

News

FIRST PHASE OF UK REIT REFORM IS CONFIRMED

Aug 02, 2021

SUMMARY

The Government has confirmed it will introduce a series of changes to reform the REIT rules to remove barriers to entry to the regime and to make operation of the regime easier. The first set of changes will be implemented from 1 April 2022. A further set of changes, which are being considered as part of a wider reform of the UK's funds rules, will be introduced at a later stage.

These are the changes that have been confirmed for April 2022:

- The requirement for listing of the REIT's shares will be removed where at least 99% of the REIT's ordinary shares are owned by institutional investor(s) (including pension schemes, sovereign wealth funds, long-term insurers and UK and non-UK REITs). This was an unnecessary requirement for such ownership structures. Where the REIT's shares are held by a collective investment scheme (CIS) operated as a limited partnership, to benefit from this listing relaxation, in addition the CIS will need to have genuine diversity of ownership. A REIT being held by a limited partnership is a common structure, so this additional requirement on diverse ownership should be noted.
- There is a limited change to the list of institutional investors that can allow a closely held company to benefit from REIT treatment. From April 2022 a non-UK REIT will qualify provided it, the entity, meets the test of equivalence with a UK REIT, so it will no longer be necessary for the non-UK REIT regime itself to meet the equivalence test. This provides helpful clarity and is simpler. A more extensive refresh of the list of institutional investors was initially being considered, but the Government needs more time to reflect on knock on implications from the change. Accordingly, any other changes to the list will be considered as part of the wider reform for UK funds, and are therefore on a different timetable.
- A REIT will no longer be taxed where distributions are made to corporate shareholders that have at least a 10% interest in the REIT where the shareholder is entitled to receive the distribution gross, e.g. a UK company. This will remove the need for fragmentation of

shareholdings for relevant shareholders. Distributions to 10%+ shareholders who are entitled to a repayment of tax withheld on distributions, e.g. a foreign pension fund or sovereign wealth fund, will remain subject to the tax for now.

- There will be two limited changes to the balance of business test, which requires 75% of a REIT's assets and income to derive from its property rental business. The first change is that residual profits resulting from compliance with planning obligations under section 106 of the Town and Country Planning Act 1990 will be disregarded. The second change is intended to simplify compliance with the balance of business test. Where group accounts for a period show that property rental business profits and assets comprise at least 80% of the group totals, a REIT will not have to prepare additional financial statements for each member of the group. The Government will consider further changes to the balance of business test as part of the wider funds review.

These changes are timely as there is greater interest in REITs in the light of taxation of non-resident's gains in UK property and increases in the rate of corporation tax to 25% from April 2023. This rate of tax on rent will apply to non-UK resident landlords similarly to UK landlords. It is hoped that the other changes to the REIT rules already being considered can, therefore, be accelerated to be introduced from April 2023, if not April 2022. The possible changes are the ability for a REIT to hold one property (rather than requirement to hold at least three), making it easier for a REIT to hold non-UK property, revisions to the three-year development rule and the interest cover test. These are discussed in more detail in our earlier blog ([here](#)) on the REIT reforms. Significantly, it is hoped that in the second set of REIT changes the Government reconsiders the list of institutional investors that can allow a closely held company to benefit from REIT treatment (as mentioned above) and provides greater clarity to allow institutional investors to hold their interest indirectly in the REIT.

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MEET THE TEAM



Elizabeth Bradley

London

elizabeth.bradley@bcplaw.com

[+44 \(0\) 20 3400 2323](tel:+442034002323)



Paul Williams

London

paul.williams@bcplaw.com

[+44 \(0\) 20 3400 2608](tel:+442034002608)



Anne Powell

London

anne.powell@bcplaw.com

[+44 \(0\) 20 3400 2162](tel:+442034002162)

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