

CORPORATION TAX ACT 2010

EXPLANATORY NOTES

INTRODUCTION

Part 12: Real Estate Investment Trusts

Overview

1586. This Part sets out the rules applicable to UK REITs.
1587. A UK REIT is:
- a group of companies (a “group UK REIT”) the principal company of which gives a notice under section 523; or
 - a single company (a “company UK REIT”) which gives a notice under section 524.
1588. In either case, the company must not have ceased to be a UK REIT in accordance with section 571, 572 or 578.
1589. Provided that a UK REIT meets certain conditions (see Chapter 2 of this Part and sections 538 (entry charge), and 548 (distributions)), there is no charge to corporation tax (or income tax in the case of certain non-UK companies) on profits or gains of “property rental business” (or “UK property rental business” in the case of non-UK companies). “Property rental business” is defined in section 519(1), “UK property rental business” is defined in section 520 and “non-UK company” is defined in section 521(2).
1590. Distributions made by the principal company of a group UK REIT or company UK REIT of profits and gains of property rental business are subject to deduction of tax at source under regulations made under section 973 of ITA ([SI 2009/2036](#)). In the hands of a shareholder, the distribution is treated as if it is UK property business income and is taxed accordingly with a credit for tax which has already been deducted at source.
1591. This Act enacts certain regulations which modify the primary legislation through layers of cross-references. In particular the Act enacts the regulations dealing with joint venture companies ([SI 2006/2866](#)) and breach of conditions ([SI 2006/2864](#) and [SI 2007/3540](#)), except for regulation 11 of [SI 2006/2864](#).
1592. The Act also enacts the regulations on joint venture groups ([SI 2007/3425](#)).

Chapter 1: Introduction

Section 518: Introduction to Part

1593. This section is an overview of the Part. It is based on section 103 of FA 2006.
1594. *Subsection (1)* sets out the “bargain” which is entered into by a group of companies on becoming a UK REIT. If the group meets certain conditions it benefits from an exemption from corporation tax (and, through the operation of section 520(3), an exemption from income tax for non-UK companies) for profits and gains of property rental business. This benefit comes with the following liabilities:

- an entry charge (section 538),
 - a requirement that the principal company of a group deducts sums representing income tax in respect of distributions made to shareholders (section 973 of ITA and [SI 2009/2036](#)), and
 - the treatment of such distributions as profits of a UK property business rather than dividend income in the hands of shareholders (section 548).
1595. *Subsection (2)* makes similar provision for companies which enter the UK REIT regime other than as part of a group.
1596. *Subsection (3)* contains signposts to the remaining Chapters of the Part.
1597. *Subsection (4)* defines “UK REIT”.

Section 519: “Property rental business”

1598. This section defines “property rental business” for the purposes of the Part. It is based on section 104 of, and paragraph 32(2) of Schedule 17 to, FA 2006.
1599. *Subsection (1)* defines “property rental business”.
1600. *Subsection (4)* provides that, for non-UK companies, business is “property rental business” if it would be property rental business if carried on by a UK company. See section 521 for the definitions of UK company and non-UK company. This provision ensures that the worldwide property rental business of a non-UK company is treated as property rental business for the purposes of the Part.
1601. The definition of “tax-exempt business” in section 107(2) of FA 2006 is not rewritten. Instead reference is made to “property rental business” throughout the Act. This is because “tax-exempt business” suggests that the company must carry on such a business to be within the regime. But sections 563 and 564 allow a company to breach the conditions in section 529 or 530 and remain within the regime.

Section 520: “UK property rental business” of non-UK companies

1602. This section defines “UK property rental business” of non-UK companies and treats profits of such business, which would ordinarily be charged to income tax, as chargeable to corporation tax. It is based on paragraph 32(1), (3) and (5) of Schedule 17 to FA 2006.
1603. *Subsections (2) and (3)* provide that profits of UK property rental business of non-UK companies (including non-UK joint venture companies) which are subject to income tax under Chapter 3 of Part 3 of ITTOIA are to be treated as being subject to corporation tax (and not income tax).
1604. Subsections (2) and (3)(a) are needed to bring UK property rental business of non-UK companies within the charge to corporation tax so that provisions such as sections 534 (tax treatment of profits) and 541 (ring-fencing) apply to all non-UK companies.
1605. Paragraph 32(3) of Schedule 17 to FA 2006 does not specify whether it is profits and/or gains of UK property rental business which are made subject to corporation tax. The Act provides that only *profits* of UK property rental business, which are not already subject to corporation tax, are caught by this section. This approach ensures that gains of non-UK companies with no permanent establishment in the United Kingdom are not brought within the charge to tax in the United Kingdom. See *Change 41* in Annex 1.
1606. In the case of a non-UK company carrying on a UK property rental business, subsections (2) and (3)(b) (based on paragraph 32(5) of Schedule 17 to FA 2006) remove the charge to income tax and replace it with a charge to corporation tax for the purposes of this Part. If the rules in this Part apply, that charge to corporation tax is removed. To the extent that the rules in this Part do not apply, any charge to income tax is undisturbed.

Section 521: “UK company” and “non-UK company”

1607. This section defines “UK company” and “non-UK company” for the purposes of the Part. It is based on section 106(3) of, and paragraph 3(1) of Schedule 17 to, FA 2006.
1608. *Subsection (1)* defines “UK company” for the purposes of the Part as a company which is UK resident and is not resident in any other place for the purpose of taxation. AUK company is not the same as a “UK resident” company (which is defined in section 1119).

Section 522: “Residual business”

1609. This section defines “residual business” for the purposes of the Part. It is based on section 105(3)(c) of, and paragraph 2(c) of Schedule 17 to, FA 2006.
1610. The reason for the definition of residual business is two-fold. First, it is needed to identify the profits and gains which are charged to corporation tax at the main rate under sections 534(3) and 535(6). Second, it is needed to identify items to be included in the financial statements in accordance with section 532(2)(c).
1611. For non-UK companies the definition of residual business is aligned with the definition used for other members of a group. It is based on paragraph 2(c) of Schedule 17 to FA 2006 which provides that residual business is all business other than property rental business.

Chapter 2: Requirements for being a UK REIT

Section 523: Notice for a group of companies to become a UK REIT

1612. This section provides that, in order to be a “group UK REIT”, the principal company of the group must give notice of entering the UK REIT regime. It is based on sections 106, 109 and 134 of, and paragraphs 5(1) and 8(1) of Schedule 17 to, FA 2006.
1613. *Subsections (1) and (2)* provide that a group of companies may give notice for the UK REIT regime to apply from a specified date. If a group notice is given, all 75% subsidiaries of the group (as defined in section 606) are included in the UK REIT regime. A new accounting period of each company in the group starts on the specified date (see section 536(5)). That new accounting period is called “accounting period 1” – see section 609.
1614. *Subsection (3)* provides that the principal company of a group may give notice only if it is a “UK company” as defined in section 521 and it is not an OEIC.
1615. It is unclear from the source legislation (in particular sections 106(2), 107(1) and 108(1) of FA 2006) whether a group becomes a UK REIT from the date specified in a section 109 of FA 2006 notice or when the various conditions set out in sections 106(2), 107(1) and 108(1) of FA 2006 are satisfied. *Subsection (4)* addresses this by making it clear that a group becomes a UK REIT from the date specified in the notice given under this section.
1616. *Subsection (5)* defines “group UK REIT” as being a group which has given notice under this section.
1617. Section 103(3) of FA 2006, which provides that “a company or group to which this Part applies may be referred to as a Real Estate Investment Trust”, is not rewritten as this expression is not used elsewhere in the legislation.
1618. *Subsection (6)* makes clear that merely giving a notice is not enough: the group must also meet the conditions in section 527.

Section 524: Notice for a company to become a UK REIT

1619. This section provides that, in order to be a “company UK REIT”, the company must give notice of entering the UK REIT regime. It is based on sections 106 and 109 of FA 2006.
1620. *Subsections (1) and (2)* provide that a company may give notice for the UK REIT regime to apply from a specified date. A new accounting period of the company starts on the specified date (see section 536(5)). That new accounting period is called “accounting period 1” – see section 609.
1621. It is possible for a company with a 75% subsidiary to give notice under subsection (3) on its own, in which case none of its 75% subsidiaries is included in the UK REIT regime.
1622. If a company UK REIT gives notice under this section and subsequently wants an existing 75% subsidiary to be brought within the regime, a group notice under section 523 needs to be given. The new notice must comply with all the requirements of section 525.
1623. If a company UK REIT gives notice under section 586(2) for a joint venture company to be treated as forming a group UK REIT with the company UK REIT, the notice does not cause any 75% subsidiaries of the company UK REIT to be brought within the regime.
1624. *Subsection (3)* provides that a company may give notice only if it is a “UK company” as defined in section 521 and it is not an OEIC.
1625. It is unclear from the source legislation (in particular sections 106(2), 107(1) and 108(1) of FA 2006) whether a company becomes a UK REIT from the date specified in a section 109 of FA 2006 notice or when the various conditions set out in sections 106(2), 107(1) and 108(1) of FA 2006 are satisfied. *Subsection (4)* addresses this by making it clear that a group becomes a UK REIT from the date specified in the notice given under this section.
1626. *Subsection (5)* defines “company UK REIT” as being a company which has given notice under this section.
1627. Section 103(3) of FA 2006, which provides that “a company or group to which this Part applies may be referred to as a Real Estate Investment Trust”, is not rewritten as this expression is not used elsewhere in the legislation.
1628. *Subsection (6)* makes clear that merely giving a notice is not enough: the company must also meet the conditions in section 527.

Section 525: Notice under section 523 or 524: supplementary

1629. This section makes supplemental provision about a notice given under section 523 or 524. It is based on sections 109(2) to (5) and 134(1) of, and paragraph 8(2) of Schedule 17 to, FA 2006.
1630. *Subsection (1)* lists what the principal company of a group or a single company must provide in order to give a valid notice under section 523 or 524.
1631. Subsection (1)(a) requires the notice to be given in writing 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 526: Duration of status as UK REIT

1632. This section provides that once a group or single company becomes a UK REIT, it continues to be a UK REIT until the regime ceases in accordance with section 571, 572 or 578. It is based on sections 110 and 134(1) of, and paragraph 4 of Schedule 17 to, FA 2006.

Section 527: Being a UK REIT in relation to an accounting period

1633. This section makes it clear that once a notice under section 523 or 524 has been given, the principal company of a group, or the company, must meet the conditions set out in the remainder of this Chapter in relation to all accounting periods. It is based on sections 106 to 108 and 134 of, and Schedule 17 to, FA 2006.
1634. *Subsection (2)(e)* provides that the principal company must prepare and submit financial statements 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 528: Conditions for company

1635. This section sets out the conditions which the principal company of a group or, in the non-group case, the company, must meet throughout each accounting period. It is based on section 106(3) to (9) of, and paragraph 3(1) of Schedule 17 to, FA 2006.

Section 529: Conditions as to property rental business

1636. This section sets out the conditions which need to be satisfied by a group or company in respect of its property rental business. It is based on sections 107(1), (3), (4) and (6), of, and paragraph 6(1) of Schedule 17 to, FA 2006.
1637. *Subsections (1) and (2)* provide that the “property rental business” (defined in section 519) must comprise at least three properties with no single property accounting for more than 40% of the total value of the properties involved in the business.
1638. *Subsection (3)* provides that, for the purposes of this section, the property rental business of a group is treated as single business.
1639. For the purposes of the conditions in subsections (1) and (2), all worldwide properties of non-UK companies are taken into account. This is because paragraph 6(1) of Schedule 17 to FA 2006 provides that “for the purposes of section 107(1) the property rental businesses of the members of the group shall be treated as a single business”.
1640. Paragraph 32(2) of Schedule 17 to FA 2006 provides that “business carried on by a non-UK resident company is property rental business for the purposes of this Part if the business would be property rental business within the meaning given by section 104 [of FA 2006] if it were carried on by a UK resident company”. So the property rental business includes the worldwide property rental business of non-UK companies. By including the worldwide property rental business of non-UK companies, condition A in section 529 is easier to satisfy. But condition B in section 529 may, depending on the circumstances, be more difficult to satisfy, for example where a non-UK company has an overseas property worth more than 40% of the total value of the properties involved in the property rental business.
1641. *Subsection (5)* excludes a percentage of the property rental business carried on by a subsidiary which is not wholly owned by the group UK REIT. The percentage is the percentage of the business excluded from the financial statements in accordance with section 533. See *Change 42* in Annex 1.

Section 530: Condition as to distribution of profits

1642. This section sets out the distribution condition which needs to be satisfied by the principal company of a group or, in the non-group case, by a company. It is based on section 107(8) and (9) of, and paragraphs 6(4) and (5) and 32(8) of Schedule 17 to, FA 2006.
1643. *Subsection (1)* provides that, in relation to an accounting period of the principal company, the principal company must distribute at least 90% of the group’s “UK profits”.

1644. *Subsection (2)* defines “UK profits” as the sum of the profits shown in the financial statements under section 532(2)(b). Section 532(3) provides that this is the sum of the profits arising from the property rental business of the UK members of the group together with the profits arising from UK property rental business carried on by non-UK companies. Section 533(3) confirms that if a non-member of the group holds a percentage of the beneficial interest in a member of a group, that percentage is excluded from the financial statements and so also from the calculation of profits which this section requires to be distributed.
1645. *Subsection (4)* provides that, in relation to an accounting period of a company, the company must distribute at least 90% of profits of the company’s property rental business.
1646. The distribution requirement in this section also applies to the relevant proportion of profits generated by joint venture companies (regulations 6(1) and 10(3) of [SI 2006/2866](#)). See section 588(1) which treats a joint venture company as a member of the group UK REIT and section 588(2) which treats a company UK REIT and a joint venture company as forming a group UK REIT.
1647. The requirement to distribute at least 90% of the group’s “UK profits”, or “profits” in the case of a company UK REIT, does not extend to chargeable gains. This contrasts with section 121 of FA 2006, rewritten in section 548 (distribution treated as UK property business income in hands of shareholder) and section 973 of ITA (deduction of sums representing income tax at source) which apply to profits *and gains* of property rental business (or UK property rental business in the case of non-UK companies).

Section 531: Conditions as to balance of business

1648. This section sets out the balance of business conditions which need to be satisfied by a group or company. It is based on sections 108(2) and (3) and 134(1) of, and paragraphs 4 and 7 of Schedule 17 to, FA 2006.
1649. *Subsection (1)* provides that at least 75% of the “aggregate profits” of the group or company must relate to property rental business. “Aggregate profits” is defined in *subsection (2)* for groups and *subsection (3)* for companies.
1650. It is not clear from the source legislation whether the balance of business tests should include the worldwide profits and assets of non-UK companies. This section includes the worldwide profits and assets of non-UK companies for the purposes of the balance of business tests.
1651. The balance of business test in this section includes the relevant proportion of property rental business of a joint venture company. See section 588(1) which treats a joint venture company as a member of a group UK REIT and section 588(2) which treats a company UK REIT and a joint venture company as forming a group UK REIT.

Section 532: Financial statements for group UK REITs

1652. This section sets out the requirements which need to be satisfied for the purposes of section 527(2)(e). It is based on paragraphs 3(3), 31(2) and 32(8) of Schedule 17 to FA 2006.
1653. According to paragraph 32(2) of Schedule 17 to FA 2006:
“business carried on by a non-UK resident company is property rental business for the purposes of the Part if the business would be property rental business ... if it were carried on by a UK resident company
1654. It follows that a financial statement required by paragraph 31(2)(a) of Schedule 17 to FA 2006 includes the worldwide property rental business of a non-resident company. This

is consistent with the rule about the *profits and gains* of a UK property rental business in paragraph 32(8)(d) of Schedule 17 to FA 2006.

- 1655. So *subsection (2)(a)* provides that the financial statements should include the worldwide property rental business of the group.
- 1656. *Subsection (2)(b)* provides that the principal company must prepare financial statements for the group's property rental business in the United Kingdom. *Subsection (3)* defines the group's property rental business in the United Kingdom as property rental business carried on by UK companies and UK property rental business of non-UK companies.
- 1657. *Subsection (2)(c)* provides that the principal company must prepare financial statements for the group's residual business. Financial statements under subsection(2)(c) relate to all business which is not property rental business. For non-UK companies "residual business" includes *worldwide business* which is not property rental business.
- 1658. The requirement to prepare financial statements under subsection (2)(a) and (b) also applies to venturing companies and venturing groups (defined in section 585) and the relevant percentage of profits of property rental business of the joint venture company. See section 588(1) which treats a joint venture company as a member of the group UK REIT and section 588(2) which treats a company UK REIT and a joint venture company as forming a group UK REIT.
- 1659. Financial statements under this section exclude any "non-member percentage" (that is, any percentage of the beneficial interest in a member of the group held by a non-member) – see section 533(3).

Section 533: Financial statements: supplementary

- 1660. This section sets out further requirements about the preparation of financial statements under section 532 and also contains a regulation-making power. It is based on paragraphs 31(3) to (7) and 32(8) of Schedule 17 to FA 2006.
- 1661. In *subsection (4)* the expression "equity holder" is not governed by the special definition in section 598.
- 1662. *Subsection (5)(c)* provides that the Commissioners may make regulations specifying the deadline for submitting a financial statement to an officer of Revenue and Customs. The section refers to an "an officer of Revenue and Customs" in subsection (5)(c) rather than to "the Commissioners". See *Change 5* in Annex 1.

Chapter 3: Tax treatment of profits and gains of UK REITs

Section 534: Profits

- 1663. This section sets out the tax treatment of profits of property rental business and residual business. It is based on sections 119 and 134(1) of, and paragraphs 17 and 32(4) of Schedule 17 to, FA 2006.
- 1664. *Subsection (1)* provides that profits of property rental business of a UK company (including a UK joint venture company) which is, or is a member of, a UK REIT are not charged to corporation tax.
- 1665. *Subsection (2)* provides that profits of UK property rental business of a non-UK member of a group UK REIT (including a non-UK joint venture company) are not charged to corporation tax.
- 1666. *Subsection (3)* provides that profits of residual business of a UK company which are charged to corporation tax are charged at a rate determined without reference to the small profits reliefs in sections 18 to 23 of this Act: those profits are charged at the main corporation tax rate.

- 1667. Subsection (3)(b) makes clear that subsection (3) is not a charging provision. The rule in this subsection applies only if the profits are already charged to corporation tax by another rule.
- 1668. Subsection (3) does not apply to non-UK companies (including non-UK joint venture companies). This is because the whole of section 119 of FA 2006 is disapplied by paragraph 17 of Schedule 17 to FA 2006 but only section 119(1) is reinstated by paragraph 32(4) of the Schedule.
- 1669. For non-UK companies subject to income tax, the normal tax rule is that they are charged to income tax at the basic rate under Chapter 2 of Part 2 of ITA on profits of residual business.
- 1670. *Subsection (4)* expands what is treated as profits of residual business for the purposes of corporation tax (and so charged to corporation tax at the main rate) to include the non-member percentage of profits which are excluded from the financial statements under section 533(3).
- 1671. Subsection (4) also applies to joint venture companies (including non-UK joint venture companies). So a percentage of profits of property rental business attributable to a non-member of a joint venture company is subject to tax at the main rate of corporation tax.

Section 535: Gains

- 1672. This section sets out how gains of property rental business and residual business are taxed. It is based on section 124, 127 and 134(1) of, and paragraphs 21 and 32(6) of Schedule 17 to, FA 2006.
- 1673. *Subsections (1) to (3) and (8)* provide that gains made by a company (including a joint venture company) which is, or is a member of, a UK REIT from property rental business are not chargeable gains.
- 1674. *Subsections (4), (5) and (8)* provide that if an asset is used partly for the purposes of property rental business (or UK property rental business in the case of a non-UK company), the gain attributable to the property rental business/UK property rental business is not a chargeable gain. These subsections also apply to joint venture companies.
- 1675. *Subsection (6)* provides that gains of residual business which are subject to corporation tax are charged at the main corporation tax rate.
- 1676. Subsection (6)(b) makes clear that subsection (6) is not a charging provision. The rule in this subsection applies only if the profits are already charged to corporation tax by another rule. See *Change 41* in Annex 1.
- 1677. Subsection (6) also applies to joint venture companies (including non-UK joint venture companies). So a percentage of gains arising from property rental business attributable to a non-member of a joint venture company is subject to tax at the main rate of corporation tax.
- 1678. *Subsection (7)* expands what is treated as gains of residual business (and so potentially subject to corporation tax at the main rate) to include the non-member percentage of gains which are excluded from the financial statements under section 533(3). Subsection (7) applies also to non-UK companies and non-UK joint venture companies.

Chapter 4: Entering the UK REIT regime

Section 536: Effects of entry: corporation tax

- 1679. This section provides that, for corporation tax purposes, when a company (including a joint venture company) enters the UK REIT regime its property rental business ceases and recommences and it is deemed to sell and reacquire the assets involved in that

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

business. This section is based on sections 111 and 134 of, and paragraphs 9, 10 and 33 of Schedule 17 to, FA 2006.

- 1680. *Subsection (1)* provides that property rental business (or UK property rental business of non-UK companies) carried on before entry to the UK REIT regime is treated as ceasing at entry for the purposes of corporation tax. As section 520(3) provides that profits of UK property rental business of non-UK companies are treated as liable to corporation tax, this section applies to all companies whether or not UK resident. See *Change 41* in Annex 1.
- 1681. *Subsections (2) to (4)* provide that, for the purposes of corporation tax, assets involved in property rental business (or UK property rental business of non-UK companies) immediately before entry to the UK REIT regime are treated as being sold and reacquired at market value on entry. Any resulting gain is not chargeable to corporation tax. The only non-UK companies affected by this rule are those that are resident both in the United Kingdom and in another territory. See *Change 41* in Annex 1.
- 1682. The final words of subsection (2)(b) ensure that the reacquired assets are held by the company within the UK REIT regime.
- 1683. *Subsection (5)* provides that, for corporation tax purposes, an accounting period ends and begins again on entry to the regime. The subsection also applies to non-UK companies. See *Change 41* in Annex 1.
- 1684. *Subsection (6)(a)* provides that if a percentage of the assets of a member of a group UK REIT is excluded from the financial statements because that percentage is attributable to a non-member, the percentage is ignored for the purposes of subsection (2).

Section 537: Effects of entry: CAA 2001

- 1685. This section is supplementary to section 536 and modifies how CAA operates when a company (including a joint venture company) enters the UK REIT regime. It is based on sections 111(4) and 134(1) of, and paragraph 9 of Schedule 17 to, FA 2006.

Section 538: Entry charge

- 1686. This section provides for an amount of notional income (calculated in accordance with section 539) to be chargeable to tax on a company on entry to the UK REIT regime. It is based on sections 112(1), (2) and (4) and 134(1) of, and paragraphs 11 and 33 of Schedule 17 to, FA 2006.
- 1687. *Subsection (2)* provides that the notional amount is treated as arising in the company's residual business. This ensures that the amount is not treated as arising in the company's property rental business and so not chargeable to tax.
- 1688. It is not clear from section 112(2) of FA 2006 what rate of tax applies to UK joint venture companies. And [SI 2006/2866](#) does not specify the rate of tax applicable for the purposes of section 112 of FA 2006. Subsection (3) of this section and section 539(5)(a) make it clear that UK joint venture companies are treated in the same way as other UK companies and consequently the rate of tax used is the rate used in section 534(3).
- 1689. From a practical point of view, this has no effect as the entry charge remains 2% of the market value of assets involved in UK property rental business.
- 1690. *Subsection (4)* provides that non-UK companies (including non-UK joint venture companies), are chargeable to income tax on the notional amount at the basic rate under section 11 of ITA.

Section 539: Calculation of the notional amount

1691. This section sets out how to calculate the amount of notional income for the purposes of section 538. It is based on sections 112(3) and 134(1) of, and paragraphs 9(4), 10(2) and 11(1) of Schedule 17 to, FA 2006.
1692. *Subsection (3)* defines “MV” as the total market value of assets which are involved in property rental business of the company (or UK property rental business in the case of non-UK companies) immediately before entry to the UK REIT regime.
1693. *Subsection (4)* provides that if a percentage of the assets is excluded from the financial statements because it is attributable to a non-member, that percentage is ignored for the purposes of “MV”.
1694. *Subsection (5)(a)* defines “TR” for UK companies as the rate mentioned in section 534(3) (the main rate of corporation tax).
1695. *Subsection (5)(b)* defines “TR” for non-UK companies (including non-UK joint venture companies) as the basic rate of income tax.

Section 540: Election to treat notional income as arising in instalments

1696. This section provides that a company (including a joint venture company) may elect to pay the entry charge in instalments. It is based on sections 112(5) to (7) and 134(1) of, and paragraph 11(1) of Schedule 17 to, FA 2006.
1697. *Subsection (3)* refers 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.

Chapter 5: Assets etc

Section 541: Ring-fencing of property rental business

1698. This section provides that, for corporation tax purposes, property rental business (or UK property rental business in the case of non-UK companies) is treated as a separate business from any other business carried on by a group UK REIT or by a company UK REIT. Also, to the extent that the UK REIT carries on such a business, it is treated as a separate group or company from the rest of the group or company. This section is based on sections 113(1) to (4) and 134(1) of, and paragraphs 12 and 32(3) of Schedule 17 to, FA 2006.
1699. *Subsections (1) and (8)* provide that this section applies to a group UK REIT, each member of the group (including a non-UK company) and a company UK REIT. See *Change 41* in Annex 1.
1700. This section ring-fences the property rental business, rather than the “tax-exempt business”. This avoids the problem of how the section applies in a case where the company or group breaches the property rental business conditions in section 529. Such a breach apparently leads to the company or group no longer having “tax-exempt business” for the purpose of section 113 of FA 2006.
1701. This section applies to joint venture companies (including non-UK joint venture companies which are subject to corporation tax).
1702. *Subsection (7)* provides that if a percentage of the profits of property rental business are excluded from the financial statements because they are attributable to a non-member, that percentage is treated as profits of residual business.

Section 542: Disapplication of certain provisions

1703. This section applies to UK companies and allows losses from overseas property rental business to be used against other property rental business income and disapplies the

exemption from the transfer pricing rules for small and medium sized enterprises. It is based on sections 113(5) and (6) and 134(1) of, and paragraph 12(2) of Schedule 17 to, FA 2006.

1704. *Subsection (1)* provides that section 66 of this Act (ring-fencing of losses from overseas property business) does not apply to property rental business of a UK company (including a UK joint venture company). The rule applies only to UK companies because non-UK resident companies are not subject to United Kingdom tax on the profits of an overseas property business.
1705. *Subsection (2)* provides that sections 166 to 171 of TIOPA (transfer pricing: exemption for small and medium sized enterprises) do not apply to a UK company. This means that all UK companies regardless of size, which are subject to this Part, are subject to the transfer pricing rules.

Section 543: Profit: financing-cost ratio

1706. This section provides that if the result of the sum specified in subsection (2) is less than 1.25, “the excess” calculated in accordance with subsection (3) is charged to corporation tax. It is based on sections 115(1) to (3) and 134(1) of, and paragraph 4 of Schedule 17 to, FA 2006.
1707. This section enacts regulations 12 and 13 of [SI 2006/2864](#). See *Change 43* in Annex 1.
1708. *Subsection (2)* sets out the formula to calculate the ratio used to arrive at the “excess” in subsection (3). The definitions of “PP” and “PFC” refer to “property profits” and “property financing costs” and are defined further in section 544.
1709. This section applies to the relevant proportion of a joint venture company’s property profits and property financing costs in the same way as for any other member of a group UK REIT. See *Change 43* in Annex 1.
1710. *Subsection (3)* provides that the difference between the actual property financing costs of the UK REIT and the amount that would cause the sum specified in subsection (2) to be 1.25 (“the excess”), is charged to corporation tax. *Subsections (4) and (5)* provide that the excess amount is treated as if it were profits of residual business of the principal company of a group UK REIT or a company UK REIT. This means that the rate of tax is the main rate of corporation tax as mentioned in section 534(3).

Section 544: Meaning of “property profits” and “property financing costs”

1711. This section defines “property profits” and “property financing costs” for the purposes of section 543. It is based on sections 115(2) and (4), 120(1) and 134(1) of, and paragraphs 3 and 14 of Schedule 17 to, FA 2006.
1712. *Subsections (1) and (3)* define “property profits” and “property financing costs” respectively for the purposes of section 543.

Section 545: Cancellation of tax advantage

1713. This section provides that an officer of Revenue and Customs may counteract a tax advantage obtained by a company which is, or is a member of, a UK REIT (including a joint venture company) if the officer thinks that the company has tried to obtain a tax advantage. It is based on sections 117(1) to (5) and 134(1) of, and paragraph 15(1) of Schedule 17 to, FA 2006.
1714. *Subsections (1), (4) and (6)* 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.

1715. *Subsection (3)* sets out how a tax advantage may be counteracted. Subsection (3)(a) provides that an assessment may be made on the company. For non-UK companies, such an assessment may be to income tax or corporation tax.
1716. *Subsection (4)* provides that an officer of Revenue and Customs may assess (in addition to the assessment mentioned in subsection (3)(a)) a UK REIT to an amount of tax to cancel out the tax advantage.

Section 546: Appeal against notice under section 545

1717. This section provides that a company which is, or is a member of, a UK REIT (including a joint venture company) may appeal against a notice given under section 545. It is based on section 117(6) to (8) and 134(1) of, and paragraph 15(2) of Schedule 17 to, FA 2006.
1718. *Subsection (2)* refers 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 547: Funds awaiting reinvestment

1719. This section determines how cash proceeds from the sale of assets used for property rental business are treated. It is based on sections 118 and 134(1) of, and paragraph 16 of Schedule 17 to, FA 2006.
1720. *Subsection (1)* provides that the section applies if a company which is, or is a member of, a UK REIT disposes of an asset used wholly and exclusively for the purposes of property rental business and holds the proceeds in cash.
1721. Section 118 of FA 2006 applies to a company that disposes of an asset and holds cash. Section 134 of FA 2006 applies the rule to a group as it applies to a company. A group cannot dispose of an asset but it may hold cash. There is no justification in section 134 of FA 2006 for saying that the cash has to be held in a particular place in the group.
1722. So this section refers to a member of a group disposing of an asset but makes clear that the proceeds may be held within the group by a company different from that which disposed of the asset.
1723. *Subsection (5)* deals with assets that have had mixed use. The “wholly and exclusively” rule in subsection (1)(a) is relaxed for periods of mixed use that are of at least one year. The section applies the one year test to the aggregate of the periods of mixed use.
1724. This section also applies to:
- the worldwide property rental business of non-UK companies; and
 - joint venture companies (including non-UK joint venture companies).

Chapter 6: Distributions

Section 548: Distributions: liability to tax

1725. This section provides that distributions of profits and gains of property rental business in the United Kingdom are treated as income of a UK property business rather than as dividend income in the hands of the shareholder. It is based on sections 121(1), (2) and (8) and 134(1) of, and paragraphs 18(1) and (3) and 32(8) of Schedule 17 to, FA 2006.
1726. *Subsections (1)* and *(3)* provide that the section applies to a distribution of “profits or gains (or both)”. This reflects the inclusion of gains by section 121(8)(b) of FA 2006. The inclusion of gains here contrasts with the rule in section 530 (the distribution of profits test), where the test is concerned only with the (income) profits of property rental business.

1727. *Subsection (5)* provides that if the shareholder is within the charge to corporation tax, the distribution is treated as profits of a UK property business. So the income falls within Part 4 of CTA 2009. Section 931W(2) of CTA 2009 ensures the distribution is not charged to tax under Part 9A of CTA 2009.
1728. *Subsection (6)* (which is based on section 121(1)(b) of FA 2006) provides that if the shareholder is within the charge to income tax, the distribution is treated as profits of a UK property business. So the income falls within Part 3 of ITTOIA. Section 366(2) of ITTOIA ensures that the distribution is not treated as savings and investment income (including dividends).
1729. Section 121(2)(a) of FA 2006 is not rewritten because it deals with a case (non-UK resident company within the charge to corporation tax) that is already covered by section 121(1)(a) (shareholder within the charge to corporation tax).
1730. Section 121(2)(b) of FA 2006 is not rewritten because it deals with a case (non-UK resident not within the charge to corporation tax) that is already covered by section 121(1)(b) (shareholder within the charge to income tax).
1731. *Subsection (7)* provides that in the case of a non-UK resident shareholder, a distribution is not subject to a duty to deduct at source in accordance with regulations made under section 971 of ITA. Schedule 1 to this Act amends section 972(6) of ITA so that it refers to this subsection.

Section 549: Distributions: supplementary

1732. This section makes further provision about section 548. It is based on sections 121(3) to (7) and 134(1) of, and paragraphs 18(1) and (2) and 32(8) of Schedule 17 to, FA 2006.
1733. *Subsection (1)* provides that section 548 does not apply to certain types of shareholders.
1734. *Subsection (2)* (together with *subsection (3)*) provides that neither section 397 of ITTOIA nor section 1109 of this Act (tax credits in respect of (exempt) qualifying distributions) do not apply to distributions made by the principal company of a group UK REIT or by a company UK REIT of profits or gains (or both) of property rental business.
1735. Section 121(8)(b) of FA 2006 applies only to section 121(1) of FA 2006. So it is arguable that it does not apply to the rule in section 121(5). But subsection (4) of this section applies to the same distributions (including distributions of gains) as are dealt with by section 548.
1736. *Subsection (4)* provides that relevant distributions (as defined in subsection (3)) are treated as profits of a single business separate from the businesses mentioned in *subsection (5)*.

Section 550: Attribution of distributions

1737. This section sets out how distributions are attributed between the property rental business of a UK REIT and any other business. It is based on sections 123 and 134(1) of, and paragraph 20 of Schedule 17 to, FA 2006.

Section 551: Tax consequences of distribution to holder of excessive rights

1738. This section sets out the tax consequences of a distribution made to a “holder of excessive rights” (defined in section 553) if the distributing company has not taken steps to prevent it. It is based on section 114 of, and paragraph 13 of Schedule 17 to, FA 2006.
1739. This section enacts regulation 10 of [SI 2006/2864](#). See *Change 43* in Annex 1.
1740. *Subsections (1) to (3)* provide that when a distribution is made to a holder of excessive rights and the distributing company has not taken reasonable steps to prevent its being

made, the distributing company is treated as receiving an amount of income calculated in accordance with section 552.

1741. *Subsections (4) to (6)* provide that the amount is charged to corporation tax as if it were profits of residual business of the distributing company. This means that the rate of tax is the main rate of corporation tax as mentioned in section 534(3).

Section 552: “The section 552 amount”

1742. This section sets out how the “section 552 amount” is calculated for the purposes of section 551. It is based on section 114(2) of, and paragraphs 2 and 13 of Schedule 17 to, FA 2006.
1743. This section enacts regulation 10 of [SI 2006/2864](#). See *Change 43* in Annex 1.
1744. *Subsections (2) and (3)* define “DO” (distribution in respect of ordinary shares) and “DP” (distribution in respect of preference shares) for a group UK REIT by reference to the group’s “UK profits” (as defined in section 530(2)). For a company UK REIT, “DO” and “DP” are defined by reference to the “profits of property rental business of the company”.

Section 553: Meaning of “holder of excessive rights”

1745. This section defines “holder of excessive rights”. It is based on section 114(1) and 134(1) of, and paragraph 13 of Schedule 17 to, FA 2006.
1746. This section enacts regulation 1(2) of [SI 2006/2864](#). See *Change 43* in Annex 1.

Section 554: Regulations: distributions to holders of excessive rights

1747. This section allows the Treasury to make regulations dealing with distributions made to holders of excessive rights. It is based on section 114 of, and paragraph 13 of Schedule 17 to, FA 2006.
1748. The section reproduces neither the general regulation-making power in section 114(1) nor the specific power in section 114(2)(a) of FA 2006. See *Change 43* in Annex 1.

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. *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.
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.

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.

Chapter 9: Leaving the UK REIT regime

Section 570: Overview of Chapter

1794. This section is an overview of the Chapter. It is new.

Section 571: Termination by notice: group or company

1795. This section provides that the principal company of a group UK REIT or a company UK REIT may give notice to an officer of Revenue and Customs for the UK REIT regime to cease for the group or company. It is based on sections 128 and 134(1) of, and paragraph 23 of Schedule 17 to, FA 2006.

1796. *Subsection (3)* requires the notice to be given to an “officer of Revenue and Customs” rather than to “the Commissioners of Her Majesty’s Revenue and Customs”. *Subsection (4)* requires that the date on the notice must be after the date the “officer” receives the notice. See *Change 5* in Annex 1.

Section 572: Termination by notice: officer of Revenue and Customs

1797. This section provides that, in certain circumstances, an officer of Revenue and Customs may give a notice to the principal company of a group UK REIT or a company UK REIT that the group or company ceases to be within the UK REIT regime. It also provides a right of appeal. It is based on sections 129 and 134(1) of, and paragraphs 23 and 24 of Schedule 17 to, FA 2006.

1798. *Subsections (1), (2) and (4)* require the notice to be given by an “officer of Revenue and Customs” rather than by “the Commissioners for Her Majesty’s Revenue and Customs”. *Subsection (5)* provides that an appeal must be made by the UK REIT by giving notice in writing to an “officer of Revenue of Customs” rather than to “the Commissioners for Her Majesty’s Revenue and Customs”. See *Change 5* in Annex 1.

Section 573: Notice under section 572: tax advantage

1799. This section provides that if, during a ten year period, two notices have been given under section 545 (cancellation of tax advantage), an officer of Revenue and Customs may give a notice under section 572 terminating the UK REIT regime. It is based on sections 129(2) and 134(1) of FA 2006.

1800. *Subsection (1)* requires the notice to be given by an “officer of Revenue and Customs” rather than by “the Commissioners for Her Majesty’s Revenue and Customs”. See *Change 5* in Annex 1.

1801. *Subsections (2) to (4)* enact regulation 14 of [SI 2006/2864](#). See *Change 43* in Annex 1.

Section 574: Notice under section 572: serious breach

1802. This section provides that if an officer of Revenue and Customs thinks a breach of a condition in sections 529 to 531 is so serious that the UK REIT regime should be terminated, the officer may give a notice under section 572 terminating the regime. It is based on sections 116(1) and (3), 129(2) and 134(1) of FA 2006.

1803. *Subsection (1)* requires the notice to be given by an “officer of Revenue and Customs” rather than by “the Commissioners for Her Majesty’s Revenue and Customs”. See *Change 5* in Annex 1.

1804. *Subsections (2) and (3)* enact regulation 7(4) and (5) of [SI 2006/2864](#). See *Change 43* in Annex 1.

Section 575: Notice under section 572: breach of conditions as to property rental business

1805. This section sets out the circumstances in which an officer of Revenue and Customs may issue a notice under section 572 to terminate the UK REIT regime if there is a breach of either condition A or B in section 529. It is based on sections 116(1) and (3), 129(2) and 134(1) of FA 2006.
1806. *Subsection (1)* requires the notice to be given by an “officer of Revenue and Customs” rather than by “the Commissioners for Her Majesty’s Revenue and Customs”. See *Change 5* in Annex 1.
1807. This section enacts regulation 5(2) and (5) of [SI 2006/2864](#). See *Change 43* in Annex 1.

Section 576: Notice under section 572: breach of conditions as to balance of business

1808. This section sets out the circumstances in which an officer of Revenue and Customs may issue a notice under section 572 to terminate the UK REIT regime if there is a breach of either condition A or B in section 531. It is based on sections 116(1) and (3), 129(2) and 134(1) of FA 2006.
1809. *Subsection (1)* requires the notice to be given by an “officer of Revenue and Customs” rather than by “the Commissioners for Her Majesty’s Revenue and Customs”. See *Change 5* in Annex 1.
1810. This section enacts regulation 7B(4) to (7) of [SI 2006/2864](#). See *Change 43* in Annex 1.

Section 577: Notice under section 572: multiple breaches of conditions in Chapter 2

1811. This section provides that if there are multiple breaches of certain Chapter 2 conditions, an officer of Revenue and Customs may issue a notice under section 572 to terminate the UK REIT regime. It is based on sections 129(2) and (3) and 134(1) of FA 2006.
1812. *Subsection (1)* requires the notice to be given by an “officer of Revenue and Customs” rather than by “the Commissioners for Her Majesty’s Revenue and Customs”. See *Change 5* in Annex 1.
1813. This section enacts regulation 8 of [SI 2006/2864](#). See *Change 43* in Annex 1.
1814. *Subsection (7)(a)* provides that if a member 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) or condition D (not a close company) in section 528, the breaches are ignored.

Section 578: Automatic termination for breach of certain conditions in section 528

1815. This section provides that the UK REIT regime automatically terminates if condition A, B, E or F in section 528 is breached. The company which gave notice under section 523 or 524 must notify an officer of Revenue and Customs of the breach. The section is based on sections 130 and 134(1) of, and paragraphs 4 and 23 of Schedule 17 to, FA 2006.
1816. *Subsection (3)* requires the notice to 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 579: Effects of cessation: corporation tax

1817. This section sets out what happens if a group UK REIT, a member of a group UK REIT (including a joint venture company) or a company UK REIT ceases to be within the

UK REIT regime. It is based on sections 131 and 134 of, and paragraphs 25, 26 and 33 of Schedule 17 to, FA 2006.

1818. This section also applies to non-UK companies (including non-UK joint venture companies). See *Change 41* in Annex 1.
1819. *Subsections (3) and (8)* provide that property rental business (or UK property rental business in the case of a non-UK company) of an exiting company is treated for corporation tax purposes as ceasing immediately before cessation of the UK REIT regime.
1820. *Subsections (4) and (8)* provide that assets “involved” in the property rental business (or UK property rental business in the case of a non-UK company) immediately before cessation are treated as being sold immediately before cessation and reacquired immediately afterwards. See section 608(3) for the definition of an asset “involved” in property rental business.

Section 580: Effects of cessation: CAA 2001

1821. This section is supplementary to section 579 and modifies how CAA operates if a company (including a joint venture company) ceases to be in the UK REIT regime. It is based on sections 131(4) and 134(1) of, and paragraphs 25(1) and 26(1) of Schedule 17 to, FA 2006.

Section 581: Early exit by notice

1822. This section sets out what happens if a UK REIT or a member of a group UK REIT (including a joint venture company) that was within the UK REIT regime for less than ten years disposes of an asset within two years of giving notice to leave the UK REIT regime. It is based on sections 132 and 134(1) of, and paragraphs 4, 27 and 28 of Schedule 17 to, FA 2006.
1823. This section applies to UK property rental business of non-UK companies (including non-UK joint venture companies) and subsection (7) applies to non-UK companies. See *Change 41* in Annex 1.
1824. *Subsection (4)* provides that one of the conditions for subsection (6) to apply is that assets “involved” in the property rental business (or UK property rental business in the case of a non-UK company) are disposed of within two years of cessation of the UK REIT regime. See section 608(3) for the definition of an asset “involved” in property rental business.

Section 582: Early exit

1825. This section allows HMRC to make certain directions if a group UK REIT or company UK REIT ceases to be a UK REIT within ten years of entering the regime as a result of section 572 (termination by officer) or section 578 (automatic termination). It is based on sections 133 and 134(1) of, and paragraph 4 and 29 of Schedule 17 to, FA 2006.
1826. *Subsection (2)* allows an “officer of Revenue and Customs” to make the direction rather than “the Commissioners for Her Majesty’s Revenue and Customs”. See *Change 5* in Annex 1.

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.

Chapter 11: Part 12: supplementary

Section 599: Calculation of profits

1887. This section provides for the calculation of profits for the purposes of certain provisions in the Part. It is based on section 120 of FA 2006.
1888. This section applies to non-UK companies and joint venture companies (including non-UK ones).
1889. *Subsection (7)* requires income and expenditure to be “apportioned on a just and reasonable basis”. It is based on section 120(6) of FA 2006 which states that income and expenditure be “apportioned reasonably”. See *Change 33* in Annex 1.

Section 600: Power to make regulations about cases involving related persons

1890. This section allows the Treasury, by order, to treat persons as forming part of a group REIT. It is based on section 136A of FA 2006.
1891. An order under this section is intended to counteract arrangements by which a company with non-qualifying activities is artificially excluded from a group of companies with the result that the balance of business tests are satisfied.
1892. In *subsection (2)* “REIT company” is defined, for the purpose of subsection (1) only, to include the members of a group UK REIT. In this respect it differs from the definitions in section 518(4).
1893. *Subsection (5)* ensures that this section is an exception to the general rule about orders and regulations in section 1171(4).

Section 601: Availability of group reliefs

1894. This section provides that the part of a group UK REIT that carries on property rental business is treated as a separate group from the part that carries on other business for the purposes of various group-related provisions. It is based on section 136 of FA 2006.

Section 602: Effect of deemed disposal and reacquisition

1895. This section provides that a deemed disposal and reacquisition of an asset under this Part has effect for any future disposal. It is based on section 141 of FA 2006.

Section 603: Regulations

1896. This section provides that regulations made under the Part may make provision for various other purposes. It is based on section 144 of FA 2006.
1897. This section is in line with other general regulation-making provisions and includes a specific reference to the making of “supplemental” provision.

Section 604: Property rental business: exclusion of listed business

1898. This section provides a list of classes of businesses that are not property rental business. It is based on section 104(2) of, and paragraphs 1 to 5 and 14 of Schedule 16 to, FA 2006.

Section 605: Property rental business: exclusion of business producing listed income

1899. This section provides that business is not property rental business in so far as it gives rise to certain income. It is based on section 104(2) of, and paragraphs 6 to 14 of Schedule 16 to, FA 2006.
1900. *Subsection (1)* provides that business is not property rental business in so far as it gives rise to income of a class referred to in *subsection (2)*. Section 104(2)(b) of FA 2006 refers to “income or profits...”. It is unclear what the reference to “profits” is intended to catch. So this section omits the reference to profits.

Section 606: Groups

1901. This section sets out which companies are treated as part of a group for the purposes of the Part. It is based on section 134(2) to (6) of FA 2006.
1902. *Subsection (3)* provides that a company cannot be a member of more than one group. But that rule is disappplied for the joint venture Chapter by *subsection (4)*. So a company may be a member of a joint venture group (see section 584(2)) and a member of another group. And a company may be a member of more than one group UK REIT.

Section 607: Meaning of “entry” and “cessation” etc

1903. This section contains definitions related to a company or group becoming, or ceasing to be, a UK REIT. It is based on sections 105(1) and (2) and 134(1) of, and paragraphs 4 and 10 to 12 of Schedule 17 to, FA 2006.

Section 608: References to assets

1904. This section explains what is meant by a reference to an asset and when that asset is “involved” in a business. It is based on sections 108(3), 111(6), 131(6), 132(3) and 142 of FA 2006.

Section 609: Definitions

1905. This section contains a list of definitions for this Part. It is based on section 142 of FA 2006.