
EXPLANATORY NOTE

(This note is not part of the Regulations)

These Regulations make provision for the Real Estate Investments Trusts Regime (“the UK-REIT regime”), which was introduced by Part 4 of the Finance Act 2006 (c.25) (“the Act”) and amended by Schedule 17 to the Finance Act 2007 (c.11), to apply to joint ventures carried on through groups of companies. These Regulations provide that companies within the UK-REIT regime may elect to treat a joint venture carried on through a group of companies in which they have an interest (and which joint venture is not a group within the UK-REIT regime) to be treated in accordance with these Regulations as being within the UK-REIT regime.

Paragraph 4 of Schedule 17 of the Act makes a general modification to Part 4 of Act as it applies in the context of groups of companies so that a reference to a company is treated as a reference to a group.

Authority for the retrospective effect of these Regulations is given by section 138(4) of the Act which was inserted by paragraph 14 of Schedule 17 to the Act.

Part 1 comprises regulations 1 to 4. Regulation 1 provides for the citation, commencement and effect of these Regulations. Regulation 2 explains the structure of these Regulations. Regulation 3 provides for the general interpretation of these Regulations and Regulation 4 provides for the interpretation of specific terms used in these Regulations.

Part 2 comprises regulations 5 to 16 and covers the case where a single company within the UK-REIT regime carries on with another person a joint venture which is conducted through a group of companies.

Regulation 5 provides for details of the notice to be given by a single company within the UK-REIT regime which is carrying on with another person a joint venture conducted through a group of companies (“the venturing company”) and which wishes for the UK-REIT regime to apply to that joint venture group (“the joint venture group”).

Regulation 6 specifies the conditions that must be met by the venturing company and the joint venture group in order for the joint venture group to join the UK-REIT regime.

Regulation 7 provides how long these Regulations apply once a notice has been given. It also provides that regulation 8 must be met by the joint venture group for the notice to have effect in relation to any particular accounting period of the venturing company.

Regulation 8 provides that the joint venture group must meet the conditions in section 108 of the Act (conditions for balance of business).

Regulation 9 provides that the principal company of the joint venture group must prepare financial statements in respect of the joint venture group. Paragraph 31 of Schedule 17 of the Act (which provides details of the financial statements that must be prepared by Group Real Estate Investment Trusts) will apply with the modifications set out in the regulation. The effect of the modifications is that the principal company of the joint venture group prepares financial statements in the same manner as a principal company of group to which Part 4 applies.

Regulation 10 provides that the venturing company must include the proportion of the profits and assets of the joint venture group to which it is beneficially entitled for the purpose of determining whether Condition 3 in section 107 of the Act (conditions for tax-exempt business) and Condition 1 and 2 in section 108 of the Act (conditions for balance of business) are met.

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Regulation 11 provides that the venturing company must prepare financial statements in respect of the joint venture group. Paragraph 31 of Schedule 17 of the Act (which provides details of the financial statements that must be prepared by Group Real Estate Investment Trusts) will apply with the modifications set out in the regulation.

Regulation 12 provides that section 115 of the Act (profit:financing-cost ratio) applies to the venturing company but with the modifications set out. The effect of the modifications is the venturing company includes its share of profits, assets and financing costs of the joint venture group in determining the profit to cost ratio for the purposes of section 115.

Regulation 13 provides for the modification of tax charges and exemptions in respect of a venturing company and the members of a joint venture group.

Regulation 14 prevents section 112 of the Act (entry charge) operating to impose a double tax charge in cases where single company UK-REIT becomes the principal company of a group REIT and gives a further notice under these Regulations in relation to a member of joint venture group.

Regulation 15 provides for the modification of paragraph 32 of Schedule 17 and section 112 of the Act (entry charge) in respect of non-resident joint venture companies and non-resident members of a joint venture group.

Regulation 16 provides that section 132 (early exit by notice) applies to a member of a joint venture group with the modifications set out in cases where these Regulations cease to apply to the member having applied for a period of less than ten years.

Part 3 comprises regulations 17 to 26 and covers the case where a group REIT carries on with another person a joint venture which is conducted through a group of companies.

Regulation 17 provides for the details of the notice to be given by the principal company of a group of companies within the UK-REIT regime which carries on, with another person, a joint venture through a group of companies (“the venturing group”) and which wishes for the UK-REIT regime to apply to that joint venture group (“the joint venture group”).

Regulation 18 specifies the conditions that must be met by the venturing group and the joint venture group in order for the joint venture group to join the UK-REIT regime.

Regulation 19 sets out how long these Regulations apply once a notice has been given. It also provides that regulation 20 must be met by the joint venture group in order for the notice to have effect in relation to any particular accounting period of the principal company of the venturing group.

Regulation 20 provides that the joint venture group must meet the conditions in section 108 of the Act (conditions for balance of business).

Regulation 21 provides that the principal company of the joint venture group must prepare financial statements in respect of the joint venture group. Paragraph 31 of Schedule 17 of the Act shall apply with the modifications set out in the regulation. The effect of the modifications is that the principal company of the joint venture group prepares financial statements in the same manner as a principal company of group to which Part 4 applies

Regulation 22 provides that financial statements that the principal company of the venturing group prepares under Paragraph 31 of Schedule 17 of the Act (which provides details of the financial statements that must be prepared by Group Real Estate Investment Trusts) must include the specified information in respect of the joint venture group.

Regulation 23 provides for the modification of tax charges and exemptions in respect of the venturing group and the joint venture group.

Regulation 24 prevents section 112 of the Act (entry charge) operating to impose a double tax charge where a member of a joint venture group in relation to which a group REIT has given a notice applying these Regulations to that member becomes a member of the group REIT.

Regulation 25 provides for the modification of paragraph 32 of Schedule 17 and section 112 of the Act (entry charge) in respect of a venturing group and non-resident members of a joint venture group.

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Regulation 26 provides that section 132 (early exit by notice) applies to a member of a joint venture group with the modifications set out in cases where these Regulations cease to apply to the member having applied for a period of less than ten years.

A regulatory impact assessment for the introduction of the UK-REIT regime was published in March 2006 and is available on the website of HM Revenue and Customs at www.hmrc.gov.uk/ria and may be obtained by writing to the Ministerial Correspondence Unit, 1st Floor, HM Revenue and Customs, Ferrers House, P.O. Box 38, Castle Meadow Road, Nottingham, NG2 1BB.