



# Inheritance tax: simplifying charges on trusts and new rules to target avoidance through the use of multiple trusts

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## Who is likely to be affected?

Individuals settling property into relevant property trusts, trustees and their advisers.

## General description of the measure

The measure will simplify the calculation of trust charges by removing the need to include non-relevant property in the calculation. It also introduces new rules about adding property to trusts on the same day to protect inheritance tax revenues from the use of multiple trusts. The measure also includes changes in the relevant property trust legislation to provide more certainty and to ease the effect of the legislation.

## Policy objective

This measure will reform IHT for relevant property trusts and make the tax system fairer by removing the advantage under the current rules that enables individuals to create multiple trusts and avoid IHT through the use of multiple nil rate bands.

## Background to the measure

Budget 2014 announced that the Government would consult on revised proposals for simplifying the calculation of IHT trust charges and dividing the nil rate band for trusts created by the same settlor. This was published in June 2014. The consultation closed on 29 August 2014.

## Detailed proposal

### Operative date

The measure will apply to all charges arising on or after the proposed commencement date of 6 April 2015 in respect of relevant property trusts created on or after the publication of draft legislation on 10 December 2014. To prevent forestalling, it will also apply to relevant property trusts created before 10 December 2014 where there are additions made to more than one trust on the same day. The new rules which ignore non relevant property in the calculation of the rate of charge on a 10 year anniversary will apply to all charges arising on or after 6 April 2015 regardless of when the trust was created.

The new rule about additions to existing trusts will not apply to a will executed before 10 December 2014 but this exclusion will be limited to deaths before 6 April 2016. This is to allow a period of time for those affected to change their will and avoid unwanted tax consequences.

With regard to the changes being made to other areas of the relevant property trust legislation, the amendments will apply to all charges arising on or after the date that Finance Bill 2015 receives Royal Assent except for those relating to appointments for the benefit of the deceased's surviving partner (section 144 of the Inheritance Tax Act 1984 (IHTA)) which will apply to all deaths on or after 10 December 2014.

## Current law

The current law is contained in sections 62 and 66 to 68, section 71F, section 79, section 80 and section 144 IHTA1984.

## Proposed revisions

### Simplification of trust charges

Legislation will be introduced in Finance Bill 2015 to remove the requirement to include non-relevant property in the calculation for rate where appropriate for both the section 66 ten year and section 68 and section 69 exit charges.

### Introduction of the new rules to target IHT avoidance

New section 62A introduces a rule to ensure that where property is added to two or more settlements on the same day and after the commencement of those settlements, the value of the added property together with the value of property settled at the date of commencement (that is not already in a related settlement) will be brought into account in calculating the rate of tax for the purposes of ten year charges under section 66, for exit charges before the first ten-year anniversary under section 68, for exit charges between anniversaries under section 69 for and for the charge on 18/25 trusts under section 71F.

### Claims for conditional exemption

Section 79 is amended so that the requirement that a claim must be made and the property designated before the ten year charge is removed and will instead allow trustees to make a claim for exemption within two years of the ten year charge arising.

### Settlements created by individuals before March 2006 giving themselves an interest in possession or to their spouse/widow/civil partner/surviving civil partner.

Section 80 is amended so that “a qualifying interest in possession” is substituted for “an interest in possession” in each place that it appears. This will mean that where one party to a couple succeeds to a life interest to which their spouse or civil partner was previously entitled during the latter’s lifetime and that interest is not a transitional serial interest section 80 will apply at that time (because neither spouse would then have a qualifying interest in possession) with the result that the settled property would be treated as being comprised in a settlement and therefore subject to the relevant property charges.

### Appointments for the benefit of the deceased’s surviving partner

Section 144 is amended so that the provisions of section 65(4), which prevent a charge to tax arising in the first three months after the settlement commenced, or within a ten-year anniversary, shall not apply to appointments out of property settled by Will. This will ensure that where an appointment is made within three months of the date of death in favour of the deceased’s surviving spouse or civil partner, it can be read back into the will and exemption under section 18 can be given.

## Summary of impacts

Exchequer impact (£m)	2014-15	2015-16	2016-17	2017-18	2018-19	2019-20
	-	negligible	negligible	negligible	negligible	negligible
	This measure is expected to have a negligible impact on the Exchequer.					
Economic impact	The measure is not expected to have any significant economic impacts					

<b>Impact on individuals, households and families</b>	Individuals will no longer have the advantage of multiple nil rate bands by creating multiple trusts but they will be able to settle property up to the value of the nil rate band into trust every seven years.
<b>Equalities impacts</b>	The Government has no evidence to suggest that the measure will have any adverse equalities impacts.
<b>Impact on business including civil society organisations</b>	This measure is expected to have a negligible impact on businesses and civil society organisations. Removing the requirement to include non-relevant property for the calculation of the rate for ten year anniversary and exit charges will result in a small reduction in the on-going administrative burden for trustees for around 1,000 trusts per year. It is estimated that the reduction in their administrative burdens will be negligible due to the relatively small number of trusts affected per year.
<b>Operational impact (£m) (HMRC or other)</b>	There will be no significant operational impact on HMRC because the problem of IHT avoidance is addressed through the rules on how property added to trusts on the same day is treated. There will be some costs for changes to HMRC's IT systems but these are not expected to be significant.
<b>Other impacts</b>	<u>Small and micro business assessment</u> : the measure will not affect small business in general but it will benefit trust administrators who run small businesses due to the reduction in complexity and administration burdens. Other impacts have been considered and none have been identified.

### **Monitoring and evaluation**

The measure will be kept under review through regular communication with affected taxpayer groups.

### **Further advice**

If you have any questions about this change, please contact Tony Zagara on 03000 585265 (email: [antonio.zagara@hmrc.gsi.gov.uk](mailto:antonio.zagara@hmrc.gsi.gov.uk)).

**1 Calculation of rate of inheritance tax on settled property**

Schedule 1 contains provision about calculating the rate at which inheritance tax is charged under Chapter 3 of Part 3 of IHTA 1984.

## SCHEDULE 1

Section 1

## CALCULATION OF RATE OF TAX TO BE CHARGED UNDER CHAPTER 3 OF PART 3 IHTA 1984

1 IHTA 1984 is amended as follows.

2 After section 62 insert –

**“62A Same-day additions**

- (1) For the purposes of this Chapter, there is a “same-day addition”, in relation to a settlement (“settlement A”), if –
  - (a) there is a transfer of value by a person as a result of which the value immediately afterwards of the property comprised in settlement A is greater than the value immediately before,
  - (b) as a result of the same transfer of value, or as a result of another transfer of value made by that person on the same day, the value immediately afterwards of the property comprised in another settlement (“settlement B”) is greater than the value immediately before, and
  - (c) that person is the settlor of settlements A and B,and references to the value of the same-day addition are to the difference between the two values mentioned in paragraph (b).
- (2) The transfer or transfers of value mentioned in subsection (1) include a transfer or transfers of value as a result of which property first becomes comprised in settlement A or settlement B; but not if settlements A and B are related settlements.
- (3) There is not a same-day addition for the purposes of this Chapter if any of the following conditions is met –
  - (a) immediately after the transfer of value mentioned in subsection (1)(a) all the property comprised in settlement A was held for charitable purposes only without limit of time (defined by a date or otherwise),
  - (b) immediately after the transfer of value mentioned in subsection (1)(b) all the property comprised in settlement B was so held,
  - (c) either or each of settlements A and B is a protected settlement (see section 62B), and
  - (d) either or each of the transfer of value mentioned in subsection (1)(a), and the transfer of value mentioned in subsection (1)(b), results from the payment of a premium under a contract of life insurance the terms of which provide for premiums to be due at regular intervals of one year or less throughout the contract term.
- (4) For the purposes of subsection (1) above, it is immaterial whether the amount of the property comprised in settlement A or settlement B (or neither) was increased as a result of the transfer or transfers of value mentioned in that subsection.

**62B Protected settlements**

- (1) For the purposes of this Chapter, a settlement is a “protected settlement” if it commenced before 10 December 2014 and either condition A or condition B is met.
  - (2) Condition A is met if there have been no transfers of value by the settlor on or after 10 December 2014 as a result of which the value of the property comprised in the settlement was increased.
  - (3) Condition B is met if –
    - (a) there has been a transfer of value by the settlor on or after 10 December 2014 as a result of which the value of the property comprised in the settlement was increased, and
    - (b) that transfer of value was the transfer of value under section 4 on the settlor’s death before 6 April 2016 and it had the result mentioned by reason of a protected testamentary disposition.
  - (4) In subsection (3)(b) “protected testamentary disposition” means a disposition effected by provisions of the settlor’s will that at the settlor’s death are, in substance, the same as they were immediately before 10 December 2014.”
- 3 (1) Section 66 (rate of ten-yearly charge) is amended as follows.
- (2) In subsection (4) –
    - (a) omit paragraph (b) and the “and” following it, and
    - (b) at the end of paragraph (c) insert –
      - “(d) the value of any same-day addition; and
      - (e) where –
        - (i) an increase in the value of the property comprised in another settlement is represented by the value of a same-day addition aggregated under paragraph (d) above, and
        - (ii) that other settlement is not a related settlement,  
the value immediately after that other settlement commenced of the property then comprised in that other settlement;”.
  - (3) In subsection (6)(a), for “paragraphs (b) and (c)” substitute “paragraphs (c) to (e)”.
- 4 In section 68 (rate before ten-year anniversary), in subsection (5) –
- (a) in paragraph (a), before “property” insert “relevant”,
  - (b) omit the “and” following paragraph (b), and
  - (c) for paragraph (c) substitute –
    - “(c) the value, immediately after it became comprised in the settlement, of property which –
      - (i) became comprised in the settlement after the settlement commenced and before the occasion of the charge under section 65 above, and

- (ii) was relevant property immediately after it became so comprised,  
whether or not the property has remained relevant property comprised in the settlement;
    - (d) the value, at the time it became (or last became) relevant property, of property which—
      - (i) was comprised in the settlement immediately after the settlement commenced and was not then relevant property but became relevant property before the occasion of the charge under section 65 above, or
      - (ii) became comprised in the settlement after the settlement commenced and before the occasion of the charge under section 65 above, and was not relevant property immediately after it became comprised in the settlement, but became relevant property before the occasion of the charge under that section,  
whether or not the property has remained relevant property comprised in the settlement;
    - (e) the value of any same-day addition; and
    - (f) where—
      - (i) an increase in the value of the property comprised in another settlement is represented by the value of a same-day addition aggregated under paragraph (e) above, and
      - (ii) that other settlement is not a related settlement,  
the value immediately after that other settlement commenced of the property then comprised in that other settlement.”
- 5 (1) Section 69 (rate between ten-year anniversaries) is amended as follows.
- (2) In subsection (1), for “subsection (2)” substitute “subsection (2A)”.
- (3) For subsection (2) substitute—
- “(2) Subsection (2A) below applies—
- (a) if, at any time in the period beginning with the most recent ten-year anniversary and ending immediately before the occasion of the charge under section 65 above (the “relevant period”), property has become comprised in the settlement which was relevant property immediately after it became so comprised, or
  - (b) if—
    - (i) at any time in the relevant period, property has become comprised in the settlement which was not relevant property immediately after it became so comprised, and
    - (ii) at a later time in the relevant period, that property has become relevant property, or

- (c) if property which was comprised in the settlement immediately before the relevant period, but was not then relevant property, has at any time during the relevant period become relevant property.
- (2A) Whether or not all of the property within any of paragraphs (a) to (c) of subsection (2) above has remained relevant property comprised in the settlement, the rate at which tax is charged under section 65 is to be the appropriate fraction of the rate at which it would last have been charged under section 64 above (apart from section 66(2) above) if—
  - (a) immediately before the most recent ten-year anniversary, all of that property had been relevant property comprised in the settlement with a value determined in accordance with subsection (3) below, and
  - (b) any same-day addition made on or after the most recent ten-year anniversary had been made immediately before that anniversary.”
- (4) In subsection (3)—
  - (a) omit the words from “which either” to the end of paragraph (b), and
  - (b) for “purposes of subsection (2)” substitute “purposes of subsection (2A)”.
- 6 In section 71F (calculation of tax charged under section 71E in certain cases), in subsection (9)—
  - (a) omit the “and” following paragraph (b), and
  - (b) at the end of paragraph (c) insert “,
    - (d) the value of any same-day addition, and
    - (e) where—
      - (i) an increase in the value of the property comprised in another settlement is represented by the value of a same-day addition aggregated under paragraph (d) above, and
      - (ii) that other settlement is not a related settlement,the value immediately after that other settlement commenced of the property then comprised in that other settlement.”
- 7 The amendments made by this Schedule have effect in relation to occasions on which tax falls to be charged under Chapter 3 of Part 3 on or after 6 April 2015.



## 1 Exemption from ten-yearly charge for heritage property

- (1) Section 79 of IHTA 1984 (exemption from ten-yearly charge) is amended as follows.
- (2) In subsection (3) –
  - (a) for “then, if” substitute “subsection (3A) below applies if”,
  - (b) in paragraph (a), for “has, on a claim made for the purpose, been” substitute “is, on a claim made for the purpose,”,
  - (c) after that paragraph insert –
    - “(aa) that claim is made during the period beginning with the date of a ten-year anniversary of the settlement (“the relevant ten-year anniversary”) and ending –
      - (i) two years after that date, or
      - (ii) on such later date as the Board may allow,”,
  - (d) in paragraph (b) –
    - (i) for “that section has been given” substitute “section 31 is given”, and
    - (ii) for “have been given” substitute “are given”, and
  - (e) omit the words from “section 64” to the end.
- (3) After that subsection insert –

“(3A) Tax is not chargeable under section 64 above in relation to the property by reference to the relevant ten-year anniversary concerned or any subsequent ten-year anniversaries; but on the first occurrence of an event which, if there had been a conditionally exempt transfer of the property immediately before that relevant ten-year anniversary, would be a chargeable event with respect to the property –

  - (a) there is a charge to tax under this subsection, and
  - (b) on any ten-year anniversary falling after that event, tax is chargeable under section 64 above in relation to the property.”
- (4) In subsection (4), for the words from “subsection (3)” to “mentioned” substitute “subsection (3A) above in respect of property if, after the occasion mentioned in subsection (3) above and before the occurrence mentioned in subsection (3A)”.
- (5) In subsections (5), (5A), (6), (8)(a) and (9A)(a) for “subsection (3)” substitute “subsection (3A)”.
- (6) In subsection (7A), in paragraph (c), for the words from “day” to “section” substitute “relevant ten-year anniversary”.
- (7) In subsection (8) –
  - (a) in paragraph (a), for the words from “on the first” to the end substitute “by reference to the relevant ten-year anniversary of the settlement”, and

- (b) in paragraph (c), omit “, and the claim was made and the undertaking was given,”.
- (8) Accordingly, in that Act—
- (a) in section 207 (liability: conditional exemption), in subsection (3), for “section 79(3)” substitute “section 79(3A)”,
  - (b) in section 237 (imposition of charge), in subsection (3B)(a), for “or 79(3)” substitute “or 79(3A)”, and
  - (c) in Schedule 4 (maintenance funds for historic buildings), in paragraph 3(2)(c), for “or 79(3)” substitute “or 79(3A)”.
- (9) The amendments made by this section have effect in relation to occasions on which tax would (ignoring the effect of the amendments) fall to be charged under section 64 of IHTA 1984 on or after the day on which this Act is passed.

## **2 Settlements with initial interest in possession**

- (1) In section 80 of IHTA 1984 (initial interest of settlor or spouse or civil partner), for “an interest in possession”, in each place it appears, substitute “a qualifying interest in possession”.
- (2) The amendments made by this section come into force on the day after the day on which this Act is passed subject to the saving provision in subsections (3) to (5).
- (3) Subsection (4) applies where—
- (a) the occasion first referred to in subsection (1) of section 80 of IHTA 1984 occurred before 22 March 2006,
  - (b) on that occasion the settlor, or the settlor’s spouse or civil partner, became beneficially entitled to an interest in possession in property which, as a result of that subsection, was treated as not becoming comprised in a settlement for the purposes of Chapter 3 of Part 3 of IHTA 1984 on that occasion, and
  - (c) at all times in the relevant period that property, or some part of it, has been property in which the settlor, or the settlor’s spouse or civil partner, has been beneficially entitled to an interest in possession.
- (4) Section 80(1) of IHTA 1984 continues to have effect, in relation to the part of the property in which the interest in possession of the settlor, or of the settlor’s spouse or civil partner, subsists at the end of the relevant period, as if the first and third appearances of “an interest in possession” in that subsection remained as “an interest in possession”.
- (5) In this section—
- (a) “the relevant period” means the period beginning with the occasion first mentioned in section 80(1) of IHTA 1984 and ending with the day on which this Act is passed, and
  - (b) references in subsections (3)(c) and (4) to the spouse or civil partner of a settlor include references to the widow or widower or surviving civil partner of the settlor.

## **3 Distributions etc from property settled by will**

- (1) In section 144 of IHTA 1984 (distributions etc from property settled by will), in subsection (1)(b), after “section” insert “65(4),”.

- (2) The amendment made by this section has effect in cases where the testator's death occurs on or after 10 December 2014.

## EXPLANATORY NOTE

### INHERITANCE TAX: CALCULATION OF RATE OF INHERITANCE TAX ON SETTLED PROPERTY

#### SUMMARY

1. Clause [X] introduces Schedule [A]. The Schedule aggregates the value of property in trusts that are not related, for the purpose of determining the rate at which inheritance tax is charged, when the value of property in those trusts is increased on the same day. The Schedule also simplifies some of the rules for calculating the rate of tax for the purposes of the ten year anniversary and exit charges. This Schedule has effect in relation to occasions on which tax falls to be charged on or after 6 April 2015.

#### DETAILS OF THE CLAUSE AND SCHEDULE

##### *Clause [X]*

2. Clause [X] introduces Schedule [A], which makes amendments in respect of inheritance tax.

##### *Schedule [A]*

3. Paragraph 1 provides for the Inheritance Tax Act 1984 (IHTA 1984) to be amended in accordance with Schedule [A].

4. Paragraph 2 inserts new sections 62A and 62B into IHTA 1984. They define “same-day addition” and “protected settlements” for the purposes of Chapter 3 of Part 3 to IHTA 1984.

5. Paragraph 3 amends section 66 of IHTA 1984, which provides for the rate of the ten-yearly charge. The amendment provides that the value of the property held on trust that is taken into account when determining the ten-yearly charge is to include the value of any same day addition and the initial value of property in other trusts (other than protected settlements and related settlements) that have increased in value on the same day. The amendment also removes the requirement to take into account the value of trust property that has never become relevant property.

6. Paragraph 4 amends section 68 of IHTA 1984, which provides for the rate of tax when property leaves a trust before the first ten-year anniversary. The amendment provides for the inclusion of same day additions and the exclusion of property that has never become relevant property for the purpose of calculating this charge.

7. Paragraph 5 amends section 69 of IHTA 1984, which provides for the rate of tax when property leaves a trust between ten-year anniversaries. The amendment provides for the inclusion of same day additions and the exclusion of property that has never become relevant property for the purpose of calculating this charge.
8. Paragraph 6 amends section 71F of IHTA 1984, which provides for the rate of tax on property leaving 18/25 trusts under section 71E. The amendment provides for the inclusion of same day additions for the purpose of calculating this change.
9. Paragraph 7 provides that this Schedule has effect in relation to occasions on which tax falls to be charged on or after 6 April 2015.

## **BACKGROUND NOTE**

10. The value of property held in most forms of trust is subject to IHT at 6% every ten years on the amount above the nil rate band (currently £325,000); and a proportionate “exit” charge when the value of the property leaves the trust between ten-year anniversaries.
11. Where more than one trust is settled on the same day by the same person, they are “related settlements” and the value comprised in them is aggregated when determining the rate at which tax is charged. But this rule can be avoided by creating multiple settlements on different days. The purpose of these amendments is to prevent the leakage of IHT through the use of multiple trusts. It also simplifies some of the rules for calculating the rate of tax for the purposes of the ten year anniversary and exit charges.
12. If you have any questions about this change, or comments on the legislation, please contact Tony Zagara on 03000 585265 (email: [antonio.zagara@hmrc.gsi.gov.uk](mailto:antonio.zagara@hmrc.gsi.gov.uk)).

## EXPLANATORY NOTE

### EXEMPTION FROM TEN-YEARLY CHARGE FOR HERITAGE PROPERTY

#### SUMMARY

1. Clause [X] amends the inheritance tax (IHT) legislation relating to claims for conditional exemption from IHT for heritage property. It will amend the current requirement that a claim must be made and the property designated as being a heritage property *before* the approaching ten-year anniversary, and replace it with one which provides that trustees may make a claim for exemption within 2 years of the ten-yearly charge arising.
2. The amendments have effect for those occasions on which tax would fall to be charged, on or after the Day on which this Act is passed.

#### DETAILS OF THE CLAUSE

3. Subsection (1) amends section 79 of the Inheritance Tax Act 1984 (IHTA).
4. Subsection (2) amends subsection 79(3) IHTA to provide that a claim for exemption from the ten-yearly charge may be made within 2 years of the date of the ten-year anniversary of the settlement. Subsection (2) also provides that the Board may allow a later date for making the claim.
5. Subsection (3) inserts a new subsection 79(3A) IHTA which provides the circumstances in which a conditionally exempt transfer of property would become a chargeable event with respect to that property.
6. Subsections (4) to (8) make consequential amendments to sections 79, 207, 237 and Schedule 4 IHTA to reflect the change to the period within which a claim for exemption may be made and to replace references to subsection 79(3) with references to subsection 79(3A).
7. Subsection (9) provides that the amendments have effect in relation to occasions on which tax would fall to be charged, on or after the Day on which this Act is passed.
8. The effect of this change will be to change when a trustee may make a claim for exemption from the ten yearly charge. A claim may be made within two years of the ten year charge arising or at such later date as the Board allows. This will provide that trustees of affected properties will be subject to the same requirements as trustees and individuals subject to other IHT charges.

#### BACKGROUND NOTE

9. This amendment resolves an anomaly in IHTA. In order to preserve and protect national heritage the Government introduced the Conditional Exemption Tax Incentive Scheme. Buildings, land, works of art and other objects which qualify under the scheme are exempt from Inheritance Tax and Capital Gains Tax, providing that certain conditions are met. While relevant property is subject to a charge to tax under section 64 IHTA on each tenth anniversary of the date of creation of the settlement concerned, national heritage property may be exempted from this charge.
10. The current IHT legislation requires trustees to make a claim and obtain a heritage property designation *before* the ten-yearly charge arises. This is a departure from the general regime for conditional exemption and can cause difficulties for trustees and parties engaged in designating heritage status. The change will put trustees dealing with a claim for exemption from a ten-yearly charge on the same footing as trustees and individuals subject to other IHT charges.
11. If you have any questions about this change, or comments on the legislation, please contact Tony Zagara on 03000 585265 (email:[antonio.zagara@hmrc.gsi.gov.uk](mailto:antonio.zagara@hmrc.gsi.gov.uk)).

## EXPLANATORY NOTE

### SETTLEMENTS WITH INITIAL INTEREST IN POSSESSION

#### SUMMARY

1. Clause [X] amends the Inheritance tax (IHT) legislation relating to settlements created by individuals before March 2006 giving themselves an interest in possession or to their spouse, widow, civil partner or surviving civil partner. Where “interest in possession” appears in s80 of IHTA, it is replaced with “a qualifying interest in possession” which means that where one party to a couple succeeds to a life interest to which their spouse or civil partner was previously entitled to during the latter’s lifetime, section 80 will apply at that time (because neither spouse would then have a qualifying interest in possession). This means that the settled property would then be treated as being comprised in a settlement and as a result subject to the relevant property charges.

#### DETAILS OF THE CLAUSE

2. Subsection (1) provides for “an interest in possession” to be substituted by “a qualifying interest in possession”.

3. Subsection 2 provides for the amendments to come into force on the day after the day the Finance Bill receives Royal Assent subject to the saving provision in subsections (3) to (5)

4. Subsections 3 and 4 sets out the conditions for the saving provision to apply. Those conditions are:

- that the first occasion referred to in s80(1) occurred before 22 March 2006;
- the settlor or the settlor’s spouse or civil partner became beneficially entitled to an interest in possession in property, which as a result of that subsection was treated as not becoming comprised in a settlement and therefore not subject to relevant property charges on that occasion; and
- that at all times in the relevant period, that property or part of it, has been property in which the settlor or the settlor’s spouse or civil partner has been beneficially entitled to an interest in possession.

5. Subsection 5 defines the “relevant period” and confirms that references to spouse or civil partner of a settlor include references to the widow or widower or surviving civil partners of the settlor.



**BACKGROUND NOTE**

6. Changes made in 2006 created a gap in the legislation where a spouse1 has a pre-March 2006 entitlement to income (interest in possession) which has continued after March 2006 and their spouse2 then takes an interest in possession, whilst they are still alive, after that date. The amendment will mean that settled property is relevant property once spouse2 takes their life interest.

7. If you have any questions about this change, or comments on the legislation, please contact Tony Zagara on 03000 585265 (email: [antonio.zagara@hmrc.gsi.gov.uk](mailto:antonio.zagara@hmrc.gsi.gov.uk))

**EXPLANATORY NOTE**

**DISTRIBUTIONS ETC. FROM PROPERTY SETTLED BY WILL**

**SUMMARY**

1. Clause [X] amends the inheritance tax (IHT) legislation relating to property that is settled by will. It will provide that where property is left in trust in which no interest in possession subsists and an appointment is made within 3 months of the date of death of that property to the spouse or civil partner of the testator, that appointment can be read back into the will and exemption from IHT can apply. The amendment applies to cases where the testator's death occurs on or after 10 December 2014.

**DETAILS OF THE CLAUSE**

2. Subsection (1) amends section 144 of the Inheritance Tax Act 1984 (IHTA) to insert a reference to section 65(4) IHTA.

3. Subsection (2) provides that the amendment applies to cases where the testator's death occurs on or after 10 December 2014.

4. The effect of this change will be that where a trust is wound up within 3 months of the date of death and an appointment of the property is made in favour of the deceased's spouse or civil partner, that appointment of property can be read back into the will and exemption from IHT, under section 18 IHTA (transfers between spouses or civil partners), can apply.

**BACKGROUND NOTE**

5. This amendment resolves an anomaly in IHTA which adversely affects property left in trust, where the trust is wound up quickly and an appointment of the property is made to the spouse or civil partner. The amendment made by this clause will have effect where the death occurs on or after 10 December 2014.

6. If you have any questions about this change, or comments on the legislation, please contact Tony Zagara on 03000 585265 (email: [antonio.zagara@hmrc.gsi.gov.uk](mailto:antonio.zagara@hmrc.gsi.gov.uk)).