
D R A F T S T A T U T O R Y I N S T R U M E N T S

2009 No. xxxx

CORPORATION TAX

**The Real Estate Investment Trusts (Prescribed Arrangements)
Regulations 2009**

<i>Made</i>	- - - -	[...]
<i>Laid before the House of Commons</i>		[...]
<i>Coming into force</i>	- -	[...]

The Treasury make the following Regulations in exercise of the powers conferred by sections 136A and 144 of the Finance Act 2006(a).

Citation, commencement and effect

1.—(1) These Regulations may be cited as the Real Estate Investment Trusts (Prescribed Arrangements) Regulations 2009 and shall come into force on [...].

(2) These Regulations shall have effect in relation to prescribed arrangements made on or after 6th May 2009 and during an accounting period which ends on or after [date when regulations are made].

Interpretation

2. In these Regulations—

- (a) a reference to Part 4 is a reference to Part 4 of the Finance Act 2006, and
- (b) a reference to a section (without more) is a reference to that section of the Finance Act 2006.

Situations in which these Regulations apply

3.—(1) These Regulations apply if conditions A and B are satisfied.

(2) Condition A is that an amount (“the specified amount”)—

- (a) falls to be taken into account as part of a REIT company’s tax exempt or residual business, or
- (b) ceases to be taken into account as part of such business.

(3) Condition B is that the specified amount arises directly or indirectly from, or in consequence of, or otherwise in connection with, prescribed arrangements.

(a) 2006 c. 25. Section 136A was inserted by [paragraph X of Schedule Y] to the Finance Act 2009 (c.).

(4) For the purposes of condition A, the specified amount may be taken into account (or may cease to be taken into account) as a liability, an expense, an asset or as income.

(5) For the purposes of these Regulations—

“arrangements” include any agreement, understanding, scheme, share reorganisation, transaction or series of transactions (whether or not legally enforceable), and

“prescribed arrangements” are arrangements which have the purpose, or one of the main purposes, of allowing a REIT company to meet one or more of the conditions set out in sections 107 and 108 where, but for the arrangements, those conditions would not be satisfied.

(6) For the purposes of condition B, the specified amount arises from prescribed arrangements if it is caused by or is in consequence of those arrangements.

Excluded arrangements

4.—(1) Arrangements are not prescribed arrangements if—

- (a) a REIT company has entered into arrangements with another person, and
- (b) conditions A and B are satisfied.

(2) Condition A is that the arrangements have been effected for genuine commercial purposes.

(3) Condition B is that the arrangements are made, or are such as would reasonably be made, between persons dealing at arm’s length.

Persons to be treated as member of REIT group in certain situations

5.—(1) Where a REIT company enters into prescribed arrangements with a person (“the person in question”), one or more of the entities listed in paragraph (2) may be treated as a member of a REIT group for the purposes of the application of Part 4, from the beginning of the accounting period in which the arrangements are made.

(2) The entities are—

- (a) the REIT company,
- (b) the person in question, and
- (c) any person in which either the person in question, or the REIT company, have a direct or indirect interest.

(3) For the purposes of these Regulations, “person” includes, but is not limited to—

- (a) a legal person,
- (b) a natural person,
- (c) a partnership,
- (d) a limited partnership,
- (e) a limited liability partnership,
- (f) a trust, and
- (g) any other body of persons.

(4) A person within paragraph (2)(c) shall not be treated as a member of a REIT group where it can be shown that the person falls outside the scope of the prescribed arrangements.

Effect of regulations for corporation tax purposes

6.—(1) This regulation applies if—

- (a) a company enters into prescribed arrangements during the accounting period specified in a notice given under section 109, and

(b) that Part ceases to apply to it by reason of section 129,

so that, accordingly, Part 4 is treated as never having applied to the company.

(2) Any corporation tax paid by the company pursuant to section 112 shall be taken into account for the purposes of assessing its liability to corporation tax.