

SCHEDULES

SCHEDULE 30

Section 160.

INVESTMENTS IN HOUSING

Reduced rate of corporation tax

1 After section 508 of the Taxes Act 1988 there shall be inserted the following sections—

“508A Investment trusts investing in housing

- (1) Where any company that is an investment trust has eligible rental income for any accounting period—
 - (a) the rate of corporation tax chargeable for any financial year on the trust’s housing investment profits for that period shall be deemed to be the small companies’ rate for that year; and
 - (b) its housing investment profits for that period shall be treated for the purposes of section 13 as excluded from its basic profits for that period.
- (2) For the purposes of this section—
 - (a) a company’s eligible rental income for any period is so much of its income for that period as consists in rents or other receipts deriving from lettings by the company of eligible properties; and
 - (b) its housing investment profits for any period are so much of its profits for that period as represents the amount chargeable to tax under Schedule A in respect of its eligible rental income for that period.
- (3) In computing the amount mentioned in subsection (2)(b) above for any period, deductions shall be made which (except in so far as they exceed the amount from which they are deducted) are, in aggregate, not less than the sum of the following amounts—
 - (a) every amount which is both—
 - (i) deductible (otherwise than as a debit brought into account under Chapter II of Part IV of the Finance Act 1996) in the computation of any income of the company, or of its total profits, for that period, and
 - (ii) referable to, or to activities connected with, the letting by the company on assured tenancies of dwelling-houses that are eligible properties when so let,and
 - (b) any amount that is so referable that would represent a non-trading deficit on the company’s loan relationships for that period.

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- (4) For the purposes of subsection (3) above any question—
- (a) whether for any period there is an amount referable to any matter that would represent a non-trading deficit on a company's loan relationships, or
 - (b) as to what that amount is for that period,
- shall be determined by computing whether and to what extent there would for that period have been a non-trading deficit on the company's loan relationships if debits and credits fell to be brought into account under Chapter II of Part IV of the Finance Act 1996 to the extent only that they are referable to that matter.

508B Interpretation of section 508A

- (1) In section 508A “eligible property”, in relation to a company, means (subject to the following provisions of this section) any dwelling-house as respects which the following conditions are satisfied—
- (a) the company first acquired an interest in the dwelling-house on or after 1st April 1996;
 - (b) that interest was not, at the time when it was acquired, subject to any letting or to any statutory tenancy;
 - (c) at that time no arrangements had been made by the company or any person connected with it for the letting of the dwelling-house;
 - (d) the interest of the company in the dwelling-house is a freehold interest or an interest under a long lease at a low rent;
 - (e) the consideration given by the company for the acquisition of its interest in the dwelling-house did not exceed—
 - (i) £125,000, in the case of a dwelling-house in Greater London, or
 - (ii) £85,000, in any other case;
 - (f) the dwelling-house is let by the company under an assured tenancy and is neither—
 - (i) let by the company in consideration of a premium within the meaning of Schedule 8 to the 1992 Act, nor
 - (ii) a dwelling-house in respect of which the person to whom it is let or any associate of his has been granted any option to purchase.
- (2) For the purposes of paragraph (b) of subsection (1) above, no account shall be taken of any shorthold tenancy or statutory shorthold tenancy to which the interest became subject before the time when it was acquired.
- (3) For the purposes of paragraph (c) of subsection (1) above, no account shall be taken of any arrangements made by a person connected with the company in question before the time when the interest was acquired by the company if—
- (a) that person had an interest in the dwelling-house when he made those arrangements;
 - (b) that person did not dispose of his interest at any time after the arrangements were entered into and before the company acquired its interest; and

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- (c) the arrangements were such as to confer a relevant entitlement on a person who, at the time when the company acquired its interest, was a tenant under any shorthold tenancy of the dwelling-house (or any part of it).
- (4) For the purposes of subsection (3)(c) above a relevant entitlement is an entitlement of a tenant under a shorthold tenancy of any premises, on the coming to an end of that tenancy, to such a further tenancy of the same or substantially the same premises as will itself be a shorthold tenancy.
- (5) For the purposes of this section the consideration given by a company for the acquisition of an interest in a dwelling-house shall be taken (subject to subsection (6) below) to include—
- (a) any amount expended by the company on the construction or renovation of the dwelling-house or on any conversion by virtue of which that dwelling-house came to be usable as such;
 - (b) any amount so expended by a person connected with the company; and
 - (c) any consideration given by a person connected with the company for the acquisition of any such interest in the dwelling-house as—
 - (i) is subsequently acquired by the company, or
 - (ii) is held by such a person at the same time as the company holds its interest in the premises.
- (6) Where a company has acquired any interest in a dwelling house from a person connected with that company—
- (a) amounts expended by that person as mentioned in paragraph (a) of subsection (5) above, and
 - (b) the amount of any consideration given by that person for an interest in the dwelling-house,
- shall be treated by virtue of that subsection as included in the consideration given by the company to the extent only that the aggregate of those amounts exceeds the consideration given by that company to that person for the interest acquired from that person by the company.
- (7) In section 508A and this section—
- “associate” has the meaning given by subsections (3) and (4) of section 417;
 - “assured tenancy” means—
 - (a) any letting which is an assured tenancy for the purposes of the Housing Act 1988 or the Housing (Scotland) Act 1988, or
 - (b) any tenancy in Northern Ireland which complies with such requirements or conditions as may be prescribed by regulations made by the Department of the Environment for Northern Ireland;
 - “letting” includes a letting by virtue of an agreement for a lease or under a licence, and “let” shall be construed accordingly;
 - “long lease”, in relation to the interest of a company in any dwelling-house, means a lease for a term of years certain of which at least 21 years remains unexpired at the time when that interest was acquired by the company;

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“low rent” means a rent at an annual rate not exceeding—

- (a) £1,000, in the case of a dwelling-house in Greater London; and
- (b) £250, in any other case;

“rent” has the same meaning as it has for the purposes of Schedule A in its application to companies within the charge to corporation tax;

“shorthold tenancy” means any letting which is an assured shorthold tenancy for the purposes of the Housing Act 1988 or a short assured tenancy for the purposes of the Housing (Scotland) Act 1988;

“statutory shorthold tenancy” means—

- (a) a statutory periodic tenancy within the meaning of the Housing Act 1988 which arose on the coming to an end of an assured shorthold tenancy which was a fixed term tenancy, or
- (b) a statutory assured tenancy within the meaning of the Housing (Scotland) Act 1988 which arose on the coming to an end of a short assured tenancy;

“statutory tenancy”—

- (a) in relation to England and Wales, has the same meaning as in the Rent Act 1977;
- (b) in relation to Scotland, has the same meaning as in the Rent (Scotland) Act 1984; and
- (c) in relation to Northern Ireland, has the same meaning as in the Rent (Northern Ireland) Order 1978.

(8) Section 839 shall apply for the purposes of this section.

(9) Section 508A shall have effect where—

- (a) a company acquires an interest in any dwelling-house, and
- (b) a person connected with the company has previously acquired an interest in the dwelling-house, being an interest subsequently acquired by the company or one held by that person at the same time as the company holds its interest,

as if references in this section (except in subsection (3) above) to the time when the company first acquired an interest in the premises included references to the time when the person connected with the company first acquired his interest.

(10) The Treasury may, if they think fit, by order vary the figures for the time being specified in paragraph (e) of subsection (1) above; and an order under this subsection may make different provision for different localities in Greater London or elsewhere.

(11) In the application of this section to Scotland—

- (a) references to acquiring an interest shall be construed, if there is a contract to acquire the interest, as references to entering into that contract;
- (b) references to the freehold interest shall be construed as references to the estate or interest of the proprietor of the *dominium utile* or, in the case of property other than feudal property, of the owner;

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(c) in the definition of “long lease” in subsection (7) above, the word “certain” shall be omitted.

(12) Regulations made for the purposes of paragraph (b) of the definition of “assured tenancy” in subsection (7) above shall be made by statutory rule for the purposes of the Statutory Rules (Northern Ireland) Order 1979, and shall be subject to negative resolution within the meaning of section 41(6) of the Interpretation Act (Northern Ireland) 1954.”

Investments in housing by investment trusts

- 2 (1) Section 842 of the Taxes Act 1988 (investment trusts) shall be amended as follows.
- (2) In subsection (1) (conditions as to a company’s income for approval as an investment trust)—
- (a) in paragraph (a), for “derived wholly or mainly from shares or securities” there shall be substituted “consists wholly or mainly of eligible investment income”; and
 - (b) in paragraph (e), for “the income it derives from shares or securities” there shall be substituted “its eligible investment income”.
- (3) After that subsection there shall be inserted the following subsection—
- “(1AA) Income is eligible investment income for the purposes of this section in so far as it is either—
- (a) income deriving from shares or securities, or
 - (b) eligible rental income, within the meaning of section 508A.”

Commencement

- 3 This Schedule has effect in relation to accounting periods beginning on or after the day on which this Act is passed.