



Chartered
Institute of
Taxation

30 Monck Street
London SW1P 2AP
T: +44 (0)20 7340 0550
E: post@ciot.org.uk

The UK Property Rich Collective Investment Vehicles (Amendment of the TCGA 1992) Regulations 2019 (the draft regulations)

Response by the Chartered Institute of Taxation

1 Introduction

1.1 The CIOT responds to the consultation on the draft regulations. The draft regulations amend Schedule 5AAA of TCGA 1992 concerning the CGT treatment of disposals of interests in UK property rich collective investment vehicles (CIVs) by non-UK residents.

1.2 The CIOT welcomes the constructive engagement and consultation that has led to the draft regulations.

1.3 As an educational charity, our primary purpose is to promote education in taxation. One of the key aims of the CIOT is to work for a better, more efficient, tax system for all affected by it – taxpayers, their advisers and the authorities. Our comments and recommendations on tax issues are made solely in order to achieve this aim; we are a non-party-political organisation.

1.4 Our stated objectives for the tax system include:

A legislative process which translates policy intentions into statute accurately and effectively, without unintended consequences.

Greater simplicity and clarity, so people can understand how much tax they should be paying and why.

Greater certainty, so businesses and individuals can plan ahead with confidence.

A fair balance between the powers of tax collectors and the rights of taxpayers (both represented and unrepresented).

Responsive and competent tax administration, with a minimum of bureaucracy.

2 Comments on the draft regulations

2.1 We note that HMRC have previously discussed the possibility that fund managers would be able to opt to pay tax on behalf of their investors. Whilst we understand this option is remains under discussion, no provisions

are included in draft regulations. Subject to further details, in principle we support the flexibility that option would bring.

- 2.2 We welcome the widening of the relief in paragraph 33 to include interests in PAIFs and transparent elected funds. However, consistent with the inclusion of PAIFs, we can see no reason not to include shares in UK REITs.
- 2.3 We note the proposed changes in the inserted paragraph 33A in relation to the interaction with a paragraph 12 election and the provision in paragraphs 5 and 6 of Schedule 1A. We would welcome further clarification in relation to the transparency election in paragraph 8 and the trading exemption in paragraph 5 of Schedule 1A - namely that a transparency election is not prevented from being made simply because the property is used in a trade. We understand that the policy behind the transparency election, which in contrast to paragraph 12 does not give a relief per se, is to avoid additional levels of tax applying and investors should have the option of transparency, and the simplification that this affords, regardless of whether the property is used in a trade.
- 2.4 We note that the draft regulations are focussed on the provisions of Schedule 5AAA. However, we have previously requested¹ clarification on other matters relating to the provisions bringing non-residents into charge on capital gains in relation to direct and certain indirect disposals of UK immovable property, including clarification as to whether the trading exemption in Schedule 1A applies where UK land is held as trading stock. If there are currently no proposals to make any other amendments to the legislation, it will be important that the existing guidance is updated to give greater clarity on this aspect and that any update of Appendix 14 should therefore be done independently to an update of Appendix 15 which will change in light of the draft Statutory Instrument.

3 Acknowledgement of submission

- 3.1 We would be grateful if you could acknowledge safe receipt of this submission, and ensure that the Chartered Institute of Taxation is included in the List of Respondents when any outcome of the consultation is published.

4 The Chartered Institute of Taxation

- 4.1 The Chartered Institute of Taxation (CIOT) is the leading professional body in the United Kingdom concerned solely with taxation. The CIOT is an educational charity, promoting education and study of the administration and practice of taxation. One of our key aims is to work for a better, more efficient, tax system for all affected by it – taxpayers, their advisers and the authorities. The CIOT's work covers all aspects of taxation, including direct and indirect taxes and duties. Through our Low Incomes Tax Reform Group (LITRG), the CIOT has a particular focus on improving the tax system, including tax credits and benefits, for the unrepresented taxpayer.

¹ See <https://www.tax.org.uk/sites/default/files/190913%20NRCGT%20draft%20guidance%20-%20further%20CIOT%20comments.pdf> and the earlier submissions referred to therein.

The CIOT draws on our members' experience in private practice, commerce and industry, government and academia to improve tax administration and propose and explain how tax policy objectives can most effectively be achieved. We also link to, and draw on, similar leading professional tax bodies in other countries. The CIOT's comments and recommendations on tax issues are made in line with our charitable objectives: we are politically neutral in our work.

The CIOT's 18,500 members have the practising title of 'Chartered Tax Adviser' and the designatory letters 'CTA', to represent the leading tax qualification.

The Chartered Institute of Taxation

25 October 2019