



# Finance Act 2006

## 2006 CHAPTER 25

### PART 4

#### REAL ESTATE INVESTMENT TRUSTS

##### *Profits*

#### **120 Calculation of profits**

- (1) This section provides for the calculation of profits for the purposes of sections 107(8), 115(2), 119(1) and 123(c).
- (2) Section 21A of ICTA (calculation of profits of Schedule A business) shall apply (to profits of any kind).
- (3) Paragraph 2(3) of section 15(1) ICTA (Schedule A: disregard of credits and debits from loan relationships and derivative contracts) shall not apply in respect of—
  - (a) a loan relationship if or in so far as it relates to tax-exempt business,
  - (b) a hedging derivative contract if or in so far as it relates to tax-exempt business, or
  - (c) embedded derivatives if or in so far as the host contract is entered into for the purposes of tax-exempt business.
- (4) For the purposes of subsection (3)—
  - (a) a derivative contract is hedging in relation to a company if or in so far as it is acquired as a hedge of risk in relation to [<sup>F1</sup>an asset by the exploitation of which tax-exempt business is conducted,]
  - [<sup>F2</sup>(aa) a derivative contract is hedging in relation to a company if or in so far as it is acquired as a hedge of risk in relation to a liability incurred in connection with tax-exempt business,]
  - (b) a designation of a contract as wholly or partly hedging for the purposes of a company's accounts shall be conclusive, and

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*Status: Point in time view as at 19/07/2007. This version of this provision has been superseded.*

*Changes to legislation: There are currently no known outstanding effects for the Finance Act 2006, Section 120. (See end of Document for details)*

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- (c) “embedded derivatives” and “host contract” have the meanings given by paragraph 2(3) of Schedule 26 to FA 2002 (derivative contracts).

[<sup>F3</sup>(4A) In subsection (4)(a) the reference to an asset includes a reference to—

- (a) the value of an asset, and  
(b) profits attributable to it.]

- (5) Profits shall be computed without regard to items giving rise to credits or debits which would be within Schedule 26 to FA 2002 (derivative contracts) but for paragraph 4(2)(b) (exclusion of share-based and unit-trust-based contracts).
- (6) Income and expenditure relating partly to tax-exempt business and partly to non-tax-exempt business shall be apportioned reasonably.
- (7) Section 3(1) of CAA 2001 (claims for capital allowances) shall not apply; and any allowance which the company could claim under that section shall be made automatically and reflected in the calculation of profits.

#### Textual Amendments

- F1** Words in s. 120(4)(a) substituted (with effect as mentioned in s. 52(2) of the amending Act) by [Finance Act 2007 \(c. 11\), s. 52, Sch. 17 para. 9\(a\)](#)
- F2** S. 120(4)(aa) inserted (with effect as mentioned in s. 52(2) of the amending Act) by [Finance Act 2007 \(c. 11\), s. 52, Sch. 17 para. 9\(b\)](#)
- F3** S. 120(4A) inserted (with effect as mentioned in s. 52(2) of the amending Act) by [Finance Act 2007 \(c. 11\), s. 52, Sch. 17 para. 9\(c\)](#)

#### Modifications etc. (not altering text)

- C1** S. 120 applied (1.1.2007) by [The Real Estate Investment Trusts \(Joint Ventures\) Regulations 2006 \(S.I. 2006/2866\), reg. 7\(5\)](#)  
S. 120 applied (with modifications) (1.1.2007) by [The Real Estate Investment Trusts \(Joint Ventures\) Regulations 2006 \(S.I. 2006/2866\), reg. 13\(1\)\(2\)](#) (subject to reg. 14)
- C2** S. 120 applied (31.12.2007) by [The Real Estate Investment Trusts \(Joint Venture Groups\) Regulations 2007 \(S.I. 2007/3425\), reg. 13\(6\)](#)  
S. 120 applied (31.12.2007) by [The Real Estate Investment Trusts \(Joint Venture Groups\) Regulations 2007 \(S.I. 2007/3425\), reg. 23\(6\)](#)

**Status:**

Point in time view as at 19/07/2007. This version of this provision has been superseded.

**Changes to legislation:**

There are currently no known outstanding effects for the Finance Act 2006, Section 120.