



Finance Act 2006

2006 CHAPTER 25

PART 4

REAL ESTATE INVESTMENT TRUSTS

Leaving Real Estate Investment Trust Regime

128 Termination by notice: company

- (1) If a company to which this Part applies gives a notice under this section specifying a date at the end of which this Part is to cease to apply to the company, this Part shall cease to apply to the company at the end of that date.
- (2) A notice must be given in writing to the Commissioners for Her Majesty's Revenue and Customs.
- (3) The date specified under subsection (1) must be after the date on which the Commissioners receive the notice.

129 Termination by notice: Commissioners

- (1) If the Commissioners for Her Majesty's Revenue and Customs give a company to which this Part applies a notice in writing under this subsection, this Part shall cease to apply to the company.
- (2) The Commissioners may give a company a notice only if—
 - (a) the company has relied on a provision of regulations under section 116 on a specified number of occasions in a specified period,
 - (b) the company has been given a specified number of notices under section 117 in a specified period, or
 - (c) the Commissioners think that a breach of a requirement in section 107 or 108, or an attempt by the company to obtain a tax advantage, is so serious that this Part should cease to apply to it.

Status: This is the original version (as it was originally enacted).

- (3) In subsection (2) “specified” means specified in regulations made by the Treasury.
- (4) A notice under subsection (1) must state the reason for it.
- (5) Where a notice is given to a company, this Part shall be taken to have ceased to apply to the company at the end of the accounting period before the accounting period during which the event occurs (or the last event occurs) which caused the Commissioners to give the notice.
- (6) Where a notice is given to a company, the company may appeal to the Special Commissioners.
- (7) An appeal must be instituted by notice given in writing to the Commissioners for Her Majesty’s Revenue and Customs during the period of 30 days beginning with the date on which the notice is given to the company.

130 Automatic termination for breach of requirement

- (1) Where Condition 1, 2, 5 or 6 of section 106 is not satisfied in respect of an accounting period of a company to which this Part applies, this Part shall be taken to have ceased to apply to the company at the end of the previous accounting period.
- (2) A company which gave a notice under section 109 shall notify the Commissioners for Her Majesty’s Revenue and Customs as soon as is reasonably practicable if Condition 1, 2, 5 or 6 of section 106 ceases to be satisfied in relation to the company.

131 Effects of cessation

- (1) The business of C (tax-exempt) shall be treated for the purposes of corporation tax as ceasing immediately before cessation.
- (2) Assets which immediately before cessation are involved in the business of C (tax-exempt) shall be treated for the purposes of corporation tax as being sold by C (tax-exempt) immediately before cessation and re-acquired immediately after cessation by C (post-cessation).
- (3) The sale and re-acquisition deemed under subsection (2) shall be treated as being for a consideration equal to the market value of the asset.
- (4) For the purposes of CAA 2001—
 - (a) the sale and re-acquisition deemed under subsection (2)—
 - (i) shall not give rise to allowances or charges, and
 - (ii) shall not make it possible to make an election under section 198 or 199 of that Act (apportionment),
 - (b) subsection (3) above shall not apply, and
 - (c) anything done by or to C (tax-exempt) before cessation in relation to an asset which is deemed to be sold and re-acquired shall be treated after cessation as having been done by or to C (post-cessation).
- (5) For the purposes of corporation tax, on cessation an accounting period of C (residual) shall end and an accounting period of C (post-cessation) shall begin.

- (6) For the purposes of subsection (2) an asset is involved in the business of C (tax-exempt) if it is property involved in the business within the meaning given by section 107(6)(a).

132 Early exit by notice

- (1) This section applies where this Part—
- (a) ceases to apply to a company by reason of section 128, and
 - (b) had applied to the company for a continuous period immediately before cessation of less than ten years.
- (2) If the company disposes of a tax-exempt asset during the post-cessation period, liability to corporation tax shall be determined without regard to—
- (a) any deemed disposal under section 111(2) that resulted in a gain,
 - (b) any deemed disposal under section 131(3), or
 - (c) any deemed disposal under section 125(2).
- (3) In subsection (2)—
- (a) “tax-exempt asset” means an asset that was involved (within the meaning of section 107(6)(a)) in the business of C (tax-exempt), and
 - (b) “the post-cessation period” means the period of two years beginning with the date of cessation.

133 Early exit

- (1) This section applies where this Part—
- (a) ceases to apply to a company by reason of section 129 or 130, and
 - (b) had applied to the company for a continuous period immediately before cessation of less than ten years.
- (2) The Commissioners for Her Majesty’s Revenue and Customs may direct—
- (a) that a provision of this Part shall have effect in relation to the company with a specified modification, or
 - (b) that a provision of an enactment relating to corporation tax shall apply, not apply or apply with modifications in relation to the company.
- (3) A direction under subsection (2)(a) may, in particular—
- (a) alter the time at which this Part is taken to cease to apply to the company in accordance with section 129 or 130;
 - (b) disapply or alter the effect of section 119(1) or 124(1)).
- (4) A direction under subsection (2)(b) may, in particular, prevent all or a specified part of a loss, deficit or expense from being set off or otherwise used at all or in a specified manner.
- (5) A company in respect of which a direction is given under this section may appeal to the Special Commissioners.