

# CORPORATION TAX ACT 2010

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## EXPLANATORY NOTES

### INTRODUCTION

#### **Part 12: Real Estate Investment Trusts**

##### *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 disapplied 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.