

## The [Bolt Burdon](#) Private Client Bulletin 21 April 2006

### Regime change

As you may be aware a section of this years Budget, announced in Budget Note 25 entitled 'Aligning the Inheritance Tax Treatment of Trusts', has set forth the most expansive changes to the Inheritance Tax ("IHT") treatment of trusts for a generation.

Subject to the published Finance Bill 2006 surviving the calls for its amendment the changes will effect those existing and future trusts, which are set up in life or by Will, where the value of the trust assets exceeds the prevailing Nil Rate Band (currently £285,000), bar a few limited exceptions.

The proposed alignment is to restrict the trust options that are available, to the same IHT treatment as the Discretionary Trust regime by which:

- the value of the assets transferred into a trust will be subject to an entry charge of 20%, to the extent that they exceed the available Nil Rate Band of the person establishing the trust (the "settlor");
- thereafter the capital of the trust will be subject to a charge of up to 6% every 10 years; and
- there will be an exit charge when assets come out of the trust, which will be a proportion of the 10 yearly charge.

It had been the case that a settlor could establish an Accumulation and Maintenance ("A&M") Trust or a Life Interest Trust in their lifetime without incurring an entry charge. Usually the gift would have been a potentially exempt transfer ("PET"), i.e. exempt from IHT as long as the settlor did not die within 7 years.

However, under the new regime A&M and Life Interest Trusts that are established in your lifetime will be subject to the entry charge and, existing A&M Trusts will need to provide for the capital to pass to the beneficiary at the age of 18 with the capital held on Life Interest Trusts passing outright on the death of the Life Tenant if the new charges are to be avoided.

For the moment it seems that a choice may need to be made between the new regime or making outright gifts, unless other exemptions are available such as the 100% relief from IHT that can be sought for business and agricultural property.

Those people with existing trusts that may need to be altered have until 6<sup>th</sup> April 2008 to do so. That said, before any large decisions are made **we recommend** that we all wait and see what amendments, if any, are made to the Finance Bill 2006. We will address the alterations in more detail for you in future enews.

If you have any queries you can phone or email Glenn Smyth or Rod Smith on [glennsmyth@boltburdon.co.uk](mailto:glennsmyth@boltburdon.co.uk) or [rodsmith@boltburdon.co.uk](mailto:rodsmith@boltburdon.co.uk) or phone 020 7288 4700. Our full range of services includes Financial Planning, Trusts Wills & Probate, Property, Matrimonial and Family Law, Commercial Law, Commercial Dispute Resolution, Debt Collection, Compensation Claim Litigation. Visit our web site at [www.boltburdon.co.uk](http://www.boltburdon.co.uk) Regulated by the Law Society. Authorised and regulated by the Financial Services Authority. To stop receiving this bulletin, reply stating 'unsubscribe'.