



Finance Act 2006

2006 CHAPTER 25

PART 4

REAL ESTATE INVESTMENT TRUSTS

Introduction

106 Conditions for company

- (1) A company may give notice for this Part to apply to it in accordance with section 109 only if it satisfies Conditions 1 to 3 below.
- (2) In order for this Part to apply to a company in respect of an accounting period, Conditions 1 to 6 below must be satisfied in relation to the company throughout the accounting period.
- (3) Condition 1 is that the company—
 - (a) is resident in the United Kingdom, and
 - (b) is not resident in another place in accordance with the law of that place relating to taxation.
- (4) Condition 2 is that section 236 of the Financial Services and Markets Act 2000 Financial Services and Markets Act 2000 (c. 8) (open-ended investment companies) does not apply to the company.
- (5) Condition 3 is that the shares forming the company's ordinary share capital are listed on a recognised stock exchange.
- (6) Condition 4 is that the company—
 - (a) is not a close company (within the meaning of section 414 of ICTA), or
 - (b) is a close company only by virtue of having as a participator (within the meaning of section 417 of ICTA) a limited partnership which is a collective investment scheme within the meaning of section 235 of the Financial Services and Markets Act 2000;

Status: This is the original version (as it was originally enacted).

and for the purposes of paragraph (a) a company shall be treated as a close company if it is prevented from being a close company only by section 414(5) or 415(4)(a) of ICTA.

- (7) Condition 5 is that—
- (a) each share issued by the company either—
 - (i) forms part of the company's ordinary share capital, or
 - (ii) is a non-voting fixed-rate preference share (within the meaning of paragraph 2 of Schedule 25 to ICTA (acceptable distribution policy)),
and
 - (b) there is no more than one class of ordinary share issued by the company.
- (8) Condition 6 is that in the case of any loan to which the company is party—
- (a) the loan creditor is not entitled to an amount by way of interest which depends to any extent on the results of all or part of the company's business or on the value of any of the company's assets,
 - (b) the loan creditor is not entitled to an amount by way of interest which exceeds a reasonable commercial return on the consideration lent, and
 - (c) the loan creditor is entitled on repayment to an amount which either does not exceed the consideration lent or is reasonably comparable with the amount generally repayable (in respect of an equal amount of consideration) under the terms of issue of securities listed on a recognised stock exchange.