EXPLANATORY MEMORANDUM RELATING TO THE THALIDOMIDE CHILDREN'S TRUST (APPLICATION OF SECTION 329AA OF THE INCOME AND CORPORATION TAXES ACT 1988) ORDER 2004.

SI 2004 No 1819

1. This explanatory memorandum has been prepared by H.M. Treasury and is laid before the House of Commons by Command of Her Majesty.

Description

2. The Thalidomide Children's Trust (Application of Section 329AA of the Income and Corporation Taxes Act 1988) Order 2004, made under Section 329AB of the Income and Corporation Taxes Act 1988, provides for the trustees of the Thalidomide Children's Trust to make payments to beneficiaries tax-free. Sections 329AA and 329AB are commonly known as the "structured settlements legislation".

Matters of Special Interest to the Select Committee on Statutory Instruments

3. None.

Legislative Background

4. Section 329AB of the Income and Corporation Taxes Act 1988 provides that the Treasury may apply section 329AA (which exempts from income tax personal injury damages in the form of periodical payments) to a scheme or arrangement, if satisfied that the scheme or arrangement makes provision for the making of periodical payments by way of compensation for personal injury.

5. The Inland Revenue has been working with the Trustees of the Thalidomide Children's Trust to see if the Trust's payments to its beneficiaries could be brought within that provision, so that the payments are free of income tax (either by deduction or otherwise). The Trustees adopted a new distribution policy (which provides for periodical payments) on 2nd July 2004.

6. This order is being made under the power conferred by section 329AB(3) of the Income and Corporation Taxes Act 1988. The order is made under the negative resolution procedure.

7. This order is the first use of this power since sections 329AA and 329AB were enacted by the Finance Act 1996.

EU Legislation

8. The Thalidomide Children's Trust Order does not implement EU legislation.

Extent

9. The instrument applies to all of the United Kingdom.

Policy Background

10. The Thalidomide Trust was set up in 1973 to support the victims of the drug Thalidomide, as part of a compensation package agreed between Distillers (who manufactured the drug) and the victims whereby the victims received individual lump sums and a further entitlement to benefit from the trust fund. The Trust is a registered charity so all its income and capital gains are exempt from tax.

11. Certain payments by the trustees to beneficiaries have always been taxable. The trustees deduct tax from these payments and the beneficiaries can offset this against their personal liability. Beneficiaries who are not liable to tax or who are liable only at the starting, lower or basic rate can reclaim part or all of the tax so deducted.

12. Since the Trust was set up Governments have given direct grants totally £12.8 million to the Thalidomide Children's Trust.

Impact

13. The beneficiaries of the Thalidomide Children's Trust will benefit by about £1 million per year because of lower tax payments and increased entitlements to tax credit payments. The Order does not impose any new costs on business.

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