



Finance Act 2006

2006 CHAPTER 25

PART 4

REAL ESTATE INVESTMENT TRUSTS

Entering Real Estate Investment Trust Regime

109 Notice

- (1) If a company (which satisfies the requirement in section 106(1)) gives a notice under this section specifying an accounting period from the beginning of which this Part is to apply to the company, this Part shall apply to the company from the beginning of that accounting period.
- (2) A notice—
 - (a) must be given in writing to the Commissioners for Her Majesty's Revenue and Customs,
 - (b) must be given before the beginning of the specified accounting period,
 - (c) must be accompanied by a statement by the company that Conditions 1 to 6 in section 106 are reasonably expected to be satisfied in respect of the company throughout the specified accounting period, and
 - (d) must contain such other information, and be accompanied by such other documents, as may be prescribed by regulations made by the Commissioners for Her Majesty's Revenue and Customs.

110 Duration

Once this Part has begun to apply to a company, it shall continue to apply unless and until it ceases to apply in accordance with any of sections 128 to 130.

Status: This is the original version (as it was originally enacted).

111 Effects of entry

- (1) Property rental business of C (pre-entry) shall be treated for the purposes of corporation tax as ceasing at entry.
- (2) Assets which immediately before entry are involved in property rental business of C (pre-entry) shall be treated for the purposes of corporation tax as being sold by C (pre-entry) immediately before entry and re-acquired by C (tax-exempt) immediately after entry.
- (3) The sale and re-acquisition deemed under subsection (2) shall be treated as being for a consideration equal to the market value of the assets.
- (4) For the purposes of CAA 2001—
 - (a) the sale and re-acquisition deemed under subsection (2)—
 - (i) shall not give rise to allowances or charges, and
 - (ii) shall not make it possible to make an election under section 198 or 199 of that Act (apportionment),
 - (b) subsection (3) above shall not apply, and
 - (c) anything done by or to C (pre-entry) before entry in relation to an asset which is deemed under subsection (2) to be sold and re-acquired shall be treated after entry as having been done by or to C (tax-exempt).
- (5) For the purposes of corporation tax, on entry one accounting period of the company shall end and another shall begin.
- (6) For the purposes of subsection (2) an asset is involved in property rental business if it is property involved in the business within the meaning given by section 107(6)(a).
- (7) A gain accruing by reason of this section shall not be a chargeable gain.

112 Entry charge

- (1) A company to which this Part applies shall be chargeable to corporation tax under Case VI of Schedule D on an amount of notional income calculated in accordance with subsection (3).
- (2) The notional income shall be treated as arising to C (residual) on entry.
- (3) The notional income is—

$$\frac{\text{Market Value}}{\text{Tax Rate}} \times 2\%$$

where—

- (a) Market Value means the aggregate market value of assets treated as sold and re-acquired under section 111(2) (ignoring any asset of negative market value), and
 - (b) Tax Rate means the percentage rate at which C (residual) is chargeable to tax on profits.
- (4) No loss, deficit, expense or allowance may be set off against notional income or tax arising under this section.
 - (5) The company may elect to have the notional income treated as arising in four instalments, the first on the date of entry and the other three on the first three

anniversaries of that date; and for this purpose subsection (3) shall apply as if the percentage referred to were—

- (a) 0.50% for the first instalment,
- (b) 0.53% for the second instalment,
- (c) 0.56% for the third instalment, and
- (d) 0.60% for the fourth instalment.

(6) If a company makes an election under subsection (5)—

- (a) notice of the election must be given to the Commissioners for Her Majesty's Revenue and Customs with the notice under section 109,
- (b) the election is irrevocable, and
- (c) if this Part ceases to apply to a company before the third anniversary of entry, any remaining instalments shall become chargeable immediately.

(7) The Treasury may by regulations amend a percentage specified in subsection (5) in order to reflect a change in interest rates; but regulations under this subsection shall not have effect in relation to elections made before the regulations come into force.