



Corporation Tax Act 2010

2010 CHAPTER 4

PART 12

REAL ESTATE INVESTMENT TRUSTS

CHAPTER 6

DISTRIBUTIONS

Distributions to certain shareholders

551 Tax consequences of distribution to holder of excessive rights

- (1) Subsection (3) applies if—
 - (a) a distribution is made to or in respect of a holder of excessive rights (as defined by section 553), and
 - (b) the distributor has not taken reasonable steps to prevent a distribution to or in respect of such a person from being made.
- (2) “The distributor” means—
 - (a) in the case of a group UK REIT, the principal company of the group, and
 - (b) in the case of a company UK REIT, the company.
- (3) The distributor is treated as receiving an amount of income calculated in accordance with section 552 (“the section 552 amount”).
- (4) The section 552 amount is chargeable to corporation tax under the charge to corporation tax on income.
- (5) It is treated—
 - (a) as arising in the accounting period in which the distribution was made, and
 - (b) as profits of residual business of the distributor.

Status: This is the original version (as it was originally enacted).

- (6) Accordingly it is charged to corporation tax at the rate mentioned in section 534(3) (rate at which profits of residual business are charged).
- (7) No loss, deficit, expense or allowance may be set off against the section 552 amount.

552 “The section 552 amount”

- (1) For the purposes of section 551, the section 552 amount is calculated by taking 3 steps.
- (2) *Step 1*: find the amount given by—

$$DO \times SO \times \frac{BRT}{MCT}$$

where—

DO is—

- (a) in the case of a group UK REIT, the amount of the group’s UK profits (as defined by section 530(2)) distributed in respect of ordinary shares in the principal company, and
- (b) in the case of a company UK REIT, the amount of profits of property rental business of the company distributed in respect of ordinary shares in the company,

SO is—

- (a) the percentage of rights in respect of those shares held by the holder of excessive rights, or
- (b) if less, the percentage of rights held by the recipient of the distribution, in respect of which the distribution is made,

BRT is the basic rate of income tax in force at the time the distribution is made, and

MCT is the rate of corporation tax mentioned in section 534(3) (rate determined without reference to sections 18 to 23).

- (3) *Step 2*: find the amount given by—

$$DP \times SP \times \frac{BRT}{MCT}$$

where—

DP is—

- (a) in the case of a group UK REIT, the amount of the group’s UK profits (as defined by section 530(2)) distributed in respect of preference shares in the principal company, and
- (b) in the case of a company UK REIT, the amount of profits of property rental business of the company distributed in respect of preference shares in the company,

SP is—

- (a) the percentage of rights in respect of those shares held by the holder of excessive rights, or
- (b) if less, the percentage of rights held by the recipient of the distribution, in respect of which the distribution is made, and

BRT and MCT have the same meaning as they have in subsection (2).

- (4) *Step 3*: add together the amounts given by steps 1 and 2.

That amount is the section 552 amount.

553 Meaning of “holder of excessive rights”

- (1) For the purposes of section 551 “holder of excessive rights” means a person who meets—
- (a) condition A, and
 - (b) either condition B or C.
- (2) Condition A is that the person—
- (a) is beneficially entitled (directly or indirectly) to at least 10% of the dividends paid by the distributor,
 - (b) is beneficially entitled (directly or indirectly) to at least 10% of the distributor’s share capital, or
 - (c) controls (directly or indirectly) at least 10% of the voting rights in the distributor.
- (3) Condition B is that the person is a company.
- (4) Condition C is that—
- (a) the person is treated as a body corporate for tax purposes—
 - (i) in accordance with the law of a territory outside the United Kingdom with which arrangements have been entered into to provide relief from double taxation, or
 - (ii) in accordance with an international agreement containing such arrangements, and
 - (b) those arrangements have effect by virtue of an Order in Council under section 2 of TIOPA 2010.
- (5) In subsection (2) “the distributor” has the meaning given by section 551(2).

554 Regulations: distributions to holders of excessive rights

- (1) The Treasury may by regulations make provision of the kind mentioned in subsection (2) for cases where—
- (a) the principal company of a group UK REIT, or
 - (b) a company UK REIT,
- makes a distribution to or in respect of a holder of excessive rights (as defined by section 553).
- (2) The provision referred to in subsection (1) is—
- (a) provision that a charge does not arise, or is reduced, if the company takes or does not take action of a specified kind;
 - (b) a requirement for the company to provide the Commissioners for Her Majesty’s Revenue and Customs with specified information relating to the distribution and the persons to or in respect of whom it is made.