

DBULLETIN

Improvements to the Real Estate Investment Trust Regime

Earlier this month, the much anticipated draft legislation for relaxing the Real Estate Investment Trust (REIT) regime was published. Many registered providers had hoped that the changes would result in REITs becoming a new funding option to replace bank funding. They may be disappointed by HM Treasury's proposals.

To date over 20 REITs have been created with a particular focus on commercial property investment.

REITs were introduced some five years ago as a tax efficient vehicle to encourage investment in property. In September 2010 the Government had indicated that it would look further at the barriers to entry to the REIT regime with a view to facilitating, in the longer term, the establishment of residential REITs. Subsequently, it emerged that further consultation with interested parties suggested that the best way to support the REIT's industry in general (and the development of residential REITs in particular) was in part to reduce the barriers to entry for new REITs and to ensure that the regime does not inhibit good business practice. A subsequent informal consultation on the proposed measures took place between April and June of this year. This resulted in the draft legislation being published on 6 December 2011.

The most important changes include:

- The abolition of the conversion charge of 2% which is payable by a company on joining the REIT regime.
- The listing requirement will be relaxed so that a REIT does not have to have a main market listing in London. For example, it would be possible to have the shares to the REIT traded on the AIM and PLUS markets and overseas equivalents.

In addition, there are a number of other measures to reduce the barriers to entry and

investment in the REIT regime and to reduce compliance costs. The general view is that these changes go a long way towards achieving these aims.

Earlier this year, during the consultation period, various representations were made to allow the creation of, among others, residential REITs and social housing REITs. This does not appear to have been addressed in the draft legislation.

While, as a matter of law, there is nothing to stop the creation of purely residential REITs, the fact that they have not yet been created suggests that further changes need to be made to the regulatory regime to encourage them. That said, several property companies are contemplating creating residential REITs. For example, last month London & Stamford (which itself is a REIT that owns some of the UK's largest shopping malls) announced that it was in talks about spinning off a residential REIT. So there is interest, not only from the RPs, but also from the private sector, in residential REITs.

Pending further regulatory changes, RP finance directors may be looking at other funding options such as private placements, bonds and sales and leasebacks.

Another option, which we will be discussing at a future seminar, is issuing shares to equity investors.

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