

The HMRC treatment of 'Flexible Reversions' arising for the Settlor via an 'Absolute Trust' and is confirmed as a Bare Trust.

Finance Act 2006 – Discretionary Trust Regime

Mr Charles McNicol, Assistant Director Capital Taxes Inheritance Tax, has confirmed in his letter dated 31st July 2006 the following:-

The Legacy and Estate Control Bond concepts, which secure IHT mitigation through the structure of an interest-in-possession trust on a flexible deferral of reversion basis, providing the Settlor with a potential absolute or bare trust then such value as reverts is not taken into account for the purposes of

- i) Exit Charges;
- ii) the ten yearly Periodic Charge; and
- iii) any deferral of such reversions is not a chargeable transfer as and when exercised by the trustees.

Consequently, as and when the periodic charge date occurs upon the ten year anniversary only the underlying value of the trust assets will be taken into account at that time for quantifying to what extent underlying trust value is below or above the then available nil rate band applicable to each trust.

The discounted version of the Legacy and Estate Control Bond concepts will be in accordance with HMRC discounted value at trust inception which have yet to be agreed and published by HMRC. Further, the discount accorded at the ten yearly anniversary will be based on normal mortality tables at that time for the purpose of quantifying underlying trust value at that time for nil rate band purposes.

J.N. Chadwick TEP
1st August 2006