

EXPLANATORY MEMORANDUM TO
THE REAL ESTATE INVESTMENT TRUSTS (ASSESSMENT AND
RECOVERY OF TAX) (AMENDMENT) REGULATIONS 2006

2006 No. 3222

1. This explanatory memorandum has been prepared by Her Majesty's Revenue and Customs (HMRC) and is laid before the House of Commons by Command of Her Majesty. This memorandum contains information for the Select Committee on Statutory Instruments.

2. **Description**

These Regulations make a correction to the text of SI 2006/2867 by removing otiose text at regulation 12(5) of that instrument.

3. **Matters of special interest to the Select Committee on Statutory Instruments**

None

4. **Legislative Background**

4.1 The legislation setting out a special tax regime for Real Estate Investment Trusts and their shareholders was introduced as Part 4 FA 2006. The regime exempts from tax the profits of qualifying property rental business and instead, taxes the profits in the hands of investors when they are distributed.

4.2 A Real Estate Investment Trust (UK-REIT) can be either a limited company or a group of companies. To elect to join the regime, it must meet certain conditions, including a requirement that 90% of the income of its property rental business must be distributed to shareholders each year.

4.3 The distributions of the profits of the tax-exempt property rental business are paid under deduction of basic rate (22%) income tax. In general, the property income distributions are taxable in the hands of shareholders in the same way as UK property income (rather than as dividends from a UK company).

4.4 Part 4 FA 2006 provides various powers under which the Treasury can make regulations covering detail and administrative arrangements for

the regime. The powers that are used for regulations SI 2006/2867 are in section 122 and paragraphs 4 and 19 of Schedule 17.

4.5 These regulations are made under the same powers.

5. Extent

These Regulations apply throughout the United Kingdom.

6. European Convention on Human Rights

These Regulations are subject to annulment and do not amend primary legislation. Accordingly, no statement of compatibility with the Convention rights is required.

7. Policy Background

7.1 Government's intention to introduce a special tax regime for property investment companies was announced at the time of the Pre-Budget Report in 2005. The aim of the regime is to move the burden of taxation from the vehicle to the investor, in order to correct a number of inefficiencies in the operation of the UK property rental market. Extensive consultation has taken place since then on both the primary legislation that was enacted as part of FA 2006 and on these regulations.

7.2 It is intended that consultation with the industry will continue in the future in order to ensure that the regime is, and remains, fit for its intended purpose.

8. Impact

A regulatory impact assessment has been prepared and is available on the HMRC website at <http://www.hmrc.gov.uk/ria/ria>

9. Contact

John Buckeridge at HM Revenue & Customs, Tel: 020 7147 2560 or e-mail: John.Buckeridge@hmrc.gsi.gov.uk can be contacted with any queries regarding the instrument.