevant benefit.

Similarly:

- lending trust monies to a participating employee at a non-commercial rate of interest (or interest-free), **or**
- allowing such an employee to occupy trust property at a below market rent (or rent-free), **or**
- allowing such an employee to have the use of a trust asset at a below market rate (or free use)

will provide a benefit which is a non-relevant benefit.

CAN I BE CHARGED AT THE RATE APPLICABLE TO TRUSTS ON ANY INCOME IF THE ONLY BENEFITS PROVIDED, OR TO BE PROVIDED, ARE RELEVANT BENEFITS?

Yes. The exemption from the charge only excludes the income from investments, deposits or other property. While this will cover most types of income it does not, for example, cover profits from a trade etc. where such profits are chargeable under Case I of Schedule D. Such profits are chargeable at the rate applicable to trusts.

Ask your Tax Office or tax adviser if you are in any doubt about whether a particular source of income is chargeable at the rate applicable to trusts.

SUMMARY

If the terms of the trust document provide for non-relevant benefits to be given or if you have in fact provided non-relevant benefits, then you should answer 'Yes' to the third part of Question 7. Otherwise you should answer 'No'.

If you have answered 'Yes' to the third part of Question 7, you will also need to answer 'Yes' to the fourth part. Even if you have answered 'No' to the third part you may still need to answer 'Yes' to the fourth part if you have income which is not income arising from investments, deposits or other property.

These notes are for guidance only, and reflect the position at the time of writing. They do not affect any rights of appeal.