



Corporation Tax Act 2010

2010 CHAPTER 4

PART 12

REAL ESTATE INVESTMENT TRUSTS

CHAPTER 4

ENTERING THE UK REIT REGIME

536 Effects of entry: corporation tax

- (1) Property rental business carried on before entry by a company which becomes, or becomes a member of, a UK REIT (an “incoming company”) is to be treated for corporation tax purposes as ceasing at entry.
- (2) Assets which immediately before entry are involved in property rental business of an incoming company are to be treated for corporation tax purposes as being—
 - (a) sold by the pre-entry company immediately before entry, and
 - (b) reacquired immediately after entry by the company so far as it carries on property rental business.
- (3) The sale and reacquisition deemed under subsection (2) is to be treated as being for a consideration equal to the market value of the assets.
- (4) A gain accruing as a result of subsection (2) is not a chargeable gain.
- (5) For corporation tax purposes, one accounting period of an incoming company ends on entry and a new one begins.
- (6) In the case of a group UK REIT—
 - (a) if a percentage of the assets of a member of the group is excluded from a financial statement in accordance with section 533(3), that percentage of those assets is to be ignored in the application of subsection (2) to the member, and

Status: This is the original version (as it was originally enacted).

- (b) this section has effect in relation to a non-UK member of the group as if references to property rental business were references to UK property rental business of the member.
- (7) This section does not apply if—
 - (a) a company which was a member of one group UK REIT becomes a member of a different group UK REIT, or
 - (b) a company which was a company UK REIT becomes a member of a group UK REIT.
- (8) This section and section 537 are subject to section 559 (demergers: company leaving group UK REIT).
- (9) For the meaning of “entry”, see section 607(1).

537 Effects of entry: CAA 2001

- (1) Subsections (2) to (4) apply for the purposes of CAA 2001.
- (2) The sale and reacquisition deemed under section 536(2)—
 - (a) does not give rise to allowances or charges, and
 - (b) does not enable an election to be made under section 198 or 199 of CAA 2001 (apportionment).
- (3) Section 536(3) (deemed consideration for sale and reacquisition) does not apply.
- (4) Anything done by or to a company which becomes, or becomes a member of, a UK REIT in relation to an asset which is deemed under section 536(2) to be sold and reacquired is to be treated after entry as having been done by or to the company so far as it carries on property rental business.

538 Entry charge

- (1) An amount of notional income calculated in accordance with section 539 (“the notional amount”) is treated as arising to a company at entry.
- (2) The notional amount is treated as arising to the company’s residual business.
- (3) If the company is a UK company, it is chargeable to corporation tax under the charge to corporation tax on income on the notional amount (which is accordingly charged at the rate mentioned in section 534(3)).
- (4) If the company is a non-UK company, it is chargeable to income tax on the notional amount (which is accordingly charged at the basic rate in accordance with section 11 of ITA 2007).
- (5) No loss, deficit, expense or allowance may be set off against the notional amount or against tax arising under this section.
- (6) This section does not apply if a company—
 - (a) which was a member of one group UK REIT becomes a member of another group UK REIT, or
 - (b) which was a company UK REIT becomes a member of a group UK REIT.
- (7) This section is subject to section 559 (demergers: company leaving group UK REIT).

539 Calculation of the notional amount

- (1) This section provides for the calculation of the amount of notional income mentioned in section 538(1).
- (2) The calculation is—
$$\frac{MV}{TR} \times 2\%$$
- (3) “MV” means the total market value of assets which immediately before entry are involved in—
 - (a) property rental business of the company (in the case of a UK company), or
 - (b) UK property rental business of the company (in the case of a non-UK member of a group UK REIT),ignoring any asset of negative market value.
- (4) If a percentage of the assets of a member of a group UK REIT is excluded from a financial statement in accordance with section 533(3), that percentage of those assets is to be ignored for the purposes of subsection (3).
- (5) “TR” means—
 - (a) in the case of a UK company, the rate of corporation tax mentioned in section 534(3), and
 - (b) in the case of a non-UK company, the rate of income tax mentioned in section 538(4).

540 Election to treat notional income as arising in instalments

- (1) A company may elect to have the amount of notional income mentioned in section 538(1) treated as arising in 4 instalments, the first on the date of entry and the other 3 on the first three anniversaries of that date.
- (2) For this purpose section 539(2) has effect as if the percentage referred to were—
 - (a) 0.50% for the first instalment,
 - (b) 0.53% for the second instalment,
 - (c) 0.56% for the third instalment, and
 - (d) 0.60% for the fourth instalment.
- (3) If a company makes an election under subsection (1)—
 - (a) notice of the election must be given to an officer of Revenue and Customs with the notice under section 523 or 524 (as the case may be), and
 - (b) the election cannot be revoked.
- (4) Subsection (5) applies if—
 - (a) a company makes an election under subsection (1), and
 - (b) before the third anniversary of entry, the company ceases to be, or to be a member of, a UK REIT.
- (5) Any remaining instalments become chargeable immediately.
- (6) The Treasury may by regulations amend a percentage specified in subsection (2) in order to reflect a change in interest rates; but any such regulations are not to have effect in relation to elections made before the regulations come into force.