



Finance Act 2006

2006 CHAPTER 25

PART 4

REAL ESTATE INVESTMENT TRUSTS

Capital gains

124 Corporation tax

- (1) A gain accruing to a company to which this Part applies on the disposal of an asset shall not be a chargeable gain if—
 - (a) the asset was used wholly and exclusively for the purposes of the business of C (tax-exempt), or
 - (b) the asset was used partly for the purposes of the business of C (tax-exempt) and partly for the purposes of the business of C (residual) during one or more periods of (in aggregate) less than a year, but was otherwise used wholly and exclusively for the purposes of the business of C (tax-exempt).
- (2) Where a gain accrues to a company to which this Part applies on the disposal of an asset which for one or more periods of (in aggregate) at least a year has been used partly for the purposes of the business of C (tax-exempt) and partly for the purposes of the business of C (residual), such part of the gain as may reasonably be attributed to the business of C (tax-exempt) (having regard to the extent to which, and the length of the periods during which, the asset was used for the different purposes) shall not be a chargeable gain.
- (3) Corporation tax shall be charged in respect of gains accruing to C (residual) at a rate determined without reference to section 13 of ICTA (small companies rate).

Modifications etc. (not altering text)

- C1 S. 124 applied (with modifications) (1.1.2007) by [The Real Estate Investment Trusts \(Joint Ventures\) Regulations 2006 \(S.I. 2006/2866\)](#), [reg. 13\(6\)](#) (subject to [reg. 14](#))

Status: Point in time view as at 19/07/2006. This version of this cross heading contains provisions that are not valid for this point in time.

Changes to legislation: There are currently no known outstanding effects for the Finance Act 2006, Cross Heading: Capital gains. (See end of Document for details)

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| C2 | S. 124(1) applied (with modifications) (1.1.2007) by The Real Estate Investment Trusts (Joint Ventures) Regulations 2006 (S.I. 2006/2866) , reg. 7(6) |
| C3 | S. 124(1)(2) applied (with modifications) (31.12.2007) by The Real Estate Investment Trusts (Joint Venture Groups) Regulations 2007 (S.I. 2007/3425) , reg. 13(7)
S. 124(1)(2) applied (with modifications) (31.12.2007) by The Real Estate Investment Trusts (Joint Venture Groups) Regulations 2007 (S.I. 2007/3425) , reg. 23(7) |
| C4 | S. 124(2) applied (with modifications) (1.1.2007) by The Real Estate Investment Trusts (Joint Ventures) Regulations 2006 (S.I. 2006/2866) , reg. 7(6) |

125 Movement of assets out of ring-fence

- (1) Subsection (2) applies when an asset which has been used wholly and exclusively for the purposes of the business of C (tax-exempt) begins to be used (otherwise than by being disposed of in the course of trade) wholly and exclusively for the purposes of the business of C (residual).
- (2) The asset shall be treated as having been at that time—
 - (a) disposed of by C (tax-exempt), and
 - (b) immediately re-acquired by C (residual).
- (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 asset.
- (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 (tax-exempt) before the deemed sale and re-acquisition shall be treated after the deemed sale and re-acquisition as having been done by or to C (residual).
- (5) Subsection (6) applies when an asset which has been used wholly and exclusively for the purposes of the business of C (tax-exempt) is disposed of in the course of trade for the purposes of the business of C (residual).
- (6) Where this subsection applies—
 - (a) the deemed sale and re-acquisition under section 111(2) shall be disregarded, and
 - (b) the asset shall be treated as having been disposed of in the course of the business of C (residual).
- (7) Subsection (6) shall be taken to apply, in particular, where—
 - (a) a property acquired by a company to which this Part applies has been developed since acquisition,
 - (b) the cost of the development exceeds 30% of the fair value of the property (determined in accordance with international accounting standards) at entry or at acquisition, whichever is the later, and
 - (c) the company disposes of the property within the period of three years beginning with the completion of the development.

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- (8) Where subsection (6) applies in relation to an asset held at entry, the company may make a claim for repayment of a proportion of the tax paid under section 112 calculated as follows—

$$\frac{\text{AssetMarketValue}}{\text{AggregateMarketValue}} \times \text{TaxPaid}$$

where—

- (a) Asset Market Value means market value of the asset at entry,
(b) Aggregate 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
(c) Tax Paid means tax paid under section 112.

Modifications etc. (not altering text)

- C5** S. 125 applied (with modifications) (1.1.2007) by [The Real Estate Investment Trusts \(Joint Ventures\) Regulations 2006 \(S.I. 2006/2866\)](#), **reg. 7(6)**
S. 125 applied (1.1.2007) by [The Real Estate Investment Trusts \(Joint Ventures\) Regulations 2006 \(S.I. 2006/2866\)](#), **reg. 13(7)** (subject to [reg. 14](#))
- C6** S. 125 applied (with modifications) (31.12.2007) by [The Real Estate Investment Trusts \(Joint Venture Groups\) Regulations 2007 \(S.I. 2007/3425\)](#), **reg. 13(8)**
S. 125 applied (with modifications) (31.12.2007) by [The Real Estate Investment Trusts \(Joint Venture Groups\) Regulations 2007 \(S.I. 2007/3425\)](#), **reg. 23(8)**

126 Movement of assets into ring-fence

- (1) This section applies where an asset which has been used wholly and exclusively for the purposes of the business of C (residual) begins to be used wholly and exclusively for the purposes of the business of C (tax-exempt).
- (2) The asset shall be treated as having been—
- disposed of by C (residual), and
 - immediately re-acquired by C (tax-exempt).
- (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 asset.
- (4) For the purposes of CAA 2001—
- the sale and re-acquisition deemed under subsection (2)—
 - shall not give rise to allowances or charges, and
 - shall not make it possible to make an election under section 198 or 199 of that Act (apportionment),
 - subsection (3) above shall not apply, and
 - anything done by or to C (residual) before the deemed sale and re-acquisition shall be treated after the deemed sale and re-acquisition as having been done by or to C (tax-exempt).

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Modifications etc. (not altering text)

- C7** S. 126 applied (with modifications) (1.1.2007) by [The Real Estate Investment Trusts \(Joint Ventures\) Regulations 2006 \(S.I. 2006/2866\)](#), **reg. 7(6)**
S. 126 applied (1.1.2007) by [The Real Estate Investment Trusts \(Joint Ventures\) Regulations 2006 \(S.I. 2006/2866\)](#), **reg. 13(7)** (subject to [reg. 14](#))
- C8** S. 126 applied (with modifications) (31.12.2007) by [The Real Estate Investment Trusts \(Joint Venture Groups\) Regulations 2007 \(S.I. 2007/3425\)](#), **reg. 13(8)**
S. 126 applied (with modifications) (31.12.2007) by [The Real Estate Investment Trusts \(Joint Venture Groups\) Regulations 2007 \(S.I. 2007/3425\)](#), **reg. 23(8)**

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- (1) This section applies if—
- C (tax-exempt) disposes of an asset to a 75% subsidiary (“S”) of C (residual),
 - C (residual) disposes of its interest in S to another company (“P”),
 - on the date when it acquires the interest in S, P gives a notice under section 109 (as modified by paragraph 8 of Schedule 17) which specifies an accounting period which begins within the period of six months beginning with the date of the disposal of the asset, and
 - this Part begins to apply to the group of which S is a member from the beginning of the specified accounting period.
- (2) P may give a notice under section 109 (as modified by paragraph 8 of Schedule 17) in accordance with subsection (1)(c) even if it does not expect to satisfy Conditions 3 to 6 of section 106 throughout the accounting period specified in the notice.
- (3) Where this section applies—
- sections 111 and 112 shall not apply to the group of which S is a member in relation to the asset disposed of by C (tax-exempt) or in relation to business conducted by the exploitation of that asset, and
 - section 125 shall not apply to the disposal of the asset by C (tax-exempt).
- (4) But if, at the end of the period of six months mentioned in subsection (1)(c), Conditions 3 to 6 of section 106 are not satisfied in relation to P, subsection (3) shall be treated as not having had effect.]

Textual Amendments

- F1** S. 126A inserted (with effect as mentioned in [s. 52\(2\)](#) of the amending Act) by [Finance Act 2007 \(c. 11\)](#), [s. 52](#), [Sch. 17 para. 11](#)

127 Interpretation

Sections 124 to 126 shall be construed as one with TCGA 1992.

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Changes to legislation:

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