



# Corporation Tax Act 2010

## 2010 CHAPTER 4

### PART 12

#### REAL ESTATE INVESTMENT TRUSTS

### CHAPTER 7

#### GAINS ETC

#### *Movement of assets*

#### **555 Assets: change of use**

- (1) Subsection (2) applies if—
  - (a) an asset has been used wholly and exclusively for the purposes of property rental business of a company which is, or is a member of, a UK REIT, and
  - (b) the asset begins to be used (otherwise than by being disposed of in the course of trade) wholly and exclusively for the purposes of residual business of the company.
- (2) The asset is treated as having been at that time—
  - (a) disposed of by the company so far as it carries on property rental business, and
  - (b) immediately reacquired by the company so far as it carries on residual 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 asset.
- (4) For the purposes of CAA 2001—
  - (a) a sale and reacquisition deemed under subsection (2)—
    - (i) does not give rise to allowances or charges, and

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- (ii) does not make it possible to make an election under section 198 or 199 of that Act (apportionment),
  - (b) subsection (3) does not apply, and
  - (c) anything done by or to the company so far as it carries on property rental business before the deemed sale and reacquisition is to be treated after the deemed sale and reacquisition as having been done by or to the company so far as it carries on residual business.
- (5) If a percentage of the gains of property rental business of a member of a group UK REIT is excluded from a financial statement in accordance with section 533(3), that percentage of those gains is to be treated for corporation tax purposes as gains of the member's residual business.
- (6) This section has effect in relation to a non-UK member of a group UK REIT as if references to property rental business were references to UK property rental business.
- (7) Section 535 is relevant to the tax treatment of any gain arising to a company under this section.

## **556 Disposal of assets**

- (1) Subsection (2) applies if—
- (a) an asset has been used wholly and exclusively for the purposes of property rental business of a company which is, or is a member of, a UK REIT, and
  - (b) the asset is disposed of in the course of trade for the purposes of residual business of the company.
- (2) If this subsection applies—
- (a) the deemed sale and reacquisition under section 536(2) is to be ignored, and
  - (b) the asset is to be treated as having been disposed of in the course of the company's residual business.
- (3) Subsection (2) is to be taken to apply in particular if—
- (a) a property acquired by a company which is, or is a member of, a UK REIT has been developed since acquisition,
  - (b) the cost of the development exceeds 30% of the fair value of the property (determined in accordance with international accounting standards) at entry or at acquisition, whichever is later, and
  - (c) the company disposes of the property within the period of 3 years beginning with the completion of the development.
- (4) If subsection (2) applies in relation to an asset held at entry, the company may make a claim for repayment of a proportion of the tax paid under section 538 (entry charge) calculated as follows—

$$\frac{AMV}{MV} \times TP$$

where—

- AMV means market value of the asset at entry,
- MV has the same meaning as in section 539(3), and
- TP means tax paid under section 538.

- (5) If a percentage of the gains of property rental business of a member of a group UK REIT is excluded from a financial statement in accordance with section 533(3), that percentage of those gains is to be treated for corporation tax purposes as gains of the member's residual business.
- (6) This section has effect in relation to a non-UK member of a group UK REIT as if references to property rental business were references to UK property rental business.
- (7) Section 535 is relevant to the tax treatment of any gain arising to a company under this section.

### **557 Movement of assets into ring fence**

- (1) Subsection (2) applies if—
  - (a) an asset has been used wholly and exclusively for the purposes of residual business of a company which is, or is a member of, a UK REIT, and
  - (b) the asset begins to be used wholly and exclusively for the purposes of the company so far as it carries on property rental business.
- (2) The asset is to be treated as having been at that time—
  - (a) disposed of by the company so far as it carries on residual business, and
  - (b) immediately reacquired 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 asset.
- (4) For the purposes of CAA 2001—
  - (a) a sale and reacquisition deemed under subsection (2)—
    - (i) does not give rise to allowances or charges, and
    - (ii) does not make it possible to make an election under section 198 or 199 of that Act (apportionment),
  - (b) subsection (3) does not apply, and
  - (c) anything done by or to the company so far as it carries on residual business before the deemed sale and reacquisition is to be treated after the deemed sale and reacquisition as having been done by or to the company so far as it carries on property rental business.
- (5) If a percentage of the gains of property rental business of a member of a group UK REIT is excluded from a financial statement in accordance with section 533(3), that percentage of those gains is to be treated for corporation tax purposes as gains of the member's residual business.
- (6) This section has effect in relation to a non-UK member of a group UK REIT as if references to property rental business were references to UK property rental business.
- (7) Section 535 is relevant to the tax treatment of any gain arising to a company under this section.

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### *Demergers*

#### **558 Demergers: disposal of asset**

- (1) This section applies in the case of a company UK REIT if—
  - (a) the company (“C”) disposes of an asset involved in its property rental business to a 75% subsidiary (“S”) of C,
  - (b) C (so far as it carries on residual business) disposes of its interest in S to another company (“P”),
  - (c) on the date when P acquires the interest in S, P gives a notice under section 523 specifying a date that falls within the post-disposal period, and
  - (d) the group of which S is a member becomes a group UK REIT from the specified date.
- (2) “The post-disposal period” means the period of 6 months beginning with the date of the disposal of the asset by C.
- (3) P may give a notice under section 523 in accordance with subsection (1)(c) even if it does not expect to meet conditions C to F in section 528 throughout accounting period 1.
- (4) Sections 536 and 537 (effects of entry) and section 538 (entry charge) do not apply to the group of which S is a member—
  - (a) in relation to the asset disposed of by C, or
  - (b) in relation to business conducted by the exploitation of that asset.
- (5) Sections 555 and 556 (movement of assets out of ring fence) do not apply to the disposal of the asset by C.
- (6) But if, at the end of the post-disposal period, conditions C to F in section 528 are not met in relation to P, subsections (4) and (5) are to be treated as not having had effect.

#### **559 Demergers: company leaving group UK REIT**

- (1) This section applies in relation to a company if each of conditions A to D is met.
- (2) Condition A is that the company (“the exiting company”) ceases to be a member of a group UK REIT (“Group 1”).
- (3) Condition B is that at the time immediately after it ceases to be a member of Group 1—
  - (a) the exiting company is a member of another group (“Group 2”) and—
    - (i) the principal company of Group 2 meets conditions A and B in section 528,
    - (ii) Group 2 has property rental business in relation to which conditions A and B in section 529 are met,
    - (iii) the condition in section 530 is met in relation to the principal company of Group 2, and
    - (iv) Group 2 meets conditions A and B in section 531, or
  - (b) the exiting company—
    - (i) meets conditions A and B in section 528,
    - (ii) has property rental business in relation to which conditions A and B in section 529 are met, and

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- (iii) meets the condition in section 530 and conditions A and B in section 531.
- (4) Condition C is that—
- (a) in a case within subsection (3)(a), the principal company of Group 2 gives a notice under section 523 no later than the date on which the exiting company ceases to be a member of Group 1, and
  - (b) in a case within subsection (3)(b), the exiting company gives a notice under section 524 no later than the date on which it ceases to be a member of Group 1.
- (5) Condition D is that the date specified in the notice under section 523 or 524 (as the case may be) is the same as that on which the exiting company ceases to be a member of Group 1.
- (6) A company may give a notice under section 523 or 524 in accordance with subsection (4) even if it does not expect to meet conditions C to F in section 528 throughout accounting period 1.
- (7) If this section applies, the exiting company is to be treated as a member of a group UK REIT (or as a company UK REIT) during the period of 6 months beginning with the time when it ceases to be a member of Group 1.
- (8) If this section applies, the following provisions do not have effect—
- sections 536 and 537 (effects of entry),
  - section 538 (entry charge), and
  - sections 579 and 580 (effects of cessation).
- (9) But if, at the end of the period of 6 months mentioned in subsection (7) conditions C to F in section 528 are not met in relation to the principal company of Group 2 or the exiting company (as the case may be)—
- (a) this section does not apply, and
  - (b) the exiting company is to be treated as having ceased to be a member of a group UK REIT (or a company UK REIT) on the date on which it ceased to be a member of Group 1.

### *Interpretation*

## **560 Interpretation of Chapter**

This Chapter (other than section 559) is to be read as if it were contained in TCGA 1992.