

12 September 2022

Sent via email to: [sovereignimmunity@hmtreasury.gov.uk](mailto:sovereignimmunity@hmtreasury.gov.uk)

Subj: INREV response to HMT consultation on policy design regarding sovereign immunity from direct taxation

Dear HMT sovereign immunity from direct taxation consultation team,

I am writing on behalf of INREV, the European Association for Investors in Non-Listed Real Estate Vehicles.

### **About INREV**

INREV provides guidance, research and information related to the development and harmonisation of professional standards, reporting guidelines and corporate governance within the non-listed property funds industry across Europe, including the UK. INREV has nearly 500 members, comprised of institutional investors from around the globe including pension funds, insurance companies and sovereign wealth funds, as well as investment banks, fund managers, fund of funds managers and advisors representing all facets of investing into non-listed real estate vehicles in the UK and the rest of Europe. Our fund manager members manage hundreds of non-listed real estate investment funds, as well as joint ventures, club deals and separate accounts for institutional investors.

### **Views on proposed policy design regarding sovereign immunity from direct taxation**

INREV welcomes the opportunity to submit comments on the important issues raised in the consultation paper. With a member base of both sovereign investors (“SIs”) and other large institutional investors, we appreciate the policy considerations that the consultation raises.

We understand the goals mentioned in the policy design and agree that codifying the rules affecting taxation of sovereigns’ investments in UK property could add needed clarity. Doing this as simply and predictably as possible would add additional benefits. However, given that any SI is necessarily specific to its home jurisdiction, the nature of SI vehicles themselves varies across jurisdictions. Therefore, the success of any eventual regime will in part rely on clearly defining which entities are capable of falling within that regime but also on those definitions being sufficiently flexible to cater for the different types of vehicles that exist across relevant jurisdictions.

While accepting that balancing competing tax policy considerations is uniquely the responsibility of HMT, we would like briefly to raise a few concerns relating to the potential market impact of the proposal that we hope will be carefully considered.

#### Timeframe for implementation

The first of our concerns is the relatively short timeframe proposed for introducing the new policy design. The proposed implementation date of 1 April 2024 constitutes a very short implementation time frame, especially in the context of illiquid assets such as real estate and, despite the proposed

market value re-basing, could lead to large numbers of UK properties being put on the market in a short time period. This could lead to excessive market volatility with very destabilising consequences for the larger real estate investment market in the UK. In addition, it could cause harm to other types of institutional investors in UK property through joint ventures, non-listed funds and other commonly used collective investment schemes.

There are solutions or at least softeners to this result that we would urge HMT to consider, including: (a) grandfathering real estate assets currently held by SIs or entities in which SIs hold a material interest; (b) pushing out the implementation date; or (c) providing a transitional period to bring any proposed changes in over time. We consider that one or a combination of these measures may go some way to limiting the impact of any exodus of SIs from UK property markets. We note in this regard, for example, that when Australia introduced similar changes, it brought them in after a seven-year adjustment period.

### SIs that qualify as IIs

Another concern we would like to raise is the impact that the proposed policy could have on SIs that currently qualify as Institutional Investors (“IIs”) under the various UK tax regimes for which that concept is relevant (e.g. REIT, QAHG and SSE). Consideration should be given to creating a mechanism for these SIs to continue to be treated as IIs. We appreciate that certain SIs may retain II status through some other means (e.g. certain SIs may constitute overseas pension schemes) that would not be the case for a large number of SIs and so is by no means a panacea.

We consider that it would be prudent to consider retaining II status to ensure that these important tax regimes continue to function as envisaged. Equally, providing certainty of regulatory treatment would significantly mitigate against potential negative market reactions to the elimination of the SI tax exemption and the knock on impact on II status on UK property holdings, both from SIs themselves and from the significant number of investment funds in which SIs are invested.

### Potential impact of other investors

The concern here goes beyond the position of the SIs themselves but would also impact investors more generally, which would include a broad variety of both institutional and retail investors. Were SIs no longer to be treated as IIs, the tax treatment of a number of existing investment structures would change considerably, which would inevitably: (a) be detrimental to other investors in those structures who would have invested on the basis that the structure would be taxed in a certain way; and (b) the broader market, for example if significant amounts of capital were withdrawn by investors over a short period of time that would potentially see investment funds make significant disposals of UK real estate assets which could have a seismic systemic impact on the UK market (e.g. pricing implications and the suspension of trading in affected investment funds).

We understand that balancing of competing policy interests is not a simple task in areas such as this. We hope in any case that our views make a helpful contribution to your decision making process and inform the outcome of this debate. We are available to discuss any of the points we’ve raised or any others where you believe we might be able to help.

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