

HM Revenue & Customs  
HM Treasury

12 June 2014

Email: [capitalgains.taxteam@hmrc.gsi.gov.uk](mailto:capitalgains.taxteam@hmrc.gsi.gov.uk)

Dear Sirs

**Implementing a Capital Gains Tax Charge on Non-Residents**

I am [redacted] in Lennox Investment Management LLP ("Lennox") and am writing in response to the government's invitation to stakeholders to express their views on the questions raised in the consultation document on extending CGT to non-residents with interests in UK residential property.

We welcome the government's proposal that collective investment schemes which meet a genuine diversity of ownership (GDO) requirement will be exempted from the new extended CGT regime.

To answer the questions you raised in turn:

#### **Question 5**

We believe that a GDO test is an appropriate way to identify funds which would be excluded from the extended CGT regime. Because the test focuses on the intentions and behaviour of the manager at the time he is fundraising, it should stop small groups of connected people setting up a fund to side step the new regime. If there were no genuine attempts to market the fund to appropriately identified groups of third parties, the test would simply not be met.

#### **Question 6**

, we believe that a "GDO approach" is the right one to take. However, we do not believe that the existing GDO test in the 2006 Regulations can simply be copied "lock stock and barrel" and applied to all existing and new funds. Any GDO test will need to be tailored to deal with funds which have already been raised and which are not open for further investment. In addition, because real estate funds tend to be closed-ended in nature, we believe that the GDO test would need to be amended so that a fund can pass it if it genuinely seeks external investors during its marketing phase. There should be a clearance procedure, as there is with the GDO test in the 2006 Regulations.

#### **Question 7**

We believe that a GDO test (properly tailored) would be sufficient to allow funds which are genuinely looking for a wide spread of investments to pass the test. We believe that it would be very difficult to manipulate a fund so that it passed the GDO test. On that basis, we do not think that any further "filter" is necessary.

I hope that these thoughts are helpful and clear, but if you do have any comments or questions, I am of course at your disposal.

Yours faithfully