
Changes to legislation: There are outstanding changes not yet made by the legislation.gov.uk editorial team to Finance Act 2009. Any changes that have already been made by the team appear in the content and are referenced with annotations. (See end of Document for details)

SCHEDULES

SCHEDULE 34

Section 66

REAL ESTATE INVESTMENT TRUSTS

Introduction

1 Part 4 of FA 2006 (Real Estate Investment Trusts) is amended as follows.

Property rental business

2 (1) In section 104 (property rental business), insert at the end—

“(3) For the purposes of section 104(1) ignore the effect of section 42 of CTA 2009 (which provides for receipts and expenses in connection with tied premises to be treated as part of a trade and not as part of a property business).”

(2) The amendment made by sub-paragraph (1) has effect in relation to accounting periods ending on or after 22 April 2009.

Conditions for company

3 (1) Section 106 (conditions for company) is amended as follows.

(2) In subsection (2), insert at the end “ (subject to section 109 and regulations under section 116) ”.

(3) In subsection (7)(a)(ii)—

- (a) for “fixed-rate” substitute “ relevant ”, and
- (b) omit “(within the meaning of paragraph 2 of Schedule 25 to ICTA (acceptable distribution policy))”.

(4) After subsection (7) insert—

“(7A) For the purposes of Condition 5—

- (a) “relevant preference share” means a share which is a “relevant preference share” for the purposes of Schedule 18 to ICTA (group relief) or would be but for the fact that it carries a right of conversion into shares or securities in the company, and
- (b) a share is “non-voting” if it carries no right to vote at a general meeting of the company or if it carries a right to vote which is contingent on the non-payment of a dividend and which has not become exercisable.”

(5) The amendment made by sub-paragraph (2) is to be treated as always having had effect.

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- (6) The amendments made by sub-paragraphs (3) and (4) have effect in relation to accounting periods ending on or after 22 April 2009.

Conditions for balance of business

- 4 (1) In section 108(3)(a) (conditions for balance of business), for “if it is property involved in the relevant property rental business within the meaning given by section 107(6)(a),” substitute “if it would be shown as an asset if separate accounts were produced for C (tax-exempt),”.
- (2) The amendment made by sub-paragraph (1) has effect in relation to accounting periods ending on or after 22 April 2009.

Entry notice: conditions for company

- 5 (1) Section 109 (entry notice) is amended as follows.
- (2) After subsection (2) insert—
- “(2A) Subsection (2B) applies where a company—
- (a) does not expect to satisfy Condition 3 of section 106 on the first day of an accounting period, but
- (b) reasonably expects to satisfy that Condition throughout the rest of the accounting period.
- (2B) Where this subsection applies—
- (a) subsection (2)(c) does not apply, but
- (b) the notice under subsection (1) must be accompanied by a statement by the company containing the assertions specified in subsection (2C).
- (2C) Those assertions are—
- (a) that Conditions 1, 2, 4, 5 and 6 of section 106 are reasonably expected to be satisfied in respect of the company throughout the specified accounting period, and
- (b) that Condition 3 of section 106 is reasonably expected to be satisfied in respect of the company for at least a part of the first day of the specified accounting period, and throughout the remainder of that period.”
- (3) In subsection (3), omit “by reason only that its shares have not been listed and dealt with on a recognised stock exchange within the preceding 12 months,”.
- (4) In subsection (5)—
- (a) after “Conditions 1, 2,” insert “3,” and
- (b) omit paragraph (b) (but not the “and” at the end).
- (5) Insert at the end—
- “(6) A company may take advantage both of subsections (2A) to (2C) and of subsections (3) to (5) (in which case the assertion under subsection (2C)(a) should omit reference to Condition 4 and the assertion under subsection (5) (a) should omit reference to Condition 3.”

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- (6) The amendments made by this paragraph have effect in relation to accounting periods beginning on or after 22 April 2009.

Profit: financing-cost ratio

- 6 (1) In section 115 (profit: financing-cost ratio), after subsection (3) insert—
- “(3A) The Commissioners for Her Majesty's Revenue and Customs may waive a charge in respect of an accounting period where they think that—
- (a) the company was in severe financial difficulties at a time in the accounting period,
 - (b) the result of the sum specified in subsection (2) is less than 1.25 in respect of the accounting period because of circumstances that arose unexpectedly, and
 - (c) in those circumstances, the company could not reasonably have taken action to avoid the result being less than 1.25.
- (3B) The regulations may specify criteria to be applied by the Commissioners in determining whether to waive a charge.”
- (2) The Commissioners may waive a charge in respect of accounting periods ending before the day on which this Act is passed.

Funds awaiting re-investment

- 7 (1) In section 118(5) (funds awaiting re-investment), after “one or more periods of” insert “ (in aggregate) ”.
- (2) The amendment made by sub-paragraph (1) has effect in relation to accounting periods ending on or after 22 April 2009.

Connected persons

- 8 (1) Before section 137 (miscellaneous: insurance companies) insert—
- “136A **Connected persons**
- (1) If they consider it expedient in the public interest the Treasury may make regulations about the application of this Part to activities or situations which involve, or arise in connection with, a relationship between a REIT company and another person.
- (2) In subsection (1) “REIT company” means—
- (a) a company to which this Part applies, and
 - (b) a member of a group to which this Part applies (a “REIT group”).
- (3) The regulations may, in particular—
- (a) treat a specified person, or a person in specified circumstances, as forming part of a REIT group for specified purposes;
 - (b) provide for a specified provision which applies in respect of members of a REIT group also to apply, with or without modifications, in respect of a specified person or a person in specified circumstances.

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- (4) No regulations may be made under this section unless a draft of the statutory instrument containing them has been laid before, and approved by a resolution of, the House of Commons.”
- (2) Regulations under section 136A (inserted by sub-paragraph (1)) may make provision in relation to accounting periods ending on or after the date on which the regulations are made.

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Changes and effects yet to be applied to :

- Sch. 34 repealed by [2010 c. 4 Sch. 3 Pt. 1](#)
- specified provision(s) amendment to earlier commencing [SI 2011/701 art. 3 and 4 by S.I. 2011/2401 art. 2\(2\)](#)
- specified provision(s) amendment to earlier commencing [SI 2011/702, art. 22 by S.I. 2014/3269 art. 5](#)
- specified provision(s) amendment to earlier commencing [SI 2014/3269 art. 1 and 3 by S.I. 2014/3346 art. 2](#)

Changes and effects yet to be applied to the whole Act associated Parts and Chapters:

- Blanket amendment words substituted by [S.I. 2011/1043 art. 3 4](#)

Whole provisions yet to be inserted into this Act (including any effects on those provisions):

- s. 94(4A)-(4D) inserted by [2016 c. 24 s. 164\(2\)](#)
- s. 94(6A) inserted by [2016 c. 24 s. 164\(4\)](#)
- s. 94(10)(c) and word inserted by [2016 c. 24 s. 164\(5\)\(b\)](#)
- s. 94(10)(aa) inserted by [2016 c. 24 s. 164\(5\)\(a\)](#)
- s. 102(4)(za) inserted by [2010 c. 33 Sch. 9 para. 3\(3\)](#)
- s. 103A inserted by [2010 c. 33 Sch. 9 para. 4](#)
- Sch. 16 para. 12(3) inserted by [2012 c. 14 Sch. 20 para. 33\(b\)](#)
- Sch. 19 para. 14(3) inserted by [2016 c. 24 Sch. 1 para. 66\(3\)](#)
- Sch. 35 para. 5A inserted by [2010 c. 13 s. 48\(4\)](#)
- Sch. 35 para. 16A inserted by [2010 c. 13 s. 48\(6\)](#)
- Sch. 35 para. 5A inserted by [2010 c. 13 s. 48\(4\)](#)
- Sch. 35 para. 16A inserted by [2010 c. 13 s. 48\(6\)](#)
- Sch. 53 para. 2A-2D and cross-heading inserted by [2010 c. 33 Sch. 9 para. 7](#)
- Sch. 53 para. 2A-2D and cross-heading inserted by [2010 c. 33 Sch. 9 para. 7](#)
- Sch. 53 para. 6A and cross-heading inserted by [2010 c. 33 Sch. 9 para. 8](#)
- Sch. 53 para. 11A 11B and cross-heading inserted by [2010 c. 33 Sch. 9 para. 17](#)
- Sch. 53 para. 14A and cross-heading inserted by [2010 c. 33 Sch. 9 para. 18](#)
- Sch. 53 para. 11C and cross-heading inserted by [2017 c. 10 Sch. 11 para. 7](#)
- Sch. 54 Pt. A1 inserted by [2010 c. 33 Sch. 9 para. 10](#)
- Sch. 54 para. 9B 9C and cross-heading inserted by [2010 c. 33 Sch. 9 para. 11](#)
- Sch. 54 para. 12A 12B and cross-heading inserted by [2010 c. 33 Sch. 9 para. 19](#)
- Sch. 54 Pt. A1 inserted by [2010 c. 33 Sch. 9 para. 10](#)
- Sch. 54 para. 9A and cross-heading inserted by [S.I. 2010/157 art. 4\(2\)](#)
- Sch. 54 Pt. 2 para. 9D and cross-heading inserted by [S.I. 2011/1037 art. 8](#)
- Sch. 54 para. 9B(1)(b) and word omitted by [2016 c. 24 Sch. 1 para. 66\(5\)\(a\)](#)
- Sch. 54 para. 9D repealed by [2012 c. 14 Sch. 39 para. 28\(1\)](#)
- Sch. 54 para. 9B(2) words omitted by [2016 c. 24 Sch. 1 para. 66\(5\)\(b\)\(i\)](#)
- Sch. 54 para. 9B(2) words omitted by [2016 c. 24 Sch. 1 para. 66\(5\)\(b\)\(ii\)](#)
- Sch. 54A inserted by [2010 c. 33 Sch. 9 para. 12](#)
- Sch. 54A inserted by [2010 c. 33 Sch. 9 para. 12](#)
- Sch. 54A para. 2(2)(f)(g) inserted by [2013 c. 29 Sch. 18 para. 16](#)
- Sch. 54A para. 2(2)(i) and word inserted by [2016 c. 24 Sch. 8 para. 12\(a\)](#)
- Sch. 54A para. 2(2)(d) word omitted by [2013 c. 29 Sch. 18 para. 16](#)
- Sch. 54A para. 2(2)(f) word omitted by [2014 c. 26 Sch. 4 para. 14\(a\)](#)
- Sch. 54A para. 2(2)(g) word omitted by [2016 c. 24 Sch. 8 para. 12\(a\)](#)
- Sch. 54A para. 2(4) word substituted by [2016 c. 24 Sch. 8 para. 12\(b\)](#)
- Sch. 55 para. 6B Appointed Day(s) by [S.I. 2014/2395 art. 2\(1\)\(b\)](#)

- Sch. 55 para. 6C(5)(7)-(9)(11) Appointed Day(s) by S.I. 2014/2395 art. 2(1)(a)
- Sch. 55 para. 17(4) inserted by 2010 c. 13 Sch. 10 para. 14(b)
- Sch. 55 para. 6(3A) inserted by 2010 c. 13 Sch. 10 para. 11(3)
- Sch. 55 para. 6(4A) inserted by 2010 c. 13 Sch. 10 para. 11(5)
- Sch. 55 para. 6(6) inserted by 2010 c. 13 Sch. 10 para. 11(6)
- Sch. 55 para. 6(6A) inserted by 2010 c. 13 Sch. 10 para. 12
- Sch. 55 para. 17(4) inserted by 2010 c. 13 Sch. 10 para. 14(b)
- Sch. 55 para. 18(5) inserted by 2010 c. 33 Sch. 10 para. 10
- Sch. 55 para. 13A-13J and cross-heading inserted by 2010 c. 33 Sch. 10 para. 7
- Sch. 55 para. 18(5) inserted by 2010 c. 33 Sch. 10 para. 10
- Sch. 55 para. 1(4A) inserted by 2013 c. 29 Sch. 50 para. 3(b)
- Sch. 55 para. 27(2A) inserted by 2013 c. 29 Sch. 50 para. 9(2)
- Sch. 55 para. 6A(4A)(4B) inserted by 2015 c. 11 Sch. 20 para. 16(5)
- Sch. 55 para. 17(4)(ba) inserted by 2015 c. 11 Sch. 20 para. 19
- Sch. 55 para. 6(3A)(za) inserted by 2015 c. 11 Sch. 20 para. 15(2)(a)
- Sch. 55 para. 6(4A)(za) inserted by 2015 c. 11 Sch. 20 para. 15(3)(a)
- Sch. 55 para. 6A(4A)(4B) inserted by 2015 c. 11 Sch. 20 para. 16(5)
- Sch. 55 para. 6AA 6AB inserted by 2015 c. 11 Sch. 20 para. 17
- Sch. 55 para. 17(4)(ba) inserted by 2015 c. 11 Sch. 20 para. 19
- Sch. 55 para. 14(A1) inserted by 2016 c. 24 Sch. 21 para. 10(2)
- Sch. 55 para. 14(1A)(1B) inserted by 2016 c. 24 Sch. 21 para. 10(4)
- Sch. 55 para. 14(2A)-(2E) inserted by 2016 c. 24 Sch. 21 para. 10(5)
- Sch. 55 para. 14(5) inserted by 2016 c. 24 Sch. 21 para. 10(6)
- Sch. 55 para. 15A(1) inserted by 2016 c. 24 Sch. 21 para. 12
- Sch. 55 para. 17(2)(d) and word inserted by 2016 c. 24 Sch. 22 para. 20(5)
- Sch. 55 para. 6A(8) omitted by 2015 c. 11 Sch. 20 para. 16(8)
- Sch. 55 para. 6A(8) omitted by 2015 c. 11 Sch. 20 para. 16(8)
- Sch. 55 para. 6A(A1)(1) substituted for Sch. 55 para. 6A(1) by 2015 c. 11 Sch. 20 para. 16(2)
- Sch. 55 para. 17(4)(b) word omitted by 2015 c. 11 Sch. 20 para. 19
- Sch. 55 para. 17(4)(b) word omitted by 2015 c. 11 Sch. 20 para. 19
- Sch. 55 para. 13F(1) word substituted by 2012 c. 14 Sch. 24 para. 32(c)
- Sch. 55 para. 6(3A)(a) word substituted by 2015 c. 11 Sch. 20 para. 15(2)(b)
- Sch. 55 para. 6(4A)(a) word substituted by 2015 c. 11 Sch. 20 para. 15(3)(b)
- Sch. 55 para. 6(6) word substituted by 2015 c. 11 Sch. 20 para. 15(4)
- Sch. 55 para. 6A(6)(a) words inserted by 2015 c. 11 Sch. 20 para. 16(7)
- Sch. 55 para. 6A(9) words inserted by 2015 c. 11 Sch. 20 para. 16(9)
- Sch. 55 para. 6A(2)(a) words inserted by 2015 c. 11 Sch. 20 para. 16(3)(a)
- Sch. 55 para. 6A(3)(a) words inserted by 2015 c. 11 Sch. 20 para. 16(4)(a)
- Sch. 55 para. 6A(6)(a) words inserted by 2015 c. 11 Sch. 20 para. 16(7)
- Sch. 55 para. 6A(9) words inserted by 2015 c. 11 Sch. 20 para. 16(9)
- Sch. 55 para. 6B words inserted by 2016 c. 24 s. 113(7)
- Sch. 55 para. 6B cross-heading words inserted by 2016 c. 24 s. 113(8)
- Sch. 55 para. 6A(5) words substituted by 2015 c. 11 Sch. 20 para. 16(6)
- Sch. 55 para. 6A(2)(c) words substituted by 2015 c. 11 Sch. 20 para. 16(3)(b)
- Sch. 55 para. 6A(3)(c) words substituted by 2015 c. 11 Sch. 20 para. 16(4)(b)
- Sch. 55 para. 6A(5) words substituted by 2015 c. 11 Sch. 20 para. 16(6)
- Sch. 55 para. 17A(1)(b) words substituted by 2016 c. 24 s. 169(6)
- Sch. 56 para. 1(5) inserted by 2010 c. 33 Sch. 11 para. 2(3)
- Sch. 56 para. 8K and cross-heading inserted by 2010 c. 33 Sch. 11 para. 8
- Sch. 56 para. 1(5) inserted by 2010 c. 33 Sch. 11 para. 2(3)
- Sch. 56 para. 2A and cross-heading inserted by 2010 c. 33 Sch. 11 para. 4
- Sch. 56 para. 3(1)(d) and word inserted by 2010 c. 33 Sch. 11 para. 5(5)
- Sch. 56 para. 3(1A) inserted by 2010 c. 33 Sch. 11 para. 5(6)
- Sch. 56 para. 8A-8J and cross-heading inserted by 2010 c. 33 Sch. 11 para. 7
- Sch. 56 para. 8K and cross-heading inserted by 2010 c. 33 Sch. 11 para. 8
- Sch. 56 para. 11(4A) inserted by 2010 c. 33 Sch. 11 para. 9(3)
- Sch. 56 para. 6(8A)(8B) inserted by 2013 c. 29 Sch. 50 para. 12(6)

- Sch. 56 para. 6(9A) and cross-heading inserted by 2013 c. 29 Sch. 50 para. 13
- Sch. 56 para. 3(1)(aa) inserted by 2015 c. 11 s. 104(3)
- Sch. 56 para. 3(1)(ca) inserted by 2016 c. 24 s. 113(11)(b)
- Sch. 56 para. 6(2)(ba) inserted by 2016 c. 24 s. 113(14)
- Sch. 56 para. 11(4A)(4B) substituted for Sch. 56 para. 11(4A) by 2013 c. 29 Sch. 50 para. 14(2)
- Sch. 56 para. 6(3)-(7A) substituted for Sch. 56 para. 6(3)-(7) by 2013 c. 29 Sch. 50 para. 12(4)
- Sch. 56 para. 8A(1) word substituted by 2012 c. 14 Sch. 24 para. 34(d)
- Sch. 56 para. 6(2)(a) words inserted by 2013 c. 29 Sch. 50 para. 12(3)(b)
- Sch. 56 para. 6(2)(b) words inserted by 2013 c. 29 Sch. 50 para. 12(3)(c)
- Sch. 61 para. 1(1A) substituted by 2014 c. 29 Sch. 2 para. 14(3)