

CORPORATION TAX ACT 2010

EXPLANATORY NOTES

INTRODUCTION

Part 12: Real Estate Investment Trusts

Chapter 7: Gains etc

Section 555: Assets: change of use

1749. This section sets out how gains made on the disposal of an asset used in property rental business (or UK property rental business of non-UK companies) are treated. It also makes provision for repayment of a proportion of the entry charge in certain circumstances. It is based on sections 125 and 134 of, and Schedule 17 to, FA 2006.
1750. *S subsections (1) to (3) and (7)* apply if an asset which has been used wholly and exclusively for the purposes of property rental business (or UK property rental business in the case of non-UK companies) begins to be used for the purposes of residual business. The asset is deemed to be sold and reacquired at market value. In accordance with section 535(1) any resulting gain is not a chargeable gain.
1751. *Subsection (4)* provides that any sale and reacquisition under subsection (2) is at written down value for the purposes of CAA.
1752. *Subsection (5)* provides that if a percentage of the gains of property rental business is excluded from the financial statements because the gains are attributable to a non-member, that percentage of the gains is treated as gains of residual business.
1753. This section also applies to joint venture companies, including non-UK resident joint venture companies (see section 588).

Section 556: Disposal of assets

1754. *Subsections (1) to (3) and (6)* deal with the case where an asset which has been used wholly and exclusively for the purposes of the property rental business (or UK property rental business in the case of non-UK companies) is disposed of in the course of a trade. Usually such a disposal takes place some time after the asset has been removed from the company's property rental business (when there was a deemed disposal and reacquisition under section 555(2)).
1755. *Subsection (2)* provides that the deemed disposal and reacquisition under section 536(2) is ignored. Instead the asset is treated as disposed of in the course of the company's residual business. In accordance with section 535(6) any resulting gain which is subject to corporation tax is taxed at the main rate of corporation tax.
1756. *Subsection (5)* provides that if a percentage of the gains of property rental business is excluded from the financial statements because the gains are attributable to a non-member, that percentage of the gains is treated as gains of residual business.

*These notes refer to the Corporation Tax Act 2010
(c.4) which received Royal Assent on 3 March 2010*

1757. This section also applies to joint venture companies, including non-UK resident joint venture companies (see section 588).

Section 557: Movement of assets into ring fence

1758. This section provides that if an asset used by the residual business of a company (including a non-UK company) begins to be used by the company for the purposes of property rental business (or UK property rental business, in the case of a non-UK company), it is treated as disposed of and reacquired at market value. It also provides that, for the purposes of CAA, the transfer of the asset is treated as made at the tax written-down value. It is based on sections 126 and 134(1) of, and paragraphs 21 and 32(6) of Schedule 17 to, FA 2006.
1759. In accordance with section 535(6), if a gain arises under this section and the gain is subject to corporation tax, it is charged at the main rate.
1760. *Subsection (5)* provides that if a percentage of the gains of property rental business is excluded from the financial statements because the gains are attributable to a non-member, that percentage of the gains are treated as gains of a residual business.
1761. This section also applies to joint venture companies, including non-UK resident joint venture companies (see section 588).

Section 558: Demergers: disposal of asset

1762. This section makes provision for a company UK REIT to dispose of an asset to a 75% subsidiary which subsequently becomes a member of a group UK REIT. It is based on section 126A of FA 2006.

Section 559: Demergers: company leaving group UK REIT

1763. This section makes provision for a company to cease to be a member of a group UK REIT but to continue within the UK REIT regime. It is based on paragraph 34 of Schedule 17 to FA 2006.
1764. *Subsection (9)* makes clear that the conditions in the section are to be met by the company giving the notice (not necessarily the exiting company).

Section 560: Interpretation of Chapter

1765. This section provides that the Chapter (apart from section 559) is to be read as if it were contained in TCGA. It is based on section 127 of FA 2006.