

MEMO# 31397

September 20, 2018

Draft Letter to Treasury and IRS on Pass-Through of Deduction for Qualified REIT Dividends

[31397]

September 20, 2018 TO: Tax Committee RE: Draft Letter to Treasury and IRS on Pass-Through of Deduction for Qualified REIT Dividends

Attached for your review is a draft letter to the Treasury Department and the Internal Revenue Service (IRS) regarding the deduction in new section 199A for certain dividends and income from real estate investment trusts (REITs), cooperatives, and publicly traded partnerships (PTPs).

Section 199A, as enacted by Pub. L. No. 115-77 (commonly referred to as the Tax Cuts and Jobs Act of 2017, or the TCJA), gives taxpayers a 20 percent deduction for “qualified business income.”^[1] It also provides a 20 percent deduction for “qualified REIT dividends,” “qualified cooperative dividends,” and “qualified publicly traded partnership income.” The TCJA does not specifically provide a mechanism for regulated investment companies (RICs) that invest in REITs or PTPs to pass through this qualified income. It thus is not clear whether RICs may do so absent additional guidance. Recently proposed regulations under section 199A do not address this issue.^[2]

The Institute asks the Treasury Department and the IRS to clarify that RICs may pass through to shareholders any qualified REIT dividends, qualified cooperative dividends, or qualified publicly traded partnership income received by the RICs, thus allowing RIC shareholders to take advantage of the deduction under section 199A. We believe that the Congress intended for this result and that the statute provides regulatory authority for the government to provide such guidance.

Comments on the proposed regulations under section 199A are due by October 1, 2018. Therefore, please provide any comments on the draft letter to me (kgibian@ici.org or 202-371-5432) no later than **Wednesday, September 26, 2018**.

Karen Lau Gibian
Associate General Counsel

Attachment

endnotes

[1] See Institute Memorandum No. 30991, dated December 21, 2017, which can be found at: https://www.ici.org/my_ici/memorandum/memo30991.

[2] The proposed regulations on section 199A can be found at:
<https://www.irs.gov/pub/irs-drop/reg-107892-18.pdf>.

Copyright © by the Investment Company Institute. All rights reserved. Information may be abridged and therefore incomplete. Communications from the Institute do not constitute, and should not be considered a substitute for, legal advice.