

1 Real estate investment trusts

Schedule 1 makes amendments to the corporation tax regime for real estate investment trusts.

SCHEDULE 1

Section 1

REAL ESTATE INVESTMENT TRUSTS

Amendment of CTA 2010

1 CTA 2010 is amended in accordance with paragraphs 2 to 6.

Certain institutional investors required to be widely held

2 (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) 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”.

(4) 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.”
- (5) In subsection (5), for “subsection (4)(a)” substitute “subsection (4C)(a)(i)”.
- (6) After that subsection insert –
 - “(5A) For the purposes of subsection (4C)(a)(ii) –
 - (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.
 - (5B) 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 (5A)(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.
 - (5C) 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 the greater part of the voting power in C as a result of being a general partner in a limited partnership which is a collective investment scheme.”
- (7) 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)”.
- (8) Sub-paragraph (9) applies where –
 - (a) immediately before the amendments made by sub-paragraph (3) come into force, a company met the conditions in section 528 of CTA 2010, and
 - (b) the company would (ignoring sub-paragraph (9)) cease to meet those conditions only as a result of one or more persons ceasing to

be regarded as institutional investors as a result of the making of those amendments.

- (9) Such a person is to be treated as an institutional investor for the purposes of determining whether the company meets those conditions for so long as the person's interest in the company –
- (a) does not increase, and
 - (b) remains relevant to the question of whether those conditions are met.
- (10) Section 528 has effect, and is to be deemed always to have had effect, with the amendments made by sub-paragraphs (2) and (4).

Insurance companies may be included in group UK REIT

- 3 (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

- 4 (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 be 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

- 5 In section 529 (conditions as to property rental business), in subsection (2B), for paragraph (a) substitute—
- “(a) where the group or company is a UK REIT, the later of—
 - (i) where its property rental business previously met conditions A and B, the day after the last day on which it met both of those conditions, and
 - (ii) where its property rental business previously met condition C in relation to a property other than the property it now seeks to rely on to meet that condition, the day after the last day on which it met that condition in relation to that other property, or”.

Disposal of rights or interests in UK property rich funds

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

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

- 7 (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),”.