

2007 No. 3425

CORPORATION TAX

**The Real Estate Investment Trusts (Joint Venture Groups)
Regulations 2007**

<i>Made</i>	- - - -	<i>4th December 2007</i>
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The Treasury make the following Regulations in exercise of the powers conferred by sections 138 and 144 of, and paragraph 4 of Schedule 17 to, the Finance Act 2006(a).

PART 1

Preliminary provisions and interpretation

Citation, commencement and effect

1.—(1) These Regulations may be cited as the Real Estate Investment Trusts (Joint Venture Groups) Regulations 2007 and shall come into force on 31st December 2007.

(2) These Regulations shall have effect in relation to accounting periods that begin on or after 1st January 2007.

Structure of these Regulations

2. The structure of these Regulations is as follows—

this Part contains preliminary provisions and provides for interpretation;

Part 2 contains provisions which apply in the case of a single company to which Part 4 applies where the company carries on a joint venture with another person and the joint venture is conducted through a group of companies; and

Part 3 contains provisions which apply in the case of a company which is a member of a group to which Part 4 applies where the company has an interest in a joint venture carried on by another group of companies.

Interpretation: general

3.—(1) In these Regulations—

(a) a reference to Part 4 is a reference to Part 4 of the Finance Act 2006,

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

(c) a reference to Schedule 17 is a reference to Schedule 17 to the Finance Act 2006.

(2) In these Regulations—

“equity holder” has the meaning it has in regulation 4(1);

“joint venture group” means—

(a) a group of companies determined in accordance with section 134(2) to (4) carrying on a joint venture between a company to which Part 4 applies and another person, or

(a) 2006 c. 25; section 138 was amended by section 52 of, and paragraphs 1 and 14 of Schedule 17 to, the Finance Act 2007 (c. 11). Paragraph 4 of Schedule 17 to the Finance Act 2006 provides that a reference in Part 4 of that Act to a company shall be treated as reference to a group of companies subject to the provisions of Schedule 17.

(b) a group of companies determined in accordance with section 134(2) to (4) carrying on a joint venture in which a member of a group to which Part 4 applies has an interest;

“joint venture group look through notice” means—

(a) in the case of a company to which Part 4 applies, a notice given under regulation 5, and

(b) in the case of a group to which Part 4 applies, a notice given under regulation 17;

“JVG (property rental business)” has the meaning it has in regulation 4(3);

“JVG (residual)” has the meaning it has in regulation 4(3);

“principal company” in relation to a joint venture group means the principal company referred to in section 134(2);

“UK business of a joint venture group” is to be construed in accordance with regulation 4(5);

“UK resident company” is to be construed in accordance with regulation 4(6);

“venturing company” means the company referred to in regulation 5(1); and

“venturing group” means the group referred to in regulation 17(1).

Interpretation: specific terms

4.—(1) “equity holder” in relation to a member of a joint venture group means a person who—

(a) holds ordinary shares in the member, or

(b) is a loan creditor of the member in respect of a loan which is not a normal commercial loan within the meaning of paragraph 1(5) of Schedule 18 to the Income and Corporation Taxes Act 1988^(a).

(2) References to profits or assets available for distribution to equity holders in a member of a joint venture group do not include a reference to any profits or assets available for distribution to an equity holder other than as such.

(3) In relation to a joint venture group—

(a) “JVG (property rental business)” means the group while a notice under regulation 5 or regulation 17 applies to it in so far as it carries on property rental business which satisfies Conditions 1 and 2 of section 107, as that section is modified by paragraph 6 of Schedule 17^(b) but with references to the group in that paragraph treated as references to the joint venture group, and

(b) “JVG (residual)” means the group in so far as it carries on business that is not property rental business.

(4) In relation to a member of a joint venture group, a reference to property rental business does not include property that is let by the member—

(a) to a venturing company which gives notice under regulation 5 in respect of that member, or

(b) to a member of a venturing group, where the principal company of the venturing group gives notice under regulation 17 in respect of that member.

(5) A reference to the UK business of a joint venture group is a reference to—

(a) the property rental business of the UK resident members of the group, and

(b) the property rental business in the United Kingdom of other members.

(6) A reference to a UK resident company is a reference to a company which—

(a) is resident in the United Kingdom, and

(b) is not resident in another place in accordance with the law of that place relating to taxation.

^(a) 1988 c. 1; paragraph 1(5) of Schedule 18 was amended by section 101(3) of the Finance Act 1989 (c. 26).

^(b) Section 107 of, and paragraph 6 of Schedule 17 to, the Finance Act 2006 were amended by paragraphs 3 and 16(3) of Schedule 17 to the Finance Act 2007.

PART 2

Joint Venture Groups: Single Company Real Estate Investment Trusts

Notice

5.—(1) If the Conditions in regulation 6 are satisfied, a company to which Part 4 applies (“venturing company”) may give notice for these Regulations to apply.

(2) The notice (a “joint venture group look through notice”) must specify—

(a) the accounting period of the venturing company from the beginning of which these Regulations are to apply, and

(b) the principal company of the joint venture group to which these Regulations are to apply.

(3) The notice must be given in writing to the Commissioners for Her Majesty’s Revenue and Customs.

(4) The notice must be signed by the company secretary or a director of—

(a) the venturing company, and

(b) the principal company of the joint venture group to which these Regulations are to apply.

(5) A venturing company may give a joint venture group look through notice—

(a) at the same time as it gives notice under section 109 (notice to enter the Real Estate Investment Trust regime)(a), or

(b) at any time when Part 4 applies to it.

(6) The notice must be given before the beginning of the specified accounting period.

This paragraph is subject to paragraphs (7) to (9).

(7) A venturing company may give, within a period of 60 days beginning with the day on which these Regulations come into force, a joint venture group look through notice in respect of an accounting period that began on or after 1st January 2007 but before the date on which these Regulations come into force.

Conditions for giving notice

6. The Conditions referred to in regulation 5(1) are as follows.

Condition 1

The venturing company is carrying on a joint venture with another person.

Condition 2

The joint venture takes the form of a joint venture group.

Condition 3

At least one member of the joint venture group is carrying on a property rental business as defined in section 104 and as construed in accordance with regulation 4(4).

Condition 4

The venturing company is beneficially entitled to 40% or more of the profits available for distribution to equity holders in the principal company of the joint venture group.

Condition 5

The venturing company is beneficially entitled to 40% or more of the assets of the principal company of the joint venture group available to equity holders in the event of a winding up.

(a) Section 109 was amended by paragraph 5 of Schedule 17 to the Finance Act 2007.

Duration and effect of notice

7.—(1) On giving notice in accordance with regulation 5 these Regulations shall apply to the venturing company and shall continue to apply unless and until—

- (a) the venturing company ceases to satisfy Condition 4 or 5 in regulation 6, or
- (b) Part 4 ceases to apply to the venturing company for any reason.

(2) On giving notice in accordance with regulation 5 these Regulations shall apply to each company that is or becomes a member of the joint venture group and (other than regulation 16) shall continue to apply unless and until—

- (a) the venturing company ceases to satisfy Condition 4 or 5 in regulation 6,
- (b) Part 4 ceases to apply to the venturing company for any reason, or
- (c) the member ceases to be a member of the joint venture group.

(3) Regulation 16 (early exit) shall continue to apply whether or not the circumstances are such that these Regulations otherwise cease to apply in accordance with this regulation.

(4) A notice under regulation 5 has effect—

- (a) in relation to a venturing company, and
- (b) for an accounting period of the venturing company,

only if the Conditions referred to in regulation 8 are satisfied by the joint venture group in relation to that accounting period.

Joint venture group: conditions for balance of business

8.—(1) This regulation applies where a joint venture group look through notice has been given under regulation 5 in respect of a joint venture group.

(2) The joint venture group, taken as a whole, must satisfy Condition 1 in section 108 (conditions for balance of business)(a), as modified by paragraph 7 of Schedule 17—

- (a) in the accounting period specified in the joint venture group look through notice, and
- (b) in each subsequent accounting period.

(3) The joint venture group, taken as a whole, must satisfy Condition 2 in section 108 (conditions for balance of business), as modified by paragraph 7 of Schedule 17—

- (a) at the beginning of the accounting period specified in the joint venture group look through notice, and
- (b) at the beginning of each subsequent accounting period.

(4) For the purposes of this regulation—

- (a) references in section 108 and in paragraph 7 of Schedule 17 to tax-exempt business shall be treated as references to the UK business of the joint venture group,
- (b) references in section 108 to the company shall be treated as references to the joint venture group,
- (c) references in paragraph 7 of Schedule 17 to G (property rental business) shall be treated as references to JVG (property rental business), and
- (d) references in paragraph 7 of Schedule 17 to G (residual) shall be treated as references to JVG (residual).

Joint venture group: financial statements

9.—(1) If a joint venture group look through notice has been given under regulation 5 in respect of a joint venture group, the principal company of that group shall prepare financial statements for each of its accounting periods in respect of the joint venture group.

(a) Section 108 was amended by paragraph 4 of Schedule 17 to the Finance Act 2007.

(2) Paragraph 31 of Schedule 17 shall apply to the financial statements required under paragraph (1) with the following modifications.

(3) References in paragraph 31 shall be construed as follows—

- (a) references to the principal company shall be treated as references to the principal company of the joint venture group,
- (b) references in sub-paragraph (2) to G (property rental business) shall be treated as references to JVG (property rental business),
- (c) the reference in sub-paragraph (2) to G (residual) shall be treated as a reference to JVG (residual),
- (d) the reference in sub-paragraph (2) to UK business shall be treated as a reference to UK business of the joint venture group, and
- (e) references to a member of a group shall be treated as references to a member of the joint venture group.

(4) For sub-paragraphs (5) and (6) there shall be treated as substituted—

“(5) The financial statements for JVG (property rental business) and JVG (residual) shall exclude that percentage of income, expenses, gains, losses, assets and liabilities of any member of the joint venture group equalling the percentage of beneficial interest in that member not held by the members of the joint venture group.

(6) For this purpose, the percentage of beneficial interest shall be determined by reference to the beneficial entitlement of the members of the joint venture group to profits available for distribution to them as equity holders in the member.”.

Venturing company: conditions for tax-exempt business and balance of business

10.—(1) For the purposes of determining whether Condition 3 in section 107(8)(a) is satisfied, a venturing company must include the profits of the UK business of the joint venture group to which it is beneficially entitled within the amount of the profits of its property rental business.

(2) For the purposes of determining whether the venturing company has satisfied Condition 1 in section 108(2), a venturing company must include the profits of JVG (property rental business) to which it is beneficially entitled within the amount of profits arising from tax-exempt business.

(3) For the purposes of determining whether the venturing company has satisfied Condition 1 in section 108(2), a venturing company must include the profits of JVG (residual) to which it is beneficially entitled within the amount of profits arising from non-tax-exempt business.

(4) For the purposes of calculating whether the venturing company has satisfied Condition 2 in section 108(3), a venturing company must include the value of the assets of JVG (property rental business) to which it is beneficially entitled within the valuation of the assets involved in tax-exempt business.

(5) For the purposes of calculating whether the venturing company has satisfied Condition 2 in section 108(3), a venturing company must include the value of the assets of JVG (residual) to which it is beneficially entitled within the valuation of the total value of assets held by the company.

(6) For the purposes of this regulation—

- (a) the amount of the profits and the value of the assets of JVG (property rental business) is the amount shown in the financial statement for JVG (property rental business),
- (b) the amount of the profits and the value of the assets of JVG (residual) is the amount shown in the financial statement for JVG (residual), and
- (c) the profits or value of the assets of JVG (property rental business) or JVG (residual) to which the venturing company is beneficially entitled shall be determined by reference to

(a) Section 107(8) was amended by paragraph 3(f) of Schedule 17 to the Finance Act 2007 (c. 11).

the venturing company's beneficial entitlement to profits of the principal company of the joint venture group available for distribution to equity holders.

In this paragraph the references to financial statements means the financial statements prepared by the principal company of the joint venture group in accordance with paragraph 31(2) of Schedule 17 as applied by regulation 9.

Venturing company: financial statements

11.—(1) Where a joint venture group look through notice has been given under regulation 5, a venturing company shall prepare financial statements, in accordance with the Real Estate Investment Trusts (Financial Statements of Group Real Estate Investment Trusts) Regulations 2006(a), for each of its accounting periods in respect of the joint venture group in respect of which it has given a notice.

(2) Paragraph 31 of Schedule 17 shall apply to the financial statements required under paragraph (1) with the following modifications.

(3) References in paragraph 31 shall be construed as follows—

- (a) references to the principal company shall be treated as references to the venturing company,
- (b) references in sub-paragraph (2) to G (property rental business) shall be treated as references to the sum of C (tax exempt) and JVG (property rental business),
- (c) the reference in sub-paragraph (2) to G (residual) shall be treated as a reference to the sum of C (residual) and JVG (residual),
- (d) references to a member of a group shall be treated as references both to the venturing company and to each member of the joint venture group, and
- (e) for sub-paragraphs (5) and (6) there shall be treated as substituted—

“(5) The financial statements for JVG (property rental business) and JVG (residual) shall exclude that percentage of the income, expenses, gains, losses, assets and liabilities of each member of the joint venture group equalling the percentage of beneficial interest in the joint venture group that is not held by the venturing company.

(6) For this purpose, the percentage of the beneficial interest shall be determined by reference to beneficial entitlement to profits available for distribution to equity holders.”.

Venturing company: profit:financing-cost ratio

12. Section 115(b) and the regulations made under it shall apply to a venturing company to which these Regulations apply as if for subsection (2) there were substituted—

“(2) That sum is—

$$\frac{\text{Profits}}{\text{Financing Costs (external)}}$$

where—

- (a) Profits means the aggregate of—
 - (i) the profits of the tax-exempt business of the venturing company (before the offset of capital allowances, of losses from a previous accounting period and of amounts taken into account under section 120(3)), and
 - (ii) the proportion of the profits of the UK business of the joint venture group arising in the accounting period as set out in the financial statements under regulation 9 to which the venturing company is beneficially entitled (before

(a) S.I. 2006/2865

(b) Section 115 was amended by paragraph 6 of Schedule 17 to the Finance Act 2007.

the offset of capital allowances, of losses from a previous accounting period and of amounts taken into account under section 120(3));

- (b) Financing Costs (external) means the aggregate of the amount of the financing costs of the tax-exempt business of the venturing company and of the venturing company's proportion of the amount of the financing costs of the UK business of the joint venture group but disregarding in both cases—
 - (i) financing costs owed by the venturing company to any member of the joint venture group and vice versa, and
 - (ii) financing costs owed by one member of JVG (property rental business) to another member as set out in the financial statements under regulation 9; and
- (c) the venturing company's proportion of the amount of the financing costs of the UK business of the joint venture group, as set out in the financial statements under regulation 9, shall be determined using the same proportion as the proportion of the profits of the principal company of the joint venture group available for distribution to equity holders to which the venturing company is beneficially entitled.”.

Tax charges and exemptions: single company real estate investment trusts

13.—(1) This regulation specifies charges to, and exemptions from, tax which apply in the case of a venturing company and the members of a joint venture group to which these Regulations apply.

(2) Section 111 (effects of entry), as modified by paragraph 9 of Schedule 17, shall apply in relation to a member of a joint venture group with the following further modifications—

- (a) references in paragraph 9 of Schedule 17 to G (pre-entry) shall be treated as references to the joint venture group before these Regulations applied to the group,
- (b) references in paragraph 9 of Schedule 17 to G (property rental business) shall be treated as references to JVG (property rental business), and
- (c) section 111(1) to (4) shall be treated as applying to the assets and business of the member only to the extent of the percentage of the beneficial interest which the venturing company has in the principal company of the joint venture group.

(3) Section 112 (entry charge), as modified by paragraph 11 of Schedule 17, shall apply in relation to a member of a joint venture group with the following further modifications—

- (a) a reference to each member of a group to which Part 4 applies shall be treated as a reference to each member of the joint venture group to which these Regulations apply,
- (b) references to G (residual) shall be treated as references to JVG (residual),
- (c) the reference in subsection (3)(a) to the aggregate market value of assets shall be treated as a reference to the amount of the aggregate market value of the assets of the property rental business of the member to the extent of the percentage of the beneficial interest which the venturing company has in the principal company of the joint venture group, and
- (d) the reference in paragraph 11(2) of Schedule 17 to a company which joins a group to which Part 4 applies shall be treated as a reference to a company which joins a joint venture group in respect of which a notice under regulation 5 has been given.

(4) Section 117 (cancellation of tax advantage)(a), as modified by paragraph 15 of Schedule 17, shall apply to the members of a joint venture group as it applies to members of a group to which Part 4 applies.

(5) Section 119(1) (profits exemption from corporation tax), as modified by paragraph 17 of Schedule 17, shall apply in relation to a UK resident member of a joint venture group with the following further modifications—

(a) Section 117 of the Finance Act 2006 was amended by paragraph 8 of Schedule 17 to the Finance Act 2007.

- (a) references to G (property rental business) shall be treated as references to JVG (property rental business),
- (b) references to G (residual) shall be treated as references to JVG (residual),
- (c) references to C (tax-exempt) shall be treated as references to the member if or in so far as it is a member of JVG (property rental business), and
- (d) the reference in section 119(1) to profits arising from the business of C (tax-exempt) shall be treated as a reference to the profits arising from the member's property rental business to which the venturing company is beneficially entitled.

(6) Section 120 (calculation of profits)(a) shall apply in relation to a member of a joint venture group.

(7) Section 124(1) and (2) (gains exempt from corporation tax), as modified by paragraph 21 of Schedule 17, shall apply in relation to a member of a joint venture group to the extent of the percentage of the beneficial interest which the venturing company has in the principal company of the joint venture group with the following further modifications—

- (a) references to G (property rental business) shall be treated as references to JVG (property rental business),
- (b) references to G (residual) shall be treated as references to JVG (residual), and
- (c) the reference in paragraph 21(2) of Schedule 17 to paragraph 31(5) shall be treated as a reference to that paragraph as substituted by regulation 9(4).

(8) Section 125 (movement of assets out of ring-fence) and section 126 (movement of assets into ring-fence), as modified by paragraphs 21 and 22 of Schedule 17, shall apply in relation to a UK resident member of the joint venture group to the extent of the percentage of the beneficial interest which the venturing company has in the principal company of the joint venture group with the following further modifications—

- (a) references to G (property rental business) shall be treated as references to JVG (property rental business),
- (b) references to G (residual) shall be treated as references to JVG (residual), and
- (c) the reference in paragraph 21(2) of Schedule 17 to paragraph 31(5) shall be treated as a reference to that paragraph as substituted by regulation 9(4).

(9) Section 131 (effects of cessation), as modified by paragraph 25 of Schedule 17, shall apply in relation to a member of a joint venture group with the following further modifications—

- (a) references in paragraph 25 of Schedule 17 to G (property rental business) shall be treated as references to JVG (property rental business),
- (b) the reference in paragraph 25 of Schedule 17 to G (residual) shall be treated as a reference to JVG (residual)
- (c) the reference in paragraph 25 of Schedule 17 to G (post-cessation) shall be treated as a reference to the joint venture group after these Regulations (other than regulation 16 (early exit)) cease to apply to the group, and
- (d) section 131(1) to (4) shall be treated as applying to the assets and business of the member only to the extent of the percentage of the beneficial interest which the venturing company has in the principal company of the joint venture group.

(10) For the purposes of this regulation the percentage of the beneficial interest which a venturing company has in the principal company of the joint venture group is the percentage of the profits of the principal company available for distribution to equity holders to which the venturing company is beneficially entitled.

Changes in company shareholdings: entry charges

14.—(1) Paragraph (2) applies if a venturing company to which these Regulations apply—

(a) Section 120 of the Finance Act 2006 was amended by paragraph 9 of Schedule 17 to the Finance Act 2007.

- (a) becomes the principal company of a group to which Part 4 applies,
- (b) gives a joint venture group look through notice under regulation 17 in respect of that group and a joint venture group to which Part 2 of these Regulations applies, and
- (c) the venturing company's shareholding in a member of the joint venture group remains the same.

(2) Sections 111 and 112 shall not operate to impose on the member of the joint venture group a charge to corporation tax under section 112(1)—

- (a) if the member is UK resident, in respect of the assets involved in its property rental business, and
- (b) if the member is non-UK resident, in respect of the assets involved in its property rental business in the United Kingdom.

(3) Paragraph (4) applies if a venturing company to which these Regulations apply—

- (a) becomes the principal company of a group to which Part 4 applies,
- (b) gives a joint venture group look through notice under regulation 17 in respect of that group and a joint venture group to which Part 2 of these Regulations applies, and
- (c) the venturing company's shareholding in a member of the joint venture group increased in the period between the date on which the venturing company gave a joint venture group look through notice under regulation 5 in respect of the member ("the first notice") and the date on which the notice under regulation 17 is given.

(4) The notional income calculated under section 112, as modified by paragraph 11 of Schedule 17, and as further modified by regulation 23, shall be reduced by the amount of the notional income that was calculated as arising under section 112, as modified by paragraph 11 of Schedule 17 and as further modified by regulation 13—

- (a) if the member is UK resident, in respect of the assets involved in its property rental business at the beginning of the accounting period specified in the first notice, and
- (b) if the member is non-UK resident, in respect of the assets involved in its property rental business in the United Kingdom at the beginning of the accounting period specified in the first notice.

(5) Paragraphs (6) and (7) apply if a venturing company to which these Regulations apply—

- (a) becomes the principal company of a group to which Part 4 applies,
- (b) increases its shareholding to 75% or more in a member of a joint venture group to which Part 2 of these Regulations applies, and
- (c) gives a notice under section 109 (as modified by paragraph 8 of Schedule 17) making the member and the venturing company members of a group to which Part 4 applies.

(6) Sections 111 and 112, as modified by paragraphs 9 to 11 of Schedule 17, shall continue to apply subject to paragraph (7).

(7) The notional income shall be reduced by the amount of notional income that was calculated as arising under section 112, as modified by paragraph 11 of Schedule 17 and as further modified by regulation 13—

- (a) if the member is UK resident, in respect of the assets involved in its property rental business at the beginning of the accounting period specified in the joint venture group look through notice given under regulation 5 in respect of the member, and
- (b) if the member is non-UK resident, in respect of the assets involved in its property rental business in the United Kingdom at the beginning of the accounting period specified in the joint venture group look through notice given under regulation 5 in respect of the member.

This is subject to paragraph (8).

(8) If the member joined the joint venture group after the end of the accounting period specified in the notice under regulation 5 applying these regulations to the joint venture group, paragraph

(7) shall apply with references to the accounting period specified in the joint venture group look through notice treated as references to the date the member joined the joint venture group.

Non-resident members of joint venture group: single company real estate investment trusts

15.—(1) This regulation applies if a notice under regulation 5 has been given applying these Regulations to a joint venture group which includes a non-UK resident member.

(2) Paragraph 32 of Schedule 17 shall apply with the following modifications—

- (a) in sub-paragraph (1) the reference to a “non-UK resident company which is a member of a group to which Part 4 applies” shall be treated as a reference to a non-UK resident company which is a member of the joint venture group to which these Regulations apply,
- (b) in sub-paragraph (7)—
 - (i) the reference to a “UK resident member of a group to which Part 4 applies” shall be treated as a reference to the venturing company to which these Regulations apply, and
 - (ii) the reference to a “non-UK resident member of the group” shall be treated as a reference to a non-UK resident member of the joint venture group to which these Regulations apply, and
- (c) in sub-paragraph (8) the reference to “UK resident member of the group” shall be treated as a reference to a UK resident member of the joint venture group.

(3) Section 112, as modified by paragraph 11 of Schedule 17, shall apply to the non-UK resident member of the joint venture group as if the reference in sub-paragraph (1)(d) of that paragraph to “non-UK resident members” were a reference to non-UK resident members of a joint venture group to which these Regulations apply.

Early exit

16.—(1) Paragraph (2) applies if a joint venture group look through notice has been given in accordance with regulation 5 applying these Regulations to a member of a joint venture group and—

- (a) these Regulations (other than this regulation) cease to apply in accordance with regulation 7, and
- (b) these Regulations had applied to the member for a continuous period, immediately before these Regulations (other than this regulation) ceased to have effect, of less than ten years.

(2) Section 132(2) and (3), as modified by paragraph 27 of Schedule 17, shall apply with the following further modifications—

- (a) the reference in paragraph 27(a) to a member of the group shall be treated as a reference to the member of the joint venture group,
- (b) the reference in paragraph 27(b) to G (property rental business) shall be treated as a reference to JVG (property rental business),
- (c) the references in section 132(2) to sections 111(2), 125(2) and 131(3) shall be treated as references to each of those sections as applied by these Regulations, and
- (d) in section 132(3)(b) the date of cessation shall be treated as the date on which these Regulations (other than this regulation) ceased to apply.

(3) Paragraph (4) applies if a UK resident member of a joint venture group in respect of which a joint venture group look through notice has been given in accordance with regulation 5 ceases to be a member of that group, and

- (a) the notice applied these Regulations to the member for a continuous period of less than ten years, or
- (b) the member had been a member of the joint venture group for a continuous period of less than ten years.

(4) Section 132(2) and (3), as modified by paragraph 28(2) of Schedule 17, shall apply with the following further modifications—

- (a) the reference in paragraph 28(2)(a) to G (property rental business) shall be treated as a reference to JVG (property rental business),
- (b) the reference in paragraph 28(2)(b) to a member of the group shall be treated as a reference to a member of the joint venture group,
- (c) the reference in section 132(2) to a company shall be treated as a reference to the member of the joint venture group, and
- (d) the references in section 132(2) to sections 111(2), 125(2) and 131(3) shall be treated as references to each of those sections as applied by these Regulations.

PART 3

Joint Venture Groups: Group Real Estate Investment Trusts

Notice

17.—(1) If the Conditions in regulation 18 are satisfied, a group of companies to which Part 4 applies (“venturing group”) may give notice for these Regulations to apply.

(2) The notice (a “joint venture group look through notice”) must specify—

- (a) the accounting period of the principal company of the venturing group from the beginning of which these Regulations are to apply, and
- (b) the principal company of the joint venture group to which these Regulations are to apply.

(3) The notice must be given in writing by the principal company of the venturing group to the Commissioners for Her Majesty’s Revenue and Customs.

(4) The notice must be signed by the company secretary or a director of—

- (a) the principal company of the venturing group, and
- (b) the principal company of the joint venture group to which these Regulations are to apply.

(5) The principal company of a venturing group may give a joint venture group look through notice—

- (a) at the same time it gives notice under section 109(a), as modified by paragraph 8 of Schedule 17, (notice to enter the Real Estate Investment Trust regime), or
- (b) any later time when Part 4 applies to it.

(6) The notice must be given before the beginning of the specified accounting period.

This paragraph is subject to paragraphs (7) to (9).

(7) The principal company of a venturing group may give, within a period of 60 days beginning with the day on which these Regulations come into force, a joint venture group look through notice in respect of an accounting period that began on or after 1st January 2007 but before the date on which these Regulations come into force.

Conditions for giving notice

18. The Conditions referred to in regulation 17 are as follows.

Condition 1

The venturing group is carrying on a joint venture with another person.

Condition 2

The joint venture takes the form of a joint venture group.

(a) Section 109 was amended by paragraph 5 of Schedule 17 to the Finance Act 2007 (c. 11).

Condition 3

At least one member of the joint venture group is carrying on property rental business as defined in section 104 and as construed in accordance with regulation 4(4).

Condition 4

The members of the venturing group are, in aggregate, beneficially entitled to 40% or more of the profits available for distribution to equity holders in the principal company of the joint venture group.

Condition 5

The members of the venturing group are, in aggregate, beneficially entitled to 40% or more of the assets of the principal company of the joint venture group available to equity holders in the event of a winding up.

Duration and effect of notice

19.—(1) On giving notice in accordance with regulation 17 these Regulations shall apply to the venturing group and shall continue to apply unless and until—

- (a) the venturing group ceases to satisfy Condition 4 or 5 in regulation 18, or
- (b) Part 4 ceases to apply to the venturing group for any reason.

(2) On giving notice in accordance with regulation 17 these Regulations shall apply to each company that is or becomes a member of the joint venture group and (other than regulation 26) shall continue to apply unless and until—

- (a) the venturing group ceases to satisfy Condition 4 or 5 in regulation 18,
- (b) Part 4 ceases to apply to the venturing group for any reason, or
- (c) the member ceases to be a member of the joint venture group.

(3) Regulation 26 (early exit) shall continue to apply whether or not the circumstances are such that these Regulations otherwise cease to apply in accordance with this regulation.

(4) A notice under regulation 17 has effect—

- (a) in relation to a venturing group, and
- (b) for an accounting period of the principal company of the venturing group,

only if the Conditions referred to in regulation 20 are satisfied by the joint venture group in relation to that accounting period.

Joint venture group: conditions for balance of business

20.—(1) This regulation applies if a joint venture group look through notice under regulation 17 has been given in respect of a joint venture group.

(2) The joint venture group, taken as a whole, must satisfy Condition 1 in section 108 (conditions for balance of business)(a), as modified by paragraph 7 of Schedule 17—

- (a) in the accounting period specified in the joint venture group look through notice, and
- (b) in each subsequent accounting period.

(3) The joint venture group, taken as a whole, must satisfy Condition 2 in section 108 (conditions for balance of business), as modified by paragraph 7 of Schedule 17—

- (a) at the beginning of the accounting period specified in the joint venture group look through notice, and
- (b) at the beginning of each subsequent accounting period.

(4) For the purposes of this regulation—

(a) Section 108 was amended by paragraph 4 of Schedule 17 to the Finance Act 2007.

- (a) references in section 108 and in paragraph 7 of Schedule 17 to tax-exempt business shall be treated as references to the UK business of the joint venture group,
- (b) references in section 108 to the company shall be treated as references to the joint venture group,
- (c) references in paragraph 7 of Schedule 17 to G (property rental business) shall be treated as references to JVG (property rental business), and
- (d) references in paragraph 7 of Schedule 17 to G (residual) shall be treated as references to JVG (residual).

Joint venture group: financial statements

21.—(1) If a joint venture group look through notice has been given under regulation 17 in respect of a joint venture group, the principal company of that group shall prepare financial statements for each of its accounting periods in respect of the joint venture group.

(2) Paragraph 31 of Schedule 17 shall apply to the financial statements required under paragraph (1) with the following modifications.

(3) References in paragraph 31 shall be construed as follows—

- (a) references to the principal company shall be treated as references to the principal company of the joint venture group,
- (b) references in sub-paragraph (2) to G (property rental business) shall be treated as references to JVG (property rental business),
- (c) the reference in sub-paragraph (2) to G (residual) shall be treated as a reference to JVG (residual),
- (d) the reference in sub-paragraph (2) to UK business shall be treated as a reference to UK business of the joint venture group, and
- (e) references to a member of a group shall be treated as references to a member of the joint venture group.

(4) For sub-paragraphs (5) and (6) there shall be treated as substituted—

“(5) The financial statements for JVG (property rental business) and JVG (residual) shall exclude that percentage of income, expenses, gains, losses, assets and liabilities of any member of the joint venture group equalling the percentage of beneficial interest in that member not held by the members of the joint venture group.

(6) For this purpose, the percentage of beneficial interest shall be determined by reference to the beneficial entitlement of the members of the joint venture group to profits available for distribution to them as equity holders in the member.”.

Venturing group: financial statements

22.—(1) If a joint venture group look through notice has been given under regulation 17 in respect of a joint venture group, the principal company of the venturing group shall include the information specified in paragraph (2) in the financial statements submitted in accordance with the provisions of paragraphs 5(2) and 31 of Schedule 17.

(2) The information is the relevant percentage of income, expenses, profits and assets of the member of the joint venture group which represents interests of a member of the venturing group in that member of the joint venture group.

(3) For the purposes of paragraph (2) “the relevant percentage” shall be determined by reference to the percentage of the member of the joint venture group’s profits available for distribution to equity holders to which the members of the venturing group are beneficially entitled.

(4) In the application of paragraphs 5(2) and 31 of Schedule 17 for the purposes of this regulation—

- (a) references to each member are to be treated as references to each member of the joint venture group, and

- (b) references to a non-member are references to a person or body which is neither a member of the venturing group nor a member of the joint venture group.

Tax charges and exemptions: group real estate investment trusts

23.—(1) This regulation specifies charges to, and exemptions from, tax which apply in the case of a venturing group and the members of a joint venture group to which these Regulations apply.

(2) Section 111 (effects of entry), as modified by paragraph 9 of Schedule 17, shall apply in relation to a member of a joint venture group with the following further modifications—

- (a) references in paragraph 9 of Schedule 17 to G (pre-entry) shall be treated as references to the joint venture group before these Regulations applied to the group,
- (b) references in paragraph 9 of Schedule 17 to G (property rental business) shall be treated as references to JVG (property rental business), and
- (c) section 111(1) to (4) shall be treated as applying to the assets and business of the member only to the extent of the percentage of the beneficial interest which the members of the venturing group in aggregate have in the principal company of the joint venture group.

(3) Section 112 (entry charge), as modified by paragraph 11 of Schedule 17, shall apply in relation to a member of a joint venture group with the following further modifications—

- (a) a reference to each member of a group to which Part 4 applies shall be treated as a reference to each member of the joint venture group to which these Regulations apply,
- (b) references to G (residual) shall be treated as references to JVG (residual), and
- (c) the reference in subsection (3)(a) to the aggregate market value of assets shall be treated as a reference to the amount of the aggregate market value of the assets of the property rental business of the member to the extent of the percentage of the beneficial interest which the members of the venturing group in aggregate have in the principal company of the joint venture group, and
- (d) the reference in paragraph 11(2) of Schedule 17 to a company which joins a group to which Part 4 applies shall be treated as a reference to a company which joins a joint venture group in respect of which a notice under regulation 17 has been given.

(4) Section 117 (cancellation of tax advantage)(a), as modified by paragraph 15 of Schedule 17, shall apply to the members of a joint venture group as it applies to members of a group to which Part 4 applies.

(5) Sections 119(1) (profits exemption from corporation tax), as modified by paragraph 17 of Schedule 17, shall apply in relation to a UK resident member of a joint venture group with the following further modifications—

- (a) references to G (property rental business) shall be treated as references to JVG (property rental business),
- (b) references to G (residual) shall be treated as references to JVG (residual),
- (c) references to C (tax-exempt) shall be treated as references to the member if or in so far as it is a member of JVG (property rental business), and
- (d) the reference in section 119(1) to “profits arising from the business of C (tax-exempt)” shall be treated as a reference to the amount of profits arising from the member’s property rental business to which the members of the venturing group in aggregate are beneficially entitled.

(6) Section 120 (calculation of profits)(b) shall apply in relation to a member of a joint venture group.

(7) Section 124(1) and (2) (corporation tax), as modified by paragraph 21 of Schedule 17, shall apply in relation to a member of a joint venture group to the extent of the percentage of the

(a) Section 117 of the Finance Act 2006 was amended by paragraph 8 of Schedule 17 to the Finance Act 2007.

(b) Section 120 of the Finance Act 2006 was amended by paragraph 9 of Schedule 17 to the Finance Act 2007.

beneficial interest to which the members of the venturing group in aggregate have in the principal company of the joint venture group with the following further modifications—

- (a) references to G (property rental business) shall be treated as references to JVG (property rental business),
- (b) references to G (residual) shall be treated as references to JVG (residual), and
- (c) the reference in paragraph 21(2) of Schedule 17 to paragraph 31(5) shall be treated as a reference to that paragraph as substituted by regulation 21(4).

(8) Section 125 (movement of assets out of ring-fence) and section 126 (movement of assets into ring-fence), as modified by paragraphs 21 and 22 of Schedule 17, shall apply in relation to a UK resident member of the joint venture group to the extent of the percentage of the beneficial interest which the members of the venturing group, in aggregate, have in the principal company of the joint venture group with the following further modifications—

- (a) references to G (property rental business) shall be treated as references to JVG (property rental business),
- (b) references to G (residual) shall be treated as references to JVG (residual), and
- (c) the reference in paragraph 21(2) of Schedule 17 to paragraph 31(5) shall be treated as a reference to that paragraph as substituted by regulation 21(4).

(9) Section 131 (effects of cessation), as modified by paragraph 25 of Schedule 17, shall apply in relation to a member of a joint venture group with the following further modifications—

- (a) references in paragraph 25 of Schedule 17 to G (property rental business) shall be treated as references to JVG (property rental business),
- (b) the reference in paragraph 25 of Schedule 17 to G (residual) shall be treated as a reference to JVG (residual),
- (c) the reference in paragraph 25 of Schedule 17 to G (post-cessation) shall be treated as a reference to the joint venture group after these Regulations (other than regulation 26 (early exit)) cease to apply to the group, and
- (d) section 131(1) to (4) shall be treated as applying to the assets and business of the member only to the extent of the percentage of the beneficial interest to which the members of the venturing group in aggregate have in the principal company of the joint venture group.

(10) For the purposes of this regulation the percentage of the beneficial interest which the members of the venturing group in aggregate have in the principal company of a joint venture group is the percentage of the profits of the principal company available for distribution to equity holders to which the members of the venturing group are in aggregate beneficially entitled.

Changes in company shareholdings: entry charges

24.—(1) Paragraphs (2) and (3) apply if a member of a venturing group to which these Regulations apply—

- (a) increases its shareholding to 75% or more in a member of a joint venture group to which Part 3 of these Regulations applies, and
- (b) the member of the joint venture group becomes a member of the group to which Part 4 applies.

(2) Sections 111 and 112, as modified by paragraphs 9 to 11 of Schedule 17, shall continue to apply subject to paragraph (3).

(3) The notional income shall be reduced by the amount of notional income that was calculated as arising under section 112, as modified by paragraph 11 of Schedule 17 and as further modified by regulation 23—

- (a) if the member is UK resident, in respect of the assets involved in its property rental business at beginning of the accounting period specified in the joint venture group look through notice given under regulation 17 in respect of the member, and

- (b) if the member is non-UK resident, in respect of the assets involved in its property rental business in the United Kingdom at the beginning of the accounting period specified in the joint venture group look notice given under regulation 17 in respect of the member.

This is subject to paragraph (4).

(4) If the member joined the joint venture group after the end of the accounting period specified in the notice under regulation 17 applying these regulations to the joint venture group, paragraph (3) shall apply with references to the accounting period specified in the joint venture group look through notice treated as references to the date the member joined the joint venture group.

Non-resident members of joint venture group: group real estate investment trusts

25.—(1) This regulation applies if a notice under regulation 17 has been given applying these Regulations to a joint venture group which includes a non-UK resident member.

(2) Paragraph 32 of Schedule 17 shall apply with the following modifications—

- (a) in sub-paragraph (1) the reference to a “non-UK resident company which is a member of a group to which Part 4 applies” shall be treated as a reference to a non-UK resident company which is a member of the joint venture group to which these Regulations apply, and
- (b) in sub-paragraph (7)—
 - (i) the reference to a “UK resident member of a group to which Part 4 applies” shall be treated as a reference to a UK resident member of a venturing group to which these Regulations apply, and
 - (ii) the reference to a “non-UK resident member of the group” shall be treated as a reference to a non-UK resident member of a joint venture group to which these Regulations apply, and
- (c) in sub-paragraph (8) the reference to “UK resident member of the group” shall be treated as a reference to a UK resident member of the joint venture group.

(3) Section 112, as modified by paragraph 11 of Schedule 17, shall apply to the non-UK resident member of the joint venture group as if the reference in sub-paragraph (1)(d) of that paragraph to “non-UK resident members” were a reference to non-UK resident members of a joint venture group to which these Regulations apply.

Early exit

26.—(1) Paragraph (2) applies if a joint venture group look through notice has been given in accordance with regulation 17 applying these Regulations to a member of a joint venture group and—

- (a) these Regulations (other than this regulation) cease to apply in accordance with regulation 19, and
- (b) these Regulations had applied to the member for a continuous period, immediately before these Regulations (other than this regulation) ceased to have effect, of less than ten years.

(2) Section 132(2) and (3), as modified by paragraph 27 of Schedule 17, shall apply with the following further modifications—

- (a) the reference in paragraph 27(a) to a member of the group shall be treated as a reference to the member of the joint venture group,
- (b) the reference in paragraph 27(b) to G (property rental business) shall be treated as a reference to JVG (property rental business),
- (c) the references in section 132(2) to sections 111(2), 125(2) and 131(3) shall be treated as references to each of those sections as applied by these Regulations, and
- (d) in section 132(3)(b) the date of cessation shall be treated as the date on which these Regulations (other than this regulation) ceased to apply.

(3) Paragraph (4) applies if a UK resident member of a joint venture group in respect of which a joint venture group look through notice has been given in accordance with regulation 17 ceases to be a member of that group, and

- (a) the notice applied these Regulations to the member for a continuous period of less than ten years, or
- (b) the member had been a member of the joint venture group for a continuous period of less than ten years.

(4) Section 132(2) and (3), as modified by paragraph 28(2) of Schedule 17, shall apply with the following further modifications—

- (a) the reference in paragraph 28(2)(a) to G (property rental business) shall be treated as a reference to JVG (property rental business),
- (b) the reference in paragraph 28(2)(b) to a member of the group shall be treated as a reference to a member of the joint venture group,
- (c) the reference in section 132(2) to a company shall be treated as a reference to the member of the joint venture group, and
- (d) the references in section 132(2) to sections 111(2), 125(2) and 131(3) shall be treated as references to each of those sections as applied by these Regulations.

*Dave Watts
Alan Campbell*

4th December 2007

Two of the Lords Commissioners of Her Majesty's Treasury

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.

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.

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.