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News

INVESTMENT TRUSTS FOUND TO BE BREACHING HMRC RULES – ELIZABETH BRADLEY QUOTED IN PROPERTY INVESTOR TODAY

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SUMMARY

Elizabeth Bradley, Global Practice Group Leader for our Tax, Employee Benefits and Private Client practice, provided insight in an article in Property Investor Today on 10 July 'Investment Trusts Found to be Breaching HMRC Rules.'

The number of Real Estate Investment Trusts (REITs) in breach of the special tax-exempt regime has nearly quadrupled over the past year, according to analysis by BCLP, an international law firm.

According to data obtained by BCLP from HM Revenue & Customs (HMRC), 26 breaches of the REIT tax regime were notified to HMRC in 2023/24, up from just seven the previous year.

BCLP explains that qualifying REITs are exempt from UK tax on the income and gains from their property rental businesses providing they distribute at least 90% of taxable rental income to shareholders as Property Income Distributions (PIDs), which are taxed at the shareholder level.The data also shows that at least two REITs have had their tax exempt status revoked by HMRC over the last four years. Loss of tax-exempt status means that REITs no longer benefit from corporation tax exemptions on property rental business profits and they may face capital gains tax liabilities on previously exempt property disposals.BCLP points out that the rules governing REITs were relaxed between 2022 to 2024, including the removal of the stock exchange listing requirement and the simplification of financial reporting requirements. This has led to a significant increase in REITs entering the tax-exempt regime during this period; the number of new REITs has more than doubled.

Elizabeth Bradley, Partner at BCLP, comments: "There has been a surge in the formation of private REITs since the abolition of the listing requirement. The relaxation of the REIT tax regime has encouraged more eligible investors to set up REITs but care needs to be taken not to fall foul of the regime, as the costs of losing REIT status can be severe."

"REITs are facing challenges in maintaining their profit-to-financing cost ratios due to higher interest rates and property market volatility."

"At least two REITs have had their tax-exempt status revoked in the last four years. This has significant tax and operational consequences, including triggering corporation tax liabilities. Future rental income and gains become fully taxable, and investor appeal may decline. It also complicates compliance, reporting, and distributions, as PIDs are no longer allowed."

She adds: "The rise in breaches of the tax regime underscores the value of strong legal and tax advice for REITs navigating an evolving regulatory landscape. Expert advice ensures REITs remain compliant while optimising capital structures, distributions, and risk management."

Read the full article here: Investment Trusts found to be breaching HMRC rules

MEET THE TEAM

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