Real Estate Investment Trusts (REITs)

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The Channel Islands have seen significant growth in the establishment of Guernsey and Jersey UK Real Estate Investment Trusts (REITs) in last few years, for structuring new investment and restructuring existing portfolios of UK residential property.

REITs offer companies the opportunity to invest in UK property without incurring UK corporation taxes on the capital gains or rental income generated from those investments.

By utilising the Channel Islands' leading fund regimes, a Channel Islands REIT provides the ideal vehicle for institutional investors and fund managers to structure their property investment into the UK.

What is a REIT?

The UK REIT regime was introduced on 1 January 2007 to encourage investment into UK real estate, by providing a tax efficient way to invest in UK property.

There are certain qualifying criteria in order for a company to be classified as a UK REIT, detailed further below, including express requirements as to the company's structure, its property portfolio and the distribution of profits.

By meeting the qualifying criteria, the UK REIT regime exempts companies from UK corporation tax on its UK real estate income, including both rental income and capital gains.

Why establish a REIT in the Channel Islands?

Respected fund regimes

Guernsey and Jersey have long been regarded as the leading jurisdictions for investment funds looking to access an international investor base and for investing in UK property. Each provide a responsive and pragmatic regulator, striking an ideal balance between respected investor safeguards and light touch company regulation.

Premium jurisdiction for listed companies

For REITs looking to take advantage of the access to capital provided by the London Stock Exchange, the Channel Islands boast the leading offshore jurisdictions in both number and market capital for all non-UK issuers listed on LSE.

Simplified Company Law

Each of **Guernsey and Jersey** offers a simplified company law, based on English company law concepts, but designed to give the maximum flexibility to the REIT whilst also providing sufficient shareholder safeguards where desired.

This can provide significant annual cost savings to the REIT when compared to the more complex English company law, particularly when complying with the English Plc requirements for the distribution of profits (detailed below).

Distributions

Rather than restricting distributions from being paid from distributable profits, as would be required for an English Plc, both the Guernsey and Jersey company laws have a simplified distribution test, based on whether the REIT will remain solvent following the distribution. The determination of solvency also falls to the directors of the REIT, avoiding the requirement, and cost, of obtaining separate auditor reports as to the availability of distributable profits.

This can be particularly helpful for REITs in avoiding the reduction of share capital or premium commonly required to free up distributable profits for English incorporated REITs.

Service providers

Each of Guernsey and Jersey boasts a wealth of experienced service providers, including international law firms, 'big four' accountancy firms and corporate service providers. This wealth of experience and capacity allows every investment fund, regardless of size, to receive a high quality, bespoke and dedicated service.

Intra-Group Amalgamations

For those investors who presently hold a portfolio of properties under separate SPVs, such as family offices, trusts or investment funds, it is possible to amalgamate each SPV and their properties into one company through a streamlined process, requiring only shareholder resolutions and avoiding any need for court sanction.

REIT Qualifying Conditions

In order to qualify as a UK REIT, a company must satisfy the following conditions:

Company Structure

The REIT must:

- be structured as a company (or group of companies);
- be tax resident in the UK; and
- be closed-ended.

It is also a requirement that the company has diversity of ownership, such that the REIT is not considered to be a '*close company*' (which broadly means that the company cannot be under the control of less than five people). However, this is not a requirement where the REIT has an institutional investor, allowing institutional investors to establish a wholly owned UK REIT.

Listing

The Company must have its ordinary share capital admitted to trading on a '*recognised stock exchange*', which includes The International Stock Exchange, based in the Channel Islands, and the LSE.

Rental Income

A REIT must carry out a property rental business, either in the UK or overseas, which meets the following two key criteria:

- the property rental business involves at least 3 properties; and
- no single property can represent more than 40% of the total value of the REIT's qualifying letting business.

Balance of Business

The most significant part of a REIT's activity must relate to its property rental business which means:

- at least 75% of its profits must come from property rental; and
- at least 75% of its assets must be involved in the property rental business.

As long as the criteria above are met, a REIT can have residual business activities which will be subject to UK corporation tax.

Distribution of Profits

A REIT must distribute 90% of its property rental income to its shareholders annually. Distributions can be made as both a dividend in cash and share capital issued in lieu of a cash dividend.

Collas Crill has extensive experience in advising investors and fund managers on establishing REITs in the Channel Islands. If you would like to find out how you can benefit from establishing a REIT in the Channel Islands, please feel free to contact us.

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