

● JERSEY PROPERTY UNIT TRUSTS (“JPUT”)

INTRODUCTION

Despite the removal of the seeding relief exemption from UK Stamp Duty Land Tax, JPUTs have remained popular with individuals, fund promoters and investment groups worldwide for the purchase and holding of UK property.

WHAT IS A JPUT?

A JPUT is a specialised trust, which is constituted by an instrument of trust, with the trustee holding the assets on trust for the unit holders (the investors). The trust instrument sets out the terms on which the trustee holds the unit trust assets and the rights of the unit holders in relation to both capital and income.

TAX ADVANTAGES

Income: Provided the JPUT is structured as a “Baker Trust” it shall be transparent for UK income tax purposes; i.e. any income from the unit trust is directly attributable to the unit holders and unit holders are able to set off expenses of the JPUT against that income.

Capital Gains Tax: Where the JPUT is managed and controlled in Jersey and the trustee is based offshore, when any UK real estate is sold the trustee will be exempt from UK capital gains tax as it is treated as a corporate entity and it is managed and controlled offshore. Also, distributions by the unit trust can usually be paid gross to non-Jersey resident unit holders.

Inheritance Tax: Another advantage is that units in the JPUT are considered to be non-UK situs assets for UK inheritance tax purposes.

SDLT: the sale of units can be made free of UK Stamp Duty Land Tax.

Jersey: There are no taxes, registration fees or duties payable in Jersey in respect of the establishment or administration of a Unit Trust.

REGULATION

The level of regulation in Jersey will be determined by the number and type of investors. In short, if in excess of fifteen offers are to be made then the JPUT may fall within Jersey’s collective investment fund regime and so regulatory advice will be required.

DOCUMENTATION

The main documents are: (i) the Unit Trust Instrument; (ii) the Initial Contribution and Subscription Agreement; (iii) the various draft minutes of the Trustees as trustees of the Unit Trust dealing (inter alia) with the set-up of the Unit Trust; and (iv) the letters of application to the Jersey Financial Services Commission and Jersey Income Tax. These documents can be prepared quickly by the Investment Funds Team at Collas Crill.

LOANS/FINANCING/SECURITY

A unit, for the purposes of the Security Interests (Jersey) Law 1983, is equivalent to a share in a company and as such, if required, can be subject to a security interest arrangement for the purposes of securing a loan.

KEY BENEFITS OF A JPUT WHEN COMPARED WITH A UK REIT

- A JPUT is not subject to a statutory framework (other than the Trusts (Jersey) Law 1984, which applies to trusts generally).
- No corporation tax. For a UK REIT the current UK corporation tax rate is 28%.
- No restriction on the percentage interest of a unit holder. Care must be taken by an investor in a UK REIT if he/she controls 10% or more.
- No restriction on the number or type of classes of units.
- No limit on gearing.
- It is possible to make distributions out of capital of a JPUT without the need to meet solvency or other tests.

- No portfolio restrictions - the portfolio can consist of a single property or many properties.
- Can be open ended or closed ended. A UK REIT must not be an open-ended investment company.
- No requirement to distribute profits within any particular period. With a UK REIT 90% of net taxable profits must be distributed before corporation tax filing date.
- Transfer of units is not subject to UK Stamp Duty Land Tax in the UK or Jersey
- Procedure for winding up of a JPUT is straightforward and relatively quick.

FOR MORE INFORMATION, PLEASE CONTACT:



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