

# BOOK REVIEW

## *IHT Trusts Alignment: A Guide to the New Regime* by Chris Jarman

**Matthew Hutton** reviews the first of the books on Schedule 20 to emerge from the presses

**T**his book is a cracker. Its well-known author, returned to the Bar after 28 years' practice as a solicitor, is ideally placed to write it and one especially useful feature of the book is the way in which it puts the new Schedule 20 regime into context. The book covers an array of areas including interests in possession and 'relevant property' (previously restricted to discretionary trusts), trusts for younger beneficiaries, inheritance tax changes and the important subject of related capital gains tax amendments.

One assumes that a second edition will not appear before the autumn of 2007, though there will be much material for it. In particular, HMRC's responses to the detailed list of 42 questions submitted in September 2006 by the Chartered Institute of Taxation and STEP will elucidate a number of points of uncertainty. For example, is it possible to have a transitional serial interest (TSI) in part only of an interest in possession in being at Budget Day 2006 and can partial TSIs be created out of such an interest in possession in favour of different persons at different times? While official confirmation is awaited, one understands that HMRC have responded positively to both these questions.

Other suggestions for the second edition would be a fuller treatment of trusts that were subject to the s.71 accumulation and maintenance regime at Budget Day. Of course, an interest in possession arising since then will have caused the trust to enter the 'mainstream' relevant property regime, without (as hinted by HMRC would be generally available) the luxury of having until 6 April 2008 to decide whether or not to turn it into an age 18 or an age 18 to 25 trust. An option is of course simply to allow the previous accumulation and maintenance trust to fall into the relevant property regime on 6 April 2008. One question that clients may ask is how will an exit charge be computed before the first ten-year anniversary charge occurs after 5 April 2008. Some examples might be useful in this context, differentiating between the two cases where, first, a ten-year anniversary has yet to occur and, second, there has already been a ten-year anniversary although at a time when there was no relevant property in the settlement (see *IHTA 1984* s69(2), (3)).

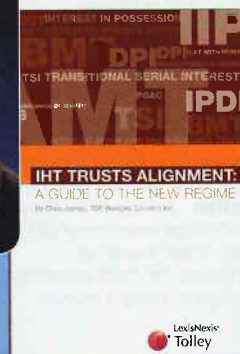
Two other areas occur where fuller treatment might be welcome. First is the effect of the new Schedule 20 regime on excluded property settlements made before Budget Day 2006 where a relevant

property trust, typically in interest in possession form, will arise at some time in the future when the last of the settlor or spouse to have an interest in possession has become actually or deemed domiciled in the UK. The effect of *IHTA 1984*, s.80 is of course to treat a new non-excluded property trust as arising at that point, made by the settlor or spouse as the case may be. This is the sort of case where evasive action is required in advance. Second, it seems curious that the book does not discuss at all the relief for agricultural and business property, perhaps because the author considered that the new regime does not affect the way in which the relief applies to settlements. One has one specific concern here, namely whether in calculating the s.71E 'quasi exit' charge from an age 18 to 25 trust the reference under s.71F to 'chargeable amount' precludes any reduction in value on account of business or agricultural property relief. While the reviewer sincerely hopes not and the point has been put to HMRC, the issue might do with a mention.

Copious examples make this book a very practical one. It should find its way onto the bookshelves of every STEP member or their firm. The author has clearly taken the trouble to become intimately acquainted with the new regime and from that standpoint is able to point to a number of oddities and apparent inconsistencies, some of which at least, one hopes, may be cleared up by future legislation.

It's a great book: buy it!

Matthew Hutton TEP is a member of the Norwich and Norfolk branch of STEP.



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