

2014 No. 518

CORPORATION TAX

The Real Estate Investment Trust (Amendments to the Corporation Tax Act 2010 and Consequential Amendments) Regulations 2014

<i>Made</i>	- - - -	<i>6th March 2014</i>
<i>Laid before the House of Commons</i>		<i>7th March 2014</i>
<i>Coming into force</i>	- -	<i>1st April 2014</i>

The Treasury make the following Regulations in exercise of the powers conferred by sections 17(3)(a) and (b) and 18(1) of the Finance (No. 2) Act 2005^(a) and sections 528(4B) and 544(6) of the Corporation Tax Act 2010^(b).

Citation, commencement and effect

1.—(1) These Regulations may be cited as the Real Estate Investment Trust (Amendments to the Corporation Tax Act 2010 and Consequential Amendments) Regulations 2014 and come into force on 1st April 2014.

(2) Subject to paragraphs (3) and (4), these Regulations have effect for accounting periods beginning on or after 1st April 2014.

(3) Regulation 2(2) has effect in relation to—

- (a) groups of companies in respect of which notices are given under section 523 of the Corporation Tax Act 2010 specifying a date on or after 1st April 2014, and
- (b) companies which give notices under section 524 of that Act specifying a date which is on or after that date.

(4) Regulation 2(2) also has effect in relation to—

- (a) groups of companies in respect of which notices are given under section 523 of the Corporation Tax Act 2010 specifying a date which is before 1st April 2014, and
- (b) companies which give notices under section 524 of that Act specifying a date which is before that date,

for accounting periods beginning on or after 1st April 2014

Amendment to the Corporation Tax Act 2010

2.—(1) The Corporation Tax Act 2010 is amended as follows.

^(a) 2005 c. 22, section 18 was amended by paragraph 136 of Schedule 46 to the Finance Act 2013 (c. 29).
^(b) 2010 c. 4, section 528(4A) and (4B) and section 544(6) were inserted by paragraphs 4 and 41 respectively of Schedule 4 to the Finance Act 2012 (c. 14).

(2) In section 528(4A) (conditions for company, meaning of “institutional investor”)(a), at the end insert—

“(i) a UK REIT;

(j) a person who is resident in a territory outside the United Kingdom in accordance with the law of that territory relating to taxation and is, under the law of that territory, the equivalent of a UK REIT”.

(3) In section 544(5) (property financing costs)(b)—

(a) at the end of paragraph (d) omit “and”, and

(b) after paragraph (e) insert—

“(f) periodic payments or receipts so far as they—

(i) are from any derivative contract or other arrangement entered into as a hedge of risk in connection with borrowing, and

(ii) are attributable to the hedge, and

(g) amortisation of discounts and premiums relating to a derivative contract or other arrangement within paragraph (f)”.

Amendment to the Authorised Investment Funds (Tax) Regulations 2006

3.—(1) The Authorised Investment Funds (Tax) Regulations 2006(c) are amended as follows.

(2) In regulation 69F (meaning of “property investment business”)—

(a) in paragraph (1)(c) for “in circumstances in which conditions A to C are met” substitute “within section 528(4A)(j) of CTA 2010 (overseas equivalent to UK REIT)”,

(b) in paragraph (2), for the words after “UK-REIT” to the end substitute “has the meaning given in section 518(4) of CTA 2010, and

(c) omit paragraphs (3) to (6).

(3) In the table in Part 1 of the Schedule (abbreviations of Acts) insert at the appropriate place—

“CTA 2010	The Corporation Tax Act 2010 (c. 4)”
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Mark Lancaster

Anne Milton

6th March 2014

Two of the Lords Commissioners of Her Majesty’s Treasury

EXPLANATORY NOTE

(This note is not part of the Regulations)

The Regulations make provision in relation to Real Estate Investment Trusts.

Regulation 1 provides for citation, commencement and effect.

Regulations 2 make amendments to Part 12 of the Corporation Tax Act 2010 which sets out the Real Estate Investment Trusts legislation. Paragraph (2) amends section 528 which sets out conditions which must be met by a company to enter the regime. Condition D in section 528 is that a REIT cannot be a close company but the shareholding of an institutional investor will not, on its own, make a company close for these purposes, subsection (4A) defines what an institutional investor is for these purposes. Regulation 2(2) amends Section 528(4A) to include UK REITs and overseas entities which are equivalent to UK REITs in the list of institutional investors.

(a) Subsection (4A) was inserted by paragraph 4 of Schedule 4 to the Finance Act 2012.

(b) Section 544(5) was amended by paragraph 41 of Schedule 4 to the Finance Act 2012.

(c) S.I. 2006/964, relevant amending instruments are S.I. 2008/705 and 2009/2036.

Regulation 2(2) amends section 544(5) to include amounts in relation to hedging risks of borrowing in the list of items to be taken into account in calculating the costs of debt finance for the purposes of determining property financing costs in the profit: financing-cost ratio.

Regulation 3 makes consequential amendments to regulation 69F of, and the Schedule to, the Authorised Investment Funds (Tax) Regulations 2006 to align the reference to overseas entities which are equivalent to UK REITs with the equivalent reference in section 528(4A)(j) in the Corporation Tax Act 2010, update references to that Act and include a definition of that Act.

A Tax Information and Impact Note covering this instrument will be published on the HMRC website at <http://www.hmrc.gov.uk/thelibrary/tiins.htm>

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