

2006 Pre-Budget Report



PBRN 15

6 December 2006

INVESTMENT-REGULATED PENSION SCHEMES AND UK-REITS

Who is likely to be affected?

1. Investment-regulated pension schemes investing in UK-REITS

General description of the measure

2. Regulations laid on 1 November 2006 provide for an additional tax charge on a UK-REIT where a company holds an interest of 10 per cent or more in the UK-REIT. This modifies the position proposed in the draft regulations published for consultation on 2 June 2006, where the tax charge would have applied where any legal person, including an individual or a pension scheme, held an interest of 10 per cent or more in the UK-REIT.
3. As a result of this modification a small consequential change will be made to the rules on residential property held by investment-regulated pension schemes (which include self invested personal pension schemes, or SIPPs).

Operative date

4. This change will have effect on and after 1 January 2007, the date when provisions enabling UK-REITs to be invested in come into effect.

Current law and proposed revisions

5. Registered pension schemes which hold "taxable property" (which includes residential property) are, in certain circumstances, subject to a tax charge of up to 70 per cent on the value of that property, under provisions introduced in Finance Act 2006 to discourage the use of tax-relieved pension funds for investing in residential property or other tangible assets primarily for the personal use of scheme members. This charge may apply where the pension scheme is "investment-regulated" and where the property is held directly or indirectly through an interest in some other vehicle.

6. Investment-regulated pension schemes that, from 1 January 2007, invest in UK-REITS are not under current legislation treated as indirectly holding any item of taxable property held by that UK-REIT unless the investment is made to enable a member of the pension scheme or a connected person to occupy or use taxable property.
7. A further condition will apply on and after 1 January 2007, if a holding by an investment-regulated pension scheme in a UK-REIT is not to be treated as creating an indirect holding by the pension scheme in any taxable property held by the UK-REIT. This condition is as follows.
8. If the holding in the UK-REIT by the pension scheme and associated persons is 10 per cent or more, the investment regulated pension scheme will be treated as having an indirect holding in any taxable property held by the UK-REIT. This will be done by ensuring that the rules in paragraphs 24 and 25 of Schedule 29A, Finance Act 2004 apply to any investment in a UK-REIT as described in paragraph 22 of that Schedule.
9. For the purpose of this test a holding in a UK-REIT will be as defined in paragraph 24(5) of Schedule 29A Finance Act 2004. Legislation to achieve this will be introduced in Finance Bill 2007.

Further advice

10. These changes are included in a partial Regulatory Impact Assessment published today covering all changes to the pension tax rules. If you have any questions about this change, please contact the Pensions Helpline on 0115 974 1600. Information about Pre-Budget Report measures is available on the HM Revenue & Customs website at www.hmrc.gov.uk