

Bill 4: Finance Bill material on Charitable trusts

1. This paper presents a revised draft of Part 10 of Bill 4, taking into account the changes being made by the Finance (No 2) Bill 2006 (FB 2006), together with draft Explanatory Notes relating to those clauses which are substantially different from those included in the draft of Bill 4 published in February 2006.

2. The relevant FB 2006 provisions (by reference to the Bill as introduced to Parliament) are as follows:

- Clause 54 introduces new material about transactions with substantial donors by way of new sections 506A-C of ICTA (rewritten in clauses 33 to 41 of the attached draft Part).
- Clause 55 amends the rules about the restriction of reliefs by reference to non-charitable expenditure in sections 505 and 506 of ICTA (rewritten in clauses 22 to 32 and 46 to 48 of the attached draft Part) so that:
 - all reliefs, rather than only some, are subject to restriction; and
 - so far as possible, all non-charitable expenditure restricts reliefs.
- Clause 56 provides for a trade which only partly qualifies for relief to be divided into the part which does, and the part which does not, by inserting new section 505(1B) of ICTA (rewritten in clause 8 of the attached draft Part).

3. Change 85, which affected clauses 508 and 509 of the draft Bill, is being dropped as it is overtaken by clause 56. And Change 94, which affected clause 538, is dropped as it is overtaken by clause 55.

4. One new Change is proposed, which is to apply Change 5 (References to officers of Revenue and Customs) in relation to the substantial donors material.

5. Clause 529 of the draft Bill, setting out the meaning of charitable expenditure, has been dropped in the light of clause 55 of FB 2006. In future the legislation will operate just by reference to non-charitable expenditure.

6. The attached draft Part reflects FB 2006 after Report Stage in the House of Commons (which took place on 4 and 5 July 2006).

7. The clauses also reflect responses received on the draft Bill. The main changes made to the clauses as a result of our work on comments from respondents are:

- clauses 510 and 513 of the draft Bill, which set out the exemption for certain trading income arising from land and the exemption for property income, have been integrated (see clause 14 in the draft clauses attached);
 - in clause 530 of the draft Bill, which set out the meaning of non-charitable expenditure, the paragraphs dealing with certain trading income arising from land with the paragraphs dealing with property income have been combined (see clause 26 in the draft clauses attached);
 - clause 530 has also been amended to refer to any loss made by a charitable trust in a trade which is neither a charitable trade nor a trade where a profit would be exempt as a result of the clauses relating to small trades, fund-raising and lotteries (see also revised Change 91); and
 - clause 532, which set out some interpretative material in relation to land for the purposes of the meaning of non-charitable expenditure, has been dropped as we now consider this unnecessary (see also revised Change 91).
8. The attachments to this paper are:
- draft clauses (with origins shown) and draft extracts from Schedules;
 - draft Explanatory Notes for the main new or revised material; and
 - draft Annex 1 Change notes 5 and 91.
9. Please send comments by 25 August 2006.
10. Comments should be sent by email where possible to basil.rajamanie@hmrc.gsi.gov.uk, or to

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Tax Law Rewrite Project
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