Draft Regulations laid before the House of Commons under section 136A(4) of the Finance Act 2006, for approval by resolution of the House of Commons.

DRAFT STATUTORY INSTRUMENTS

2009 No. 0000

CORPORATION TAX

The Real Estate Investment Trusts (Prescribed Arrangements) Regulations 2009

Made - - - -	*[...]*
Coming into force - -	*[...]*

The Treasury make the following Regulations in exercise of the powers conferred by sections 136A of the Finance Act 2006(**1**) and paragraph 8(2) of Schedule 34 to the Finance Act 2009(**2**).

In accordance with section 136A(4) of that Act, a draft of this instrument was laid before the House of Commons and approved by a resolution of that House.

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 forthwith.

(2) These Regulations shall have effect in relation to prescribed arrangements made on or after 7th May 2009 and during an accounting period which ends on or after [date when regulations are made].

Interpretation

2.—(1) In these Regulations—

(a) a reference to Part 4 is a reference to Part 4 of the Finance Act 2006 (real estate investment trusts), and

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

(2) For the purposes of these Regulations, "person" includes, but is not limited to—

(a) a legal person,

(b) a natural person,

(c) a partnership,

(**1**) 2006 c. 25. Section 136A was inserted by paragraph 8(1) of Schedule 34 to the Finance Act 2009 (c. 10).
(**2**) 2009 c.10.

(d) a limited partnership,

(e) a limited liability partnership,

(f) a trust, and

(g) any other body of persons.

(3) 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 (whether or not part of other 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 (conditions for tax exempt business) and 108 (conditions for balance of business) where, but for the arrangements, those conditions would not be satisfied.

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) 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 income.

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

Excluded arrangements

4.—(1) For the purposes of these Regulations, arrangements are not prescribed arrangements if at least one of the following conditions is satisfied.

(2) Condition 1 is that the arrangements have been effected solely for genuine commercial purposes.

(3) Condition 2 is that the arrangements are 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"), subject to paragraph (3), the entities listed in paragraph (2) shall be treated as members of the same 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) But a person within paragraph (2)(c) shall not be treated as a member of the REIT group where it can be shown that the person falls outside the scope of the prescribed arrangements.