

Tax Law Rewrite – Bill 6

Response to Paper CC/SC (07) 30

Corporate beneficiaries under trusts

This document is available on the internet at:

<http://www.hmrc.gov.uk/rewrite>

5 March 2008

INTRODUCTION

1. In September 2007 we published Committee Paper CC/SC (07) 30 on the HMRC internet website www.hmrc.gov.uk/rewrite. The closing date for responses was 14 December 2007. The draft clauses rewrite provisions concerning corporate beneficiaries under trusts.
2. We received a helpful written response from the Chartered Institute of Taxation and set out our comments below.
3. The following abbreviations for tax legislation are used in this response document:
 - ICTA Income and Corporation Taxes Act 1988
 - ITA Income Tax Act 2007
4. Originally the rewrite of section 687A of ICTA was considered for Bill 5, and indeed a clause was published in Paper CC/SC 06(06) (Appendix C). We have now decided that it is more helpful to site this provision in the Part of Bill 6 that deals with rules for special types of company.

Clause 1: Discretionary payments by trustees to companies [j4151rm]

We wonder whether (in subsection (3)(b)) the payment should be ignored for all profits of the company rather than merely its income. It is possible that this reflects a change in terminology elsewhere in the Bill.

In either case, it appears that the wording proposed in subsection (4) does not need to be changed.

5. The word “profits” in section 687A of ICTA does not have a defined meaning: The interpretation in section 6(4)(a) of ICTA does not apply to this section. We decided that using ‘income’ instead fits better with sections 494 and 495 of ITA which are concerned with annual payments.
6. But we will be reviewing references to “income” in the context of Bill 6 as a whole at Draft Bill stage to ensure that its use in this draft clause is appropriate.

Clause 2 Income tax provisions to apply in relation to trustees’ expenses [j4151 Arm]

Q1 We welcome comments on the way that the treatment of trustees’ expenses as set out in sections 500 and 503 ITA apply for corporation tax purposes

We do not object to this change noting also that it will ensure that the CT and IT provisions are kept in line. We also note that this clause is rarely relevant in practice. However, we would prefer (given the small number of clauses involved) for

sections 499, 500 and 503 to be replicated in the CT Bill rather than applied referentially.

7. We considered the alternative approach to clause 2 carefully but decided that this read across was the best option since it is unlikely that there will be many if any applications in practice.