

Explanatory Note

Clause 46 and Schedule: Inheritance tax: victims of persecution during Second World War era

Summary

1. This clause puts on a statutory footing and extends Extra Statutory Concession (ESC) F20 which deals with certain one-off late financial compensation and ex-gratia payments for World War II era claims. The clause extends the scope of the existing concession to include a one-off compensation payment of €2,500 made under a recently created scheme known as the Child Survivor Fund. The clause also provides a power for the Treasury to add subsequent payments to the current list of exempted payments by way of regulations. The legislation will apply in respect of deaths on or after 1 January 2015.
2. The clause provides that the tax on the amount of the qualifying compensation or ex-gratia payment that are currently listed in the ESC and the payment from the Child Survivor Fund should be allowed as credit against the Inheritance tax (IHT) tax arising on the chargeable value of the recipient's estate.

Details of the clause

3. Paragraph 1 subsection (1) inserts new section 153ZA into IHTA 1984, which provides for an IHT relief for certain late financial compensation payments received by the victims of National Socialist persecution, or ex-gratia payments received by British groups interned or imprisoned by the Japanese during the Second World War era. This new section stipulates that the compensation or ex-gratia payments must be one of the qualifying payments listed in either Part 1 or 2 of Schedule 5A and also made to specific individuals set out in Section 153ZA(5).

New section 153ZA

4. New subsection (1) provides that the relief is to apply where a person ("P") has died and either the deceased at any time in his life or his personal representatives on P's behalf has received a qualifying payment.
5. New subsection (2) makes provision for a tax credit to be given on the tax chargeable on the value transferred on the persons death of an amount equal to the relevant percentage of the amount of the qualifying payment, or if lower, the amount of tax that would without this provision be chargeable on the value received by the deceased estate.
6. New subsection (3) defines the relevant percentage as the percentage specified in the last row of the third column of the Table 1 in Schedule 1 IHTA 1984, which is currently 40%.
7. New subsection (4) defines a "qualifying payment" as a payment that meets the conditions set

out in subsection 5 (condition A) or 6 (condition B).

8. New subsection (5) sets out the criteria for condition A. Those conditions include:
 - that the payment is of a kind listed in Part 1 of Schedule 5A, and
 - is made to a person, or the personal representatives of a person who was a victim of National Socialist persecution, or the spouse or civil partner of a victim of National Socialist persecution.
9. New subsection (6) provides that in order to be a "qualifying payment" the payment is of a kind listed in Part 2 Schedule 5A, which are payments of a fixed amount from the scheme established by the UK government in 2000 and known as the Far Eastern Prisoners of War Ex Gratia Scheme.
10. New subsection (7) allows the Treasury to make regulations adding further payments to the current list of exempt qualifying payments in Part 1 of Schedule 5A.
11. New subsection (8) provides that a statutory instrument made under subsection 7 to add new payments to the qualifying list as set out in Part 1 Schedule 5A is subject to the negative resolution procedure.
12. Paragraph 1 subsection (2) inserts new schedule 5A to the IHTA 1984 and lists the compensation and ex-gratia payments which qualify for relief. The schedule is split into two parts, with part 1 dealing with payments to victims of National Socialist persecution, and Part 2 dealing with the ex-gratia payment that are made to the British groups interned or imprisoned by the Japanese.
13. Paragraph 1 subsection (3) contains commencement provisions and provides that the provisions will have effect for deaths occurring on or after 1 January 2015. The existing ESC F20 will have effect until 1 January 2015, after which new provisions in this clause will apply.

Background note

14. Under the present IHT rules, rights to compensation or ex-gratia payments, or the compensation or ex-gratia payment itself, would normally increase the value of a deceased person's chargeable estate at death and would form part of the claimant's estate for IHT purposes.
15. ESC F20 allows the amount of compensation or ex-gratia payment that fall within the terms of the concession not to be subject to IHT, whether the payment is made to the claimant before their death or is made subsequently to their personal representatives.
16. Schemes continue to be established in the UK and abroad which provide late compensation payments for personal hurt suffered during World War II era. The feature that singled these payments out for the concessionary IHT treatment was their timing. That is, they were being made more than 50 years after the event. When this is received by the original victims, or their surviving spouse or civil partner, this often comes late in life when plans for the disposal of their wealth have already been made.

17. The concessionary treatment for the payments detailed in ESC F20 has been given because of the special circumstances in which these particular payments came to be paid, rather than simply the nature of the hurt suffered.
18. If you have any questions about this change, or comments on the legislation, please contact the Assets and Residence Policy Team on 03000 558 551 (email: ihtandtrustsconsult.car@hmrc.gsi.gov.uk).