

# CORPORATION TAX ACT 2010

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## EXPLANATORY NOTES

### INTRODUCTION

#### **Part 12: Real Estate Investment Trusts**

##### *Chapter 10: Joint ventures*

##### *Section 583: Overview of Chapter*

1827. This section is an overview of the Chapter. It is new.

##### *Section 584: Meaning of “joint venture company” and “joint venture group”*

1828. This section defines “joint venture company” and “joint venture group” for the purposes of the Chapter. It is based on section 138(1) of FA 2006.

1829. This section enacts parts of [SI 2006/2866](#) and [SI 2007/3425](#). See *Change 43* in Annex 1.

##### *Section 585: Meaning of “venturing group” and “venturing company”*

1830. This section defines “venturing company” and “venturing group” for the purposes of the Chapter. It is based on section 138(1) of FA 2006.

1831. This section enacts parts of [SI 2006/2866](#) and [SI 2007/3425](#). See *Change 43* in Annex 1.

##### *Section 586: Notice for Part to apply: joint venture company*

1832. This section provides that a group UK REIT or a company UK REIT may bring a joint venture company (including a non-UK joint venture company) into the regime if certain conditions are met. It is based on section 138(1) and (3) of FA 2006.

1833. This section enacts parts of [SI 2006/2866](#). See *Change 43* in Annex 1.

1834. *Subsection (1)* provides that the principal company of a group UK REIT may give notice that the Part is to apply in relation to property rental business carried on by a joint venture company. *Subsection (2)* makes similar provision in relation to a company UK REIT.

1835. Giving a notice under subsection (2) does not mean that the company UK REIT is treated as giving a group notice under section 523(1). So it is not required to bring all its subsidiaries into the UK REIT regime.

1836. Condition 7 of regulations 3(1) and 10(1) [SI 2006/2866](#) provides that, in order for a notice to be made in respect of a joint venture company, the joint venture company must satisfy the balance of business tests in section 108 of FA 2006. But a joint venture notice must be made at the beginning of the accounting period and the balance of business tests cannot be satisfied until the end of the accounting period. So it is unclear when a notice can be made.

1837. The balance of business tests are rewritten in section 591, putting joint venture companies on the same basis as joint venture groups. Condition 7 is not rewritten.
1838. *Subsection (6)(b)* requires the “consent” of the joint venture company. This requirement replaces the need for the notice to be “signed by the company secretary or a director”. So the section is consistent with the possibilities that the notice may be given electronically and that, following the Companies Act 2006, the company may not have a company secretary or a director.
1839. *Subsection (6)(d)* provides that the notice must be given to an “officer of Revenue and Customs” rather than to “the Commissioners for Her Majesty’s Revenue and Customs”. See *Change 5* in Annex 1.

***Section 587: Notice for Part to apply: joint venture group***

1840. This section provides that a group UK REIT or a company UK REIT may bring a joint venture group (including a non-UK member of a joint venture group) into the regime if certain conditions are met. It is based on section 138(1) and (3) of FA 2006.
1841. This section enacts parts of [SI 2007/3425](#). See *Change 43* in Annex 1.
1842. *Subsection (1)* provides that the principal company of a group UK REIT may give notice that the Part is to apply in relation to property rental business carried on by the members of a joint venture group. *Subsection (2)* makes similar provision in relation to a company UK REIT.
1843. Giving a notice under subsection (2) does not mean that the company UK REIT is treated as giving a group notice under section 523(1). So it is not required to bring all its subsidiaries into the UK REIT regime.
1844. *Subsection (6)(b)* requires the “consent” of the principal company of the joint venture group. This requirement replaces the need for the notice to be “signed by the company secretary or a director”. So the section is consistent with the possibilities that the notice may be given electronically and that, following the Companies Act 2006, the company may not have a company secretary or a director.
1845. *Subsection (6)(d)* provides that the notice must be given to an “officer of Revenue and Customs” rather than to “the Commissioners for Her Majesty’s Revenue and Customs”. See *Change 5* in Annex 1.

***Section 588: Effect of notice under section 586***

1846. This section makes general modifications to the Part to take into account joint venture companies. It is based on section 138(1) and (2) of, and paragraph 3(1) of Schedule 17 to, FA 2006.
1847. This section enacts parts of [SI 2006/2866](#). See *Change 43* in Annex 1.
1848. *Subsection (1)* provides that, if the principal company of a group UK REIT gives notice in relation to a joint venture company, the Part applies in relation to property rental business carried on by the joint venture company as if it were a member of the group UK REIT.
1849. *Subsection (2)* provides that, if a company UK REIT gives notice in relation to a joint venture company, the Part applies in relation to property rental business carried on by the joint venture company as if the company UK REIT and the joint venture company were members of a new group UK REIT.

***Section 589: Effect of notice under section 587***

1850. This section makes general modifications to the Part to take into account members of a joint venture group. It is based on section 138(1) and (2) of FA 2006.

1851. This section enacts parts of [SI 2007/3425](#). See *Change 43* in Annex 1.
1852. *Subsection (1)* provides that, if the principal company of a group UK REIT gives notice in relation to members of a joint venture group, the Part applies in relation to property rental business carried on by the members of the joint venture group as if they were members of the group UK REIT.
1853. *Subsection (2)* provides that, if a company UK REIT gives notice in relation to members of a joint venture group, the Part applies in relation to property rental business carried on by the members of the joint venture group as if the company UK REIT and the members of the joint venture group were members of a new group UK REIT.

***Section 590: Duration of notice under section 586 or 587***

1854. This section provides for a notice under section 586 or 587 to cease to have effect. It is based on section 138(1) and (2) of FA 2006.
1855. This section enacts parts of [SI 2006/2886](#) and [SI 2007/3425](#). See *Change 43* in Annex 1.
1856. *Subsections (1)(b)* and *(2)(b)* provide that if the venturing group or venturing company ceases to be a UK REIT, the notice under section 586 ceases to have effect. For joint venture companies, this is not explicit in regulations 4 and 11 of [SI 2006/3425](#). But it is implicit that a joint venture company ceases to be within the UK REIT regime if the company which made the notice ceases to be a UK REIT. Subsections (1)(b) and (2)(b) make this explicit. So the positions for joint venture companies and joint venture groups are the same.
1857. *Subsection (6)* provides that if a notice under section 586 or 587 ceases to have effect, section 581 (early exit) continues to have effect. The joint venture company regulations do not contain a provision similar to that for joint venture groups. But it is implicit from the regulations that section 581 continues to have effect once the joint venture company ceases to be in the UK REIT regime. So subsection (6) applies to joint venture companies as it does to joint venture groups.
1858. *Subsection (7)* defines “the 40% tests” by reference to the type of notice given. For each of subsections (1) to (4) a different version of the 40% tests applies. See:
- in the case of subsection (1), the tests in section 586(4);
  - in the case of subsection (2), the tests in section 586(5);
  - in the case of subsection (3), the tests in section 587(4); and
  - in the case of subsection (4), the tests in section 587(5).

***Section 591: Conditions as to balance of business***

1859. This section provides that the balance of business tests in section 531 must be met by the joint venture company or joint venture group. It is based on section 138(1) and (2) of FA 2006.
1860. This section enacts parts of [SI 2006/2866](#) and [SI 2007/3425](#). See *Change 43* in Annex 1.

***Section 592: Joint venture groups: financial statements***

1861. This section provides that the principal company of a joint venture group must prepare financial statements for the group. It is based on section 138(1) and (2) of FA 2006.
1862. This section enacts parts of [SI 2007/3425](#). See *Change 43* in Annex 1.
1863. *Subsection (5)* provides that the financial statements must be submitted to an “officer of Revenue and Customs” rather than to “the Commissioners for Her Majesty’s Revenue and Customs”. See *Change 5* in Annex 1.

***Section 593: Financial statements under section 532: joint venture groups***

1864. This section provides that the amount to be included in the financial statements under section 532 should include only the “relevant percentage” of profits, expenses, gains, losses, assets and liabilities. It is based on section 138(1) and (2) of FA 2006.
1865. This section enacts parts of [SI 2007/3425](#). See *Change 43* in Annex 1.

***Section 594: Modifications of Chapter 3***

1866. This section makes specific modifications to the Part in relation to property rental business carried on by a joint venture company or by one or more members of a joint venture group. It is based on sections 138(1) and (2) of FA 2006.
1867. This section enacts parts of [SI 2006/2866](#) and [SI 2007/3425](#). See *Change 43* in Annex 1.

***Section 595: Joint venture company liable for additional charge***

1868. This section provides that a joint venture company is chargeable to an additional amount of entry charge in certain circumstances. It is based on sections 138(1) and (2) of FA 2006.
1869. This section enacts regulation 14 of [SI 2006/2866](#). See *Change 43* in Annex 1.
1870. This section provides that a joint venture company is chargeable to tax under section 538 in respect of the “reduced notional amount” if either:
- a venturing company becomes a principal company of a group UK REIT and it increases its holding in a joint venture company; or
  - a venturing group increases its holding in a joint venture company to more than 75%.
1871. *Subsection (7)* defines “reduced notional amount”.
1872. If more than 75% of the shares of the joint venture company are held by the company, the joint venture company is a subsidiary and is covered by the section 523(1) notice. It is not possible to give a further notice under section 586.

***Section 596: Member of joint venture group liable for additional charge***

1873. This section provides that a member of a joint venture group is chargeable to an additional amount of entry charge in certain circumstances. It is based on sections 138(1) and (2) of FA 2006.
1874. This section enacts parts of [SI 2007/3425](#). See *Change 43* in Annex 1.
1875. *Subsections (1) to (3)* provide that a member of a joint venture group is chargeable to tax under section 538 in respect of “the reduced notional amount” if a venturing company increases its holding in a member of a joint venture group with the result that it becomes a principal company of a group.
1876. *Subsections (4) and (5)* provide that a member of a joint venture group is chargeable to tax under section 538 in respect of the “reduced notional amount” if a venturing group increases its holding in a member of a joint venture group to at least 75% with the result that the member of the joint venture group becomes a member of the venturing group.
1877. Regulation 14(6) of [SI 2006/2866](#) refers to the case where “a venturing group ... increases its shareholding ... to 75% or more” in a joint venture company. These words include the possibility that the 75% comprises smaller shareholdings by members of the venturing group.

1878. Regulation 24(1) of [SI 2007/3425](#) refers to the case where “a member of a venturing group ... increases its shareholding ... to 75% or more” in a member of a joint venture group. These words seem to require that the 75% holding must be by a single member of the venturing group.
1879. The result in each case is that the joint venture company (or member of the joint venture group) becomes a member of a group UK REIT. Chapter 3 of Part 24 of this Act provides that indirect shareholdings are to be taken into account in determining whether a company is a member of a group. So the [SI 2006/2866](#) approach is more logical than that of [2007/3425](#) and is the one adopted by the section in both cases.
1880. *Subsections (6)* defines “reduced notional amount”.

***Section 597: Cases where no additional charge due***

1881. This section provides that neither a joint venture company nor a member of a joint venture group is chargeable to an additional amount in respect of the entry charge if there is no increase in shareholding. It is based on sections 138(1) and (2) of FA 2006.
1882. This section enacts parts of [SI 2006/2866](#) and [SI 2007/3425](#). See *Change 43* in Annex 1.

***Section 598: Chapter 10: supplementary***

1883. This section explains what is meant by “equity holder” and percentages of beneficial interest for the purposes of the Chapter. It is based on section 138(1) of FA 2006.
1884. This section enacts parts of [SI 2006/2866](#) and [SI 2007/3425](#). See *Change 43* in Annex 1.
1885. *Subsection (1)(b)* defines “equity holder” for the purposes of the Chapter by reference to a loan creditor other than a loan in relation to a “normal commercial loan”. This is based on regulation 4(1) of [SI 2007/3425](#). [SI 2006/2866](#) does not define “normal commercial loan” for joint venture companies. This section applies the definition for both joint venture groups and joint venture companies.
1886. The exclusions for “owner-occupied” property in Condition 6 of regulations 3(1) and 10(1) of [SI 2006/2866](#) are rewritten in *subsection (3)*. These exclusions are the equivalent of the exclusion for owner-occupied property in section 604(2), which may not apply to a joint venture company or a joint venture group.