

CORPORATION TAX ACT 2010

EXPLANATORY NOTES

INTRODUCTION

Part 12: Real Estate Investment Trusts

Chapter 8: Breach of conditions in Chapter 2

Section 561: Notice of breach of relevant Chapter 2 condition

1766. This section provides that if certain conditions in Chapter 2 are not met, the principal company of a group UK REIT or a company UK REIT must notify an officer of Revenue and Customs of the breach. It is based on sections 116(1) and (2) and 134(1) of FA 2006.
1767. *Subsections (1) and (2)* refer 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.
1768. *Subsection (4)* enacts the information requirements in regulation 9 of [SI 2006/2864](#). See *Change 43* in Annex 1.

Section 562: Breach of conditions C and D in section 528 (conditions for company)

1769. This section makes provision about breaches of conditions C and D in section 528. It is based on sections 116(1) and (3) and 134(1) of, and paragraph 4 of Schedule 17 to, FA 2006.
1770. This section enacts regulations 1 to 4 of [SI 2006/2864](#). See *Change 43* in Annex 1.
1771. *Subsection (2)* provides that if a principal company of a group UK REIT or a company UK REIT becomes a member of a pre-existing group UK REIT, and by doing so fails to satisfy condition C (shares are listed) and condition D (not a close company) in section 528, the breaches are ignored.
1772. As indicated in section 569, this section is subject to section 572 which allows an officer of Revenue and Customs to issue a notice of termination of the UK REIT regime in some circumstances.

Section 563: Breach of conditions as to property rental business

1773. This section provides that conditions A or B of section 529 can be breached without causing the UK REIT regime to terminate. It is based on section 116(1) and (3) of FA 2006.
1774. This section enacts regulation 5(1) and (2) of [SI 2006/2864](#). See *Change 43* in Annex 1.
1775. As indicated in section 569, this section is subject to section 572, which allows an officer of Revenue and Customs to issue a notice of termination of the UK REIT regime in some circumstances.

Section 564: Breach of condition as to distribution of profits

1776. This section sets out how the distribution condition in section 530 can be breached without causing the UK REIT regime to terminate. It is based on section 116(1) and (3) of FA 2006.
1777. This section enacts regulation 6(1) to (3) and (5) to (8) of [SI 2006/2864](#). See *Change 43* in Annex 1.
1778. *Subsection (2)* provides that the breach is ignored if the company does not meet the distribution condition in section 530, but an amount calculated under section 565 is charged to corporation tax. The amount is charged to corporation tax as if it were profits of residual business of the distributing company. Accordingly the rate of tax is the main rate of corporation tax.
1779. As indicated in section 569, this section is subject to section 572 which allows an officer of Revenue and Customs to issue a notice of termination of the UK REIT regime in some circumstances.

Section 565: “The section 565 amount”

1780. This section sets out how to calculate “the section 565 amount” for the purposes of section 564. It is based on section 116(1) and (3) of FA 2006.
1781. This section enacts regulation 6(4) of [SI 2006/2864](#). See *Change 43* in Annex 1.
1782. This section provides that an “officer of Revenue and Customs” rather than “the Commissioners” may specify a date before which profits are to be distributed. See *Change 5* in Annex 1.

Section 566: Breach of condition B in section 531 in accounting period 1

1783. This section sets out how condition B in section 531 (balance of business: assets involved in property rental business) can be breached in the first accounting period (“accounting period 1” – see section 609) of a UK REIT without causing the UK REIT regime to terminate. It is based on section 116(1) and (3) of FA 2006.
1784. This section enacts regulations 7 and 7A of [SI 2006/2864](#). See *Change 43* in Annex 1.
1785. This section provides that if the balance of business assets test in section 531(5) is not met in accounting period 1, the breach is ignored, but an amount calculated in accordance with section 567 is charged to corporation tax. The amount is charged to corporation tax as if it were profits of residual business of the principal company of the group UK REIT or company UK REIT. Accordingly the rate of tax is the main rate of corporation tax.
1786. As indicated in section 569, this section is subject to section 572 which allows an officer of Revenue and Customs to issue a notice of termination of the UK REIT regime in some circumstances.

Section 567: Meaning of “the notional amount”

1787. This section sets out how to calculate “the notional amount” for the purposes of section 566. It is based on section 116(1) and (3) of FA 2006.
1788. This section enacts regulation 7A(4) to (7) of [SI 2006/2864](#). See *Change 43* in Annex 1.
1789. In regulation 7A(5) of [SI 2006/2864](#), the aggregate market value of assets involved in the UK property rental business excludes assets attributable to any percentage of the assets held by a non-member of the group. *Subsection (4)(c)* of the section makes that exclusion, as in section 539(4). See *Change 44* in Annex 1.

Section 568: Breach of balance of business conditions after accounting period 1

1790. This section sets out how the balance of business conditions in section 531 can be breached in the accounting periods following the first accounting period (“accounting period 1” – see section 609) of the UK REIT without causing the UK REIT regime to terminate. It is based on section 116(1) and (3) of FA 2006.
1791. This section enacts regulation 7B(1) to (3) of [SI 2006/2864](#). See *Change 43* in Annex 1.
1792. As indicated in section 569, this section is subject to section 572 which allows an officer of Revenue and Customs to issue a notice of termination of the UK REIT regime in some circumstances.

Section 569: Chapter subject to section 572

1793. This section provides that this Chapter is subject to section 572 (termination of UK REIT regime by officer of Revenue and Customs). It is based on section 116(4) of FA 2006.