HMRC - CFM97710 - Reits: Overview

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There are special rules for the application of the interest restriction rules to Real Estate Investment Trusts (REITs). This is needed to ensure that the rules operate correctly as a result of certain profits of the REIT being exempted from Corporation Tax, and to allow the interest restriction rules to interact correctly with the calculation of the amounts that a REIT is required to distribute.

Background

The Real Estate Investment Trust (REIT) rules are a special regime which can apply to a company, or group of companies, which owns and manages property on behalf of shareholders.

The key aspects of the regime are:

The REIT must have a main business of property investment. The profits of the property rental business (PRB), as measured for tax purposes, are exempt from Corporation Tax.

The REIT must pay out 90% of the profits of its exempt PRB to shareholders every year as a property income dividend (PID). The PIDs are treated as property income of the recipient, and are taxed accordingly.

The REIT may also carry on activities that are not part of the PRB. Profits from residual business activities are not exempt.

In applying these rules, the REIT company is treated as if it were two separate companies, one carrying on the PRB and one carrying on the residual business. Furthermore, the PRB and the residual business of a ‘Group REIT’ are treated as if they were separate groups.

As a result, the Corporation Tax computation will be prepared on the basis splitting out the property rental business and the residual rental business.

Application to the interest restriction rules

In applying the interest restriction rules in the context of a REIT the normal rules apply, subject to the following modifications:

The property rental business companies and the residual business companies are treated as being part of the same worldwide group.

The REIT should treat their property rental business as not exempt.

For the purposes of the public infrastructure rules, the property rental business company and residual business company are treated as being the same company (so that a single election would apply to both).

Note that, other than with the application of the public infrastructure rules, the property rental business companies and residual business companies are considered to be separate companies in line with the deeming under the REIT rules.

Additional rules in respect of the way that REITs allocate disallowances which provide certain limitation but also provide significant flexibility in how amounts are allocated.

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