



# Finance Act 2006

## 2006 CHAPTER 25

### PART 4

#### REAL ESTATE INVESTMENT TRUSTS

VALID FROM 19/07/2006

#### *Miscellaneous*

#### **137 Insurance companies**

In section 212(1) of TCGA 1992 (annual deemed disposal of holdings of certain assets) after paragraph (b) insert—

“, or

- (c) shares in a company to which Part 4 of the Finance Act 2006 applies (Real Estate Investment Trusts).”.

#### **138 Joint ventures**

- (1) The Treasury may by regulations provide for this Part to apply in relation to property rental business (“the joint venture”) carried on—
  - (a) jointly by a company to which this Part applies and another person, or
  - (b) by a person in which a company to which this Part applies has an interest.
- (2) The regulations may, in particular, modify or disapply a provision of this Part in its application—
  - (a) by virtue of this section, or
  - (b) in relation to a company to which this Part applies where the company also carries on business in relation to which this Part applies by virtue of this section.

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- (3) The regulations may, in particular, make application of this Part conditional on—
- (a) a company to which this Part applies having a minimum percentage interest of a specified kind in the joint venture;
  - (b) an election by a company to which this Part applies.

### **139 Manufactured dividends**

- (1) This section applies to a manufactured dividend if and to the extent that it is representative of a dividend paid by a company to which this Part applies in respect of profits of C (tax-exempt).
- (2) Schedule 23A to ICTA shall have effect with the substitution of the following for paragraph 2(2)—
- “(2) Sub-paragraphs (2A) to (2C) apply if and to the extent that a manufactured dividend is representative of a dividend in respect of profits of the tax-exempt business of a company to which Part 4 of the Finance Act 2006 applies.
- (2A) The Tax Acts shall have effect in relation to the recipient, and persons claiming title through or under him, as if the manufactured dividend were a dividend to which section 121 of that Act applied.
- (2B) In relation to the dividend manufacturer—
- (a) if the dividend manufacturer is a company and the manufactured dividend is paid in the course of a trade carried on in the United Kingdom, it shall be treated as an expense of the trade;
  - (b) if the manufactured dividend is paid in connection with investment business, it shall be treated for the purposes of section 75 of this Act as expenses of management;
  - (c) in the case of a company carrying on life assurance business, in so far as the manufactured dividend is referable to basic life assurance and general annuity business (or is or would be, if received by the company, be treated as referable to business of that kind by virtue of section 432A) it shall be treated for the purposes of section 76 as if it were an expense payable falling to be brought into account at Step 3 of section 76(7);
  - (d) regulations under section 122 of FA 2006 shall apply (with any necessary modifications) to the dividend manufacturer (whether or not a company) as if he were a company to which Part 4 of the Finance Act 2006 applied, unless—
    - (i) the dividend manufacturer is not resident in the United Kingdom, and
    - (ii) the manufactured dividend is paid otherwise than in the course of a trade carried on through a branch or agency in the United Kingdom.
- (2C) The Treasury may by regulations provide, in a case where sub-paragraph (2B)(d)(i) and (ii) above apply, for a United Kingdom recipient of the manufactured dividend (within the meaning of paragraph 4(3A) below) to be liable to account for tax which the dividend manufacturer would have

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been required to deduct in accordance with regulations under section 122 of the Finance Act 2006.

(2D) Sub-paragraph (2E) shall apply for the purposes of—

- (a) this paragraph, and
- (b) regulations under section 122 of the Finance Act 2006.

(2E) The gross amount of a manufactured dividend to which sub-paragraphs (2A) and (2B) apply shall be taken to be equal to the gross amount of the dividend of which it is representative and which is paid by the company to which Part 4 of the Finance Act 2006 applies.”

(3) For the purposes of sections 736B of ICTA (deemed manufactured payments: stock lending), regulations under section 122 shall be treated, in so far as they apply to a dividend manufacturer, as if they were regulations made under Schedule 23A.

(4) For the purposes of section 737A of ICTA (deemed manufactured payments: sale and repurchase of securities) regulations under section 122 shall be treated, in so far as they apply to a dividend manufacturer, as dividend manufacturing regulations (within the meaning of section 737A(6)).

(5) After section 737C(3) of ICTA (amount of deemed manufactured dividend) insert—

“(3A) But if and to the extent that the dividend mentioned in section 737A(2)(a) or (2A)(a) is a dividend paid by a company to which Part 4 of the Finance Act 2006 applies in respect of profits of its tax-exempt business—

- (a) the amount of the deemed manufactured dividend shall be taken to be an amount equal to the gross amount of the dividend mentioned in section 737A(2)(a) or (2A)(a);
- (b) any deduction which, by virtue of paragraph 2 of Schedule 23A (as amended by section 139 of the Finance Act 2006), is required to be made out of the gross amount of the manufactured dividend shall be deemed to have been made;
- (c) the repurchase price of the securities shall be treated, for the purposes of section 730A, as increased by the gross amount of the deemed manufactured dividend.”

(6) In section 737D(2) of ICTA (manufactured payments: relief) after “any” insert “manufactured dividend,”.

(7) In this section “dividend manufacturer” and “manufactured dividend” have the meaning given by Schedule 23A to ICTA.

#### **140 Penalties for failure to give notice, etc**

At the end of the second column of the Table in section 98(5) of TMA 1970 (penalties) add—

“Section 106 of FA 2006 as modified by Schedule 17 to that Act.

Section 116 of FA 2006.

Regulations under section 116 of FA 2006.

Regulations under section 122 of FA 2006.

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Section 130 of FA 2006.”

**141 Effect of deemed disposal and re-acquisition**

A deemed disposal and re-acquisition of an asset under this Part shall have effect for the purposes of any subsequent disposal of the asset (whether actual or deemed).

**142 Interpretation**

In this Part—

- (a) a reference to an asset includes a reference to—
  - (i) part of an asset, and
  - (ii) an interest in, or right in relation to, an asset,
- (b) a reference to assets used in business of a company includes a reference to assets—
  - (i) which were acquired for the purpose of that business and which are not being used in another business,
  - (ii) which are available for use in that business, or
  - (iii) which are in any other way held in respect of, or associated or connected with, that business,
- (c) “company” has the meaning given by section 170(9) of TCGA 1992,
- (d) “international accounting standards” has the meaning given by section 50(2) of FA 2004,
- (e) “market value” has the same meaning as in TCGA 1992 (see sections 272 and 273 and Schedule 11), and
- (f) “profits” means income (except where the context otherwise requires).

**143 Housing investment trusts: repeal**

Section 160 of, and Schedule 30 to, FA 1996 (housing investment trusts) shall cease to have effect (and accordingly—

- (a) sections 508A and 508B of ICTA shall cease to have effect,
- (b) the amendments of section 842(1)(a) and (e) of ICTA effected by paragraph 2(2) of Schedule 30 shall cease to have effect, and
- (c) section 842(1AA) of ICTA shall cease to have effect).

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