
Changes to legislation: There are currently no known outstanding effects for the Finance Act 2006,
Cross Heading: Trusts for bereaved minors and Age 18-to-25 trusts. (See end of Document for details)

SCHEDULES

SCHEDULE 20

INHERITANCE TAX: RULES FOR TRUSTS ETC

PART 1

“TRUSTS FOR BEREAVED MINORS”, “AGE 18-TO-25 TRUSTS” AND “ACCUMULATION AND MAINTENANCE” TRUSTS

Trusts for bereaved minors and Age 18-to-25 trusts

1 (1) In IHTA 1984, after section 71 insert—

“71A Trusts for bereaved minors

- (1) This section applies to settled property (including property settled before 22nd March 2006) if—
- (a) it is held on statutory trusts for the benefit of a bereaved minor under sections 46 and 47(1) of the Administration of Estates Act 1925 (succession on intestacy and statutory trusts in favour of issue of intestate), or
 - (b) it is held on trusts for the benefit of a bereaved minor and subsection (2) below applies to the trusts,
- but this section does not apply to property in which a disabled person's interest subsists.
- (2) This subsection applies to trusts—
- (a) established under the will of a deceased parent of the bereaved minor, or
 - (b) established under the Criminal Injuries Compensation Scheme, which secure that the conditions in subsection (3) below are met.
- (3) Those conditions are—
- (a) that the bereaved minor, if he has not done so before attaining the age of 18, will on attaining that age become absolutely entitled to—
 - (i) the settled property,
 - (ii) any income arising from it, and
 - (iii) any income that has arisen from the property held on the trusts for his benefit and been accumulated before that time,
 - (b) that, for so long as the bereaved minor is living and under the age of 18, if any of the settled property is applied for the benefit of a beneficiary, it is applied for the benefit of the bereaved minor, and

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- (c) that, for so long as the bereaved minor is living and under the age of 18, either—
 - (i) the bereaved minor is entitled to all of the income (if there is any) arising from any of the settled property, or
 - (ii) no such income may be applied for the benefit of any other person.
- (4) Trusts such as are mentioned in paragraph (a) or (b) of subsection (2) above are not to be treated as failing to secure that the conditions in subsection (3) above are met by reason only of—
 - (a) the trustees' having the powers conferred by section 32 of the Trustee Act 1925 (powers of advancement),
 - (b) the trustees' having those powers but free from, or subject to a less restrictive limitation than, the limitation imposed by proviso (a) of subsection (1) of that section,
 - (c) the trustees' having the powers conferred by section 33 of the Trustee Act (Northern Ireland) 1958 (corresponding provision for Northern Ireland),
 - (d) the trustees' having those powers but free from, or subject to a less restrictive limitation than, the limitation imposed by subsection (1) (a) of that section, or
 - (e) the trustees' having powers to the like effect as the powers mentioned in any of paragraphs (a) to (d) above.
- (5) In this section “the Criminal Injuries Compensation Scheme” means—
 - (a) the schemes established by arrangements made under the Criminal Injuries Compensation Act 1995,
 - (b) arrangements made by the Secretary of State for compensation for criminal injuries in operation before the commencement of those schemes, and
 - (c) the scheme established under the Criminal Injuries Compensation (Northern Ireland) Order 2002.
- (6) The preceding provisions of this section apply in relation to Scotland as if, in subsection (2) above, before “which” there were inserted “the purposes of”.

71B Charge to tax on property to which section 71A applies

- (1) Subject to subsections (2) and (3) below, there shall be a charge to tax under this section—
 - (a) where settled property ceases to be property to which section 71A above applies, and
 - (b) in a case where paragraph (a) above does not apply, where the trustees make a disposition as a result of which the value of settled property to which section 71A above applies is less than it would be but for the disposition.
- (2) Tax is not charged under this section where settled property ceases to be property to which section 71A applies as a result of—
 - (a) the bereaved minor attaining the age of 18 or becoming, under that age, absolutely entitled as mentioned in section 71A(3)(a) above, or
 - (b) the death under that age of the bereaved minor, or

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- (c) being paid or applied for the advancement or benefit of the bereaved minor.
- (3) Subsections (3) to (8) and (10) of section 70 above apply for the purposes of this section as they apply for the purposes of that section, but—
- (a) with the substitution of a reference to subsection (1)(b) above for the reference in subsection (4) of section 70 above to subsection (2) (b) of that section,
 - (b) with the substitution of a reference to property to which section 71A above applies for each of the references in subsections (3), (5) and (8) of section 70 above to property to which that section applies,
 - (c) as if, for the purposes of section 70(8) above as applied by this subsection, property—
 - (i) which is property to which section 71A above applies,
 - (ii) which, immediately before it became property to which section 71A above applies, was property to which section 71 above applied, and
 - (iii) which, by the operation of section 71(1B) above, ceased on that occasion to be property to which section 71 above applied,had become property to which section 71A above applies not on that occasion but on the occasion (or last occasion) before then when it became property to which section 71 above applied, and
 - (d) as if, for the purposes of section 70(8) above as applied by this subsection, property—
 - (i) which is property to which section 71A above applies,
 - (ii) which, immediately before it became property to which section 71A above applies, was property to which section 71D below applied, and
 - (iii) which, by the operation of section 71D(5)(a) below, ceased on that occasion (“the 71D-to-71A occasion”) to be property to which section 71D below applied,had become property to which section 71A above applies not on the 71D-to-71A occasion but on the relevant earlier occasion.
- (4) In subsection (3)(d) above—
- (a) “the relevant earlier occasion” means the occasion (or last occasion) before the 71D-to-71A occasion when the property became property to which section 71D below applied, but
 - (b) if the property, when it became property to which section 71D below applied, ceased at the same time to be property to which section 71 above applied without ceasing to be settled property, “the relevant earlier occasion” means the occasion (or last occasion) when the property became property to which section 71 above applied.

71C Sections 71A and 71B: meaning of “bereaved minor”

In sections 71A and 71B above “bereaved minor” means a person—

- (a) who has not yet attained the age of 18, and
- (b) at least one of whose parents has died.

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71D Age 18-to-25 trusts

- (1) This section applies to settled property (including property settled before 22nd March 2006), but subject to subsection (5) below, if—
 - (a) the property is held on trusts for the benefit of a person who has not yet attained the age of 25,
 - (b) at least one of the person's parents has died, and
 - (c) subsection (2) below applies to the trusts.
- (2) This subsection applies to trusts—
 - (a) established under the will of a deceased parent of the person mentioned in subsection (1)(a) above, or
 - (b) established under the Criminal Injuries Compensation Scheme, which secure that the conditions in subsection (6) below are met.
- (3) Subsection (4) has effect where—
 - (a) at any time on or after 22nd March 2006 but before 6th April 2008, or on the coming into force of paragraph 3(1) of Schedule 20 to the Finance Act 2006, any property ceases to be property to which section 71 above applies without ceasing to be settled property, and
 - (b) immediately after the property ceases to be property to which section 71 above applies—
 - (i) it is held on trusts for the benefit of a person who has not yet attained the age of 25, and
 - (ii) the trusts secure that the conditions in subsection (6) below are met.
- (4) From the time when the property ceases to be property to which section 71 above applies, but subject to subsection (5) below, this section applies to the property (if it would not apply to the property by virtue of subsection (1) above) for so long as—
 - (a) the property continues to be settled property held on trusts such as are mentioned in subsection (3)(b)(i) above, and
 - (b) the trusts continue to secure that the conditions in subsection (6) below are met.
- (5) This section does not apply—
 - (a) to property to which section 71A above applies,
 - (b) to property to which section 71 above, or section 89 below, applies, or
 - (c) to settled property if a person is beneficially entitled to an interest in possession in the settled property and—
 - (i) the person became beneficially entitled to the interest in possession before 22nd March 2006, or
 - (ii) the interest in possession is an immediate post-death interest, or a transitional serial interest, and the person became beneficially entitled to it on or after 22nd March 2006.
- (6) Those conditions are—

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- (a) that the person mentioned in subsection (1)(a) or (3)(b)(i) above (“B”), if he has not done so before attaining the age of 25, will on attaining that age become absolutely entitled to—
 - (i) the settled property,
 - (ii) any income arising from it, and
 - (iii) any income that has arisen from the property held on the trusts for his benefit and been accumulated before that time,
 - (b) that, for so long as B is living and under the age of 25, if any of the settled property is applied for the benefit of a beneficiary, it is applied for the benefit of B, and
 - (c) that, for so long as B is living and under the age of 25, either—
 - (i) B is entitled to all of the income (if there is any) arising from any of the settled property, or
 - (ii) no such income may be applied for the benefit of any other person.
- (7) For the purposes of this section, trusts are not to be treated as failing to secure that the conditions in subsection (6) above are met by reason only of—
- (a) the trustees' having the powers conferred by section 32 of the Trustee Act 1925 (powers of advancement),
 - (b) the trustees' having those powers but free from, or subject to a less restrictive limitation than, the limitation imposed by proviso (a) of subsection (1) of that section,
 - (c) the trustees' having the powers conferred by section 33 of the Trustee Act (Northern Ireland) 1958 (corresponding provision for Northern Ireland),
 - (d) the trustees' having those powers but free from, or subject to a less restrictive limitation than, the limitation imposed by subsection (1) (a) of that section, or
 - (e) the trustees' having powers to the like effect as the powers mentioned in any of paragraphs (a) to (d) above.
- (8) In this section “the Criminal Injuries Compensation Scheme” means—
- (a) the schemes established by arrangements made under the Criminal Injuries Compensation Act 1995,
 - (b) arrangements made by the Secretary of State for compensation for criminal injuries in operation before the commencement of those schemes, and
 - (c) the scheme established under the Criminal Injuries Compensation (Northern Ireland) Order 2002.
- (9) The preceding provisions of this section apply in relation to Scotland—
- (a) as if, in subsection (2) above, before “which” there were inserted “the purposes of”, and
 - (b) as if, in subsections (3)(b)(ii) and (4)(b) above, before “trusts” there were inserted “ purposes of the ”.

71E Charge to tax on property to which section 71D applies

- (1) Subject to subsections (2) to (4) below, there shall be a charge to tax under this section—

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- (a) where settled property ceases to be property to which section 71D above applies, or
 - (b) in a case where paragraph (a) above does not apply, where the trustees make a disposition as a result of which the value of the settled property to which section 71D above applies is less than it would be but for the disposition.
- (2) Tax is not charged under this section where settled property ceases to be property to which section 71D above applies as a result of—
- (a) B becoming, at or under the age of 18, absolutely entitled as mentioned in section 71D(6)(a) above,
 - (b) the death, under the age of 18, of B,
 - (c) becoming, at a time when B is living and under the age of 18, property to which section 71A above applies, or
 - (d) being paid or applied for the advancement or benefit of B—
 - (i) at a time when B is living and under the age of 18, or
 - (ii) on B's attaining the age of 18.
- (3) Tax is not charged under this section in respect of—
- (a) a payment of costs or expenses (so far as they are fairly attributable to property to which section 71D above applies), or
 - (b) a payment which is (or will be) income of any person for any of the purposes of income tax or would for any of those purposes be income of a person not resident in the United Kingdom if he were so resident,
- or in respect of a liability to make such a payment.
- (4) Tax is not charged under this section by virtue of subsection (1)(b) above if the disposition is such that, were the trustees beneficially entitled to the settled property, section 10 or section 16 above would prevent the disposition from being a transfer of value.
- (5) For the purposes of this section the trustees shall be treated as making a disposition if they omit to exercise a right (unless it is shown that the omission was not deliberate) and the disposition shall be treated as made at the time or latest time when they could have exercised the right.

71F Calculation of tax charged under section 71E in certain cases

- (1) Where—
- (a) tax is charged under section 71E above by reason of the happening of an event within subsection (2) below, and
 - (b) that event happens after B has attained the age of 18,
- the tax is calculated in accordance with this section.
- (2) Those events are—
- (a) B becoming absolutely entitled as mentioned in section 71D(6)(a) above,
 - (b) the death of B, and
 - (c) property being paid or applied for the advancement or benefit of B.
- (3) The amount of the tax is given by—

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Chargeable amount \times Relevant fraction \times Settlement rate

- (4) For the purposes of subsection (3) above, the “Chargeable amount” is—
- (a) the amount by which the value of property which is comprised in the settlement and to which section 71D above applies is less immediately after the event giving rise to the charge than it would be but for the event, or
 - (b) where the tax is payable out of settled property to which section 71D above applies immediately after the event, the amount which, after deducting the tax, is equal to the amount on which tax would be charged by virtue of paragraph (a) above.
- (5) For the purposes of subsection (3) above, the “Relevant fraction” is three tenths multiplied by so many fortieths as there are complete successive quarters in the period—
- (a) beginning with the day on which B attained the age of 18 or, if later, the day on which the property became property to which section 71D above applies, and
 - (b) ending with the day before the occasion of the charge.
- (6) Where the whole or part of the Chargeable amount is attributable to property that was excluded property at any time during the period mentioned in subsection (5) above then, in determining the “Relevant fraction” in relation to that amount or part, no quarter throughout which that property was excluded property shall be counted.
- (7) For the purposes of subsection (3) above, the “Settlement rate” is the effective rate (that is to say, the rate found by expressing the tax chargeable as a percentage of the amount on which it is charged) at which tax would be charged on the value transferred by a chargeable transfer of the description specified in subsection (8) below.
- (8) The chargeable transfer postulated in subsection (7) above is one—
- (a) the value transferred by which is equal to an amount determined in accordance with subsection (9) below,
 - (b) which is made at the time of the charge to tax under section 71E above by a transferor who has in the period of seven years ending with the day of the occasion of the charge made chargeable transfers having an aggregate value equal to that of any chargeable transfers made by the settlor in the period of seven years ending with the day on which the settlement commenced, disregarding transfers made on that day, and
 - (c) on which tax is charged in accordance with section 7(2) above.
- (9) The amount referred to in subsection (8)(a) above is equal to the aggregate of—
- (a) the value, immediately after the settlement commenced, of the property then comprised in it,
 - (b) the value, immediately after a related settlement commenced, of the property then comprised in it, and

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- (c) the value, immediately after it became comprised in the settlement, of any property which became so comprised after the settlement commenced and before the occasion of the charge under section 71E above (whether or not it has remained so comprised).

71G Calculation of tax charged under section 71E in all other cases

- (1) Where—
 - (a) tax is charged under section 71E above, and
 - (b) the tax does not fall to be calculated in accordance with section 71F above,
 the tax is calculated in accordance with this section.
- (2) The amount on which the tax is charged is—
 - (a) the amount by which the value of property which is comprised in the settlement and to which section 71D above applies is less immediately after the event giving rise to the charge than it would be but for the event, or
 - (b) where the tax is payable out of settled property to which section 71D above applies immediately after the event, the amount which, after deducting the tax, is equal to the amount on which tax would be charged by virtue of paragraph (a) above.
- (3) The rate at which the tax is charged is the rate that would be given by subsections (6) to (8) of section 70 above—
 - (a) if the reference to section 70 above in subsection (8)(a) of that section were a reference to section 71D above,
 - (b) if the other references in those subsections to section 70 above were references to section 71E above, and
 - (c) if, for the purposes of section 70(8) above, property—
 - (i) which is property to which section 71D above applies,
 - (ii) which, immediately before it became property to which section 71D above applies, was property to which section 71 applied, and
 - (iii) which ceased on that occasion to be property to which section 71 above applied without ceasing to be settled property,
 had become property to which section 71D above applies not on that occasion but on the occasion (or last occasion) before then when it became property to which section 71 above applied.

71H Sections 71A to 71G: meaning of “parent”

- (1) In sections 71A to 71G above “parent” includes step-parent.
- (2) For the purposes of sections 71A to 71G above, a deceased individual (“D”) shall be taken to have been a parent of another individual (“Y”) if, immediately before D died, D had—
 - (a) parental responsibility for Y under the law of England and Wales,
 - (b) parental responsibilities in relation to Y under the law of Scotland, or
 - (c) parental responsibility for Y under the law of Northern Ireland.

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- (3) In subsection (2)(a) above “parental responsibility” has the same meaning as in the Children Act 1989.
 - (4) In subsection (2)(b) above “parental responsibilities” has the meaning given by section 1(3) of the Children (Scotland) Act 1995.
 - (5) In subsection (2)(c) above “parental responsibility” has the same meaning as in the Children (Northern Ireland) Order 1995.”
- (2) Sub-paragraph (1) shall be deemed to have come into force on 22nd March 2006.

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