

## Tax Notes

# IRS Relaxes Safe Harbor Minimum Cash Distribution Requirement by REITs and RICs

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To help conserve vital liquidity during these trying times, the IRS issued Revenue Procedure (Rev. Proc.) 2020-19 on May 4, 2020 to provide temporary relief to publicly-offered real estate investment trusts (REITs) and publicly-offered regulated investment companies (RICs) with regard to their annual required cash distributions to shareholders. In connection with elective distributions of cash and stock, the minimum amount of cash distribution required to be offered to shareholders is **temporarily reduced to 10% from 20%**. This is welcome relief for publicly-offered REITs and RICs.

### Background

REITs and RICs are generally required to distribute at least 90% of their taxable income each year as dividends and this requirement is generally satisfied through a distribution of cash to their shareholders. However, Rev. Proc. 2017-45 provides a safe harbor that allows publicly-offered REITs and publicly-offered RICs the ability to satisfy their distribution requirements through distributions of a combination of cash and stock, provided that certain requirements are met:

- Each shareholder has the right to elect to receive all or a part of their distribution in cash or stock;
- Cash distribution cannot be less than 20% of the aggregate declared distribution to all shareholders;
- If a shareholder elects to receive all cash, the shareholder must not receive less than 20% of the declaration in cash; and
- Stock received by a shareholder in a dividend reinvestment plan is treated as stock received in exchange for cash received in the distribution.

### IRS Urgent COVID-19 Action

Rev. Proc. 2020-19 temporarily modifies this safe harbor by reducing the minimum cash component to **10% of the total distributions** for distributions declared on or after April 1, 2020 and on or before December 31, 2020.

The IRS stated that during this time of economic disruption the need for enhanced liquidity is important and this revenue procedure allows publicly-offered REITs and publicly-offered RICs to “conserve capital and thereby enhance their liquidity.”

### Contact Us

Should you have any questions regarding this matter, please feel free to reach out to your PKF O'Connor Davies partner or contact any of the following:

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