

SCHEDULES

SCHEDULE 7

Section 8

REAL ESTATE INVESTMENT TRUSTS

Amendment of CTA 2010

1 CTA 2010 is amended in accordance with paragraphs 2 to 10.

CoACS to be institutional investors

2 In Section 528 (conditions for company), in subsection (4A), after paragraph (b) insert—

“(ba) a person acting on behalf of an authorised contractual scheme (within the meaning given by section 237(3) of FISMA 2000) which is a co-ownership scheme (within the meaning given by section 235A of that Act) that meets the genuine diversity of ownership condition or the non-close condition;”.

Non-close condition

3 (1) Section 528 is amended as follows.

(2) In subsection (4)—

(a) in the words before paragraph (a), after “company” insert “meets the non-close condition.”, and

(b) omit paragraphs (a) and (b).

(3) After subsection (4B) insert—

“(4C) The non-close condition is met—

(a) in relation to a company, if—

(i) it is not a close company, or

(ii) it is a close company but only because it has an institutional investor as a direct or indirect participator, and

(b) in relation to a person or scheme other than a company, if it would fall within paragraph (a)(i) or (ii) if—

(i) the person’s business or the scheme were a company, and

(ii) the interests of persons in the business or scheme were shares in the company.”

(4) In subsection (5), for “subsection (4)(a)” substitute “determining whether the non-close condition is met”.

(5) After subsection (5A) (as inserted by paragraph 4) insert—

“(5B) For the purposes of subsection (4C)(a)(ii)—

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- (a) a person is a “direct participator” if the person is a participator for the purposes of Part 10 of CTA 2010 (see section 454), and
 - (b) a person is an “indirect” participator in a company if the person has a share or interest in the capital or income of the company through another body corporate or other bodies corporate.
- (5C) In determining whether a person is an indirect participator—
- (a) reference to having a share or interest in the capital or income of a company through a body corporate is to be read in accordance with sub-paragraphs (9) and (10) of paragraph 46 of Schedule 5AAA to TCGA 1992 (meaning of direct or indirect participator), and
 - (b) a person is regarded for the purposes of those sub-paragraphs, and for the purposes of subsection (5B)(b) of this section, as having a share or interest in the capital or income of a company if the person would be a participator in the company as a result of section 454(2) of CTA 2010.”
- (6) Section 528 has effect, and is to be deemed always to have had effect, with the amendments made by [this paragraph](#).

Certain institutional investors required to meet GDO or non-close condition

- 4 (1) Section 528 is further amended as follows.
- (2) In subsection (4A)—
- (a) in paragraph (a)—
 - (i) in sub-paragraph (i), after “2000” insert “that meets the genuine diversity of ownership condition (see section 528ZB(2)) or the non-close condition”, and
 - (ii) in sub-paragraph (ii), after “Act” insert “and that meets the genuine diversity of ownership condition or the non-close condition”,
 - (b) in paragraph (b)—
 - (i) in sub-paragraph (i), after “Act” insert “and that meets the genuine diversity of ownership condition or the non-close condition”,
 - (ii) in sub-paragraph (ii), for “and” substitute “that”, and
 - (iii) in that sub-paragraph, after “2000” insert “and that meets the genuine diversity of ownership condition or the non-close condition”,
 - (c) in paragraph (c), after “2000” insert “that meets the genuine diversity of ownership condition or the non-close condition”, and
 - (d) in paragraph (e), after “who” insert “meets the non-close condition and who”.
- (3) After subsection (4C) (as inserted by [paragraph 3](#)) insert—
- “(4D) But for the purposes of applying the non-close condition for the purpose of any of paragraphs (a) to (c) of subsection (4A), subsection (4C) has effect as if—
- (a) paragraph (a)(ii) were omitted, and
 - (b) in paragraph (b), in the words before sub-paragraph (i), “or (ii)” were omitted.”

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

- (4) In subsection (5) (as amended by [paragraph 3](#))—
- (a) the words from “a company” to the end become paragraph (a),
 - (b) after that paragraph insert “, and
 - (b) ignore paragraph (a) of section 442 (non-UK resident companies deemed not to be close).”
- (5) After subsection (5) insert—
- “(5A) But subsection (5)(a) does not apply for the purpose of determining whether a person acting in the course of a long term insurance business meets the non-close condition.”
- (6) After subsection (5C) (as inserted by [paragraph 3](#)) insert—
- “(5D) In determining whether a company is a close company for the purposes of the non-close condition—
- (a) the rights and powers of a person (“A”) are not to be attributed to another person (“P”) merely because A is a partner of P for the purposes of any attribution under section 451(4) (rights of a person's associates to be attributed to the person etc in determining “control”), and
 - (b) a company (“C”) is not to be regarded as a close company only because a person possesses or is entitled to acquire 50% or more of the voting power in C as a result of being—
 - (i) a manager of a collective investment vehicle (within the meaning of Schedule 5AAA to TCGA 1992), or
 - (ii) a general partner in a limited partnership which is a collective investment scheme.”
- (7) In section 528ZA, in subsection (7), for the words from “which” to the end substitute “if a person acting on behalf of it would be an institutional investor as a result of section 528(4A)(c)”.
- (8) In section 528ZB—
- (a) for the heading substitute “Genuine diversity of ownership condition”,
 - (b) omit subsection (1),
 - (c) omit subsection (5), and
 - (d) in subsection (7), after “section” insert “—
“collective investment scheme” has the meaning it has in section 235 of FISMA 2000;”.
- (9) In consequence of the other amendments made by [this paragraph](#), in Schedule 5AAA to TCGA 1992, in paragraph 46(3)(a), for “section 528(4A)(a), (b), (c), (i) or (j)” substitute “section 528(4A)(i) or (j)”.

Paragraph 4: transitional provision

- 5 (1) [Sub-paragraph \(2\)](#) applies where—
- (a) immediately before the day on which this Act is passed, a company that is a company UK REIT or the principal member of a group UK REIT, met the conditions in section 528 of CTA 2010, and

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- (b) the company ceases to meet one or more of those conditions on that day as a result of one or more persons ceasing to be regarded as institutional investors as a result of the amendments made by [paragraph 4](#).
- (2) Part 12 of CTA 2010 has effect in relation to such a person for the purposes of determining whether the company meets those conditions as if the amendments made by [paragraph 4](#) had not been made for so long as the person’s interest in the company as a proportion of all interests in the company—
- (a) does not increase as a result of the acquisition by the person of further interests in the company, and
 - (b) continuously remains relevant to the question of whether those conditions are met.
- (3) [Sub-paragraph \(4\)](#) applies where—
- (a) immediately before the day on which this Act is passed, a collective investment vehicle, or a company that is not a collective investment vehicle, (“the reliant entity”) relied on its having a qualifying investor as a direct or indirect participator for the purpose of any provision of Schedule 5AAA to TCGA 1992 (“a qualifying purpose”), and
 - (b) the qualifying investor (“the former qualifying investor”) ceased to be a qualifying investor a result of the amendments made by [paragraph 4](#).
- (4) That Schedule has effect in relation to the former qualifying investor for a qualifying purpose as if the amendments made by [paragraph 4](#) had not been made for so long as—
- (a) the investor’s interest in the reliant entity as a proportion of all interests in the entity does not increase as a result of the acquisition by the investor of further interests in the reliant entity, and
 - (b) the investor being a direct or indirect participator in the reliant entity continuously remains relevant for at least one qualifying purpose.
- (5) [Sub-paragraph \(6\)](#) applies when determining whether a collective investment scheme constituted before the day on which this Act is passed meets the genuine diversity of ownership condition for the purposes of any of paragraphs (a) to (c) of section 528(4A).
- (6) Regulation 75(2) of the Offshore Funds (Tax) Regulations 2009 (including as it applies for the purposes of regulation 75(5) of those Regulations) has effect, for those purposes, as if it referred to a statement prepared by the manager of the scheme (instead of the documents referred to in that paragraph) which—
- (a) is available to HMRC,
 - (b) specifies the intended categories of investor when the scheme was marketed,
 - (c) confirms that the interests in the scheme were made widely available, and
 - (d) confirms that interests in the scheme were marketed and made available in accordance with the requirements of regulation 75(4)(a) of those Regulations (and that provision is to be read accordingly).

Insurance companies may be included in group UK REIT

- 6 (1) Section 606 (meaning of group) is amended as follows.
- (2) In subsection (2), omit paragraphs (b) and (c) (but not the “or” at the end of paragraph (c)).

- (3) In subsection (5), omit the definitions of “insurance company” and “insurance subsidiary”.

Property financing costs

- 7 (1) Section 544 (meaning of “property profits” and “property financing costs”) is amended as follows.
- (2) In subsection (3)(a), for “property rental business of members of the group” substitute “the group’s property rental business in the United Kingdom”.
- (3) After subsection (3) insert—
- “(3A) The reference in subsection (3)(a) to the group’s property rental business in the United Kingdom is a reference to—
- (a) property rental business of UK members of the group, and
- (b) UK property rental business of other members.”
- (4) Section 544 has effect, and is to be deemed always to have had effect, with the amendments made by [sub-paragraphs \(2\)](#) and [\(3\)](#).
- (5) After subsection (4) insert—
- “(4A) But property financing costs do not (for the purposes of section 543) include any expense for which a deduction would not be allowed in calculating profits in accordance with section 599, other than an expense which is disallowed only as a result of the application of Part 10 of TIOPA 2010 (corporate interest restriction).”
- (6) The amendment made by [sub-paragraph \(5\)](#) has effect for accounting periods ending on or after 1 April 2023.

Single property rule

- 8 In section 529 (conditions as to property rental business)—
- (a) in subsection (2A)—
- (i) after “is” insert “, or was at any time from the relevant time,”
- (ii) for “exceeds” substitute “in excess of”, and
- (iii) omit “at the relevant time”, and
- (b) in subsection (2B)—
- (i) in the words before paragraph (a), after “means” insert “the later of”
- (ii) for paragraphs (a) and (b) substitute—
- “(a) entry, and
- (b) when the property was acquired.”

Disposal of rights or interests in UK property rich funds

- 9 (1) Section 535A (disposals of rights or interests in UK property rich companies) is amended as follows.
- (2) After subsection (7) insert—

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

“(7A) Any such reference also includes the disposal of a right or interest in a fund (a “relevant fund”) that—

- (a) is an authorised contractual scheme (within the meaning given by section 237(3) of FISMA 2000) which is a co-ownership scheme (within the meaning given by section 235A of that Act), and
- (b) is UK property rich as determined in accordance with paragraph 3 of Schedule 5AAA to TCGA (UK property rich collective investment vehicles etc).”

(3) In subsection (8) after “subsection (7)” insert “or (7A)”.

Holders of excessive rights

10 (1) In section 551 (tax consequences of distribution to holder of excessive rights), in subsection (1)(a), for “(as)” substitute “that is not an excluded holder (both as)”.

(2) In section 553 (meaning of “holder of excessive rights”)—

- (a) in the heading, after “rights” insert “and “excluded holder””,
- (b) in subsection (1), omit the words after paragraph (b), and
- (c) after subsection (4) insert—

“(4A) For the purposes of section 551, a holder of excessive rights is an “excluded holder” if—

- (a) in accordance with double taxation arrangements (within the meaning of section 2(4) of TIOPA 2010), the holder is taxed at a particular rate, or not taxed at all, on distributions from a UK REIT, unless the sole reason for that treatment is the size of the holder’s interest in the UK REIT, or
- (b) the holder is a person to whom a payment of a distribution must be made without deduction of income tax in accordance with regulation 7 of the Real Estate Investment Trusts (Assessment and Recovery of Tax) Regulations 2006 ([S.I. 2006/2867](#)) (gross payment of distributions).”

Corporate interest restriction and disposal of interests in UK property rich companies

11 (1) Section 452 of TIOPA 2010 (corporate interest restriction: REITs) is amended as follows.

(2) In subsection (1)(b), after “(5)” insert “, or section 535A(2),”.

(3) In subsection (4)(b), after “(5)” insert “, or section 535A(2),”.