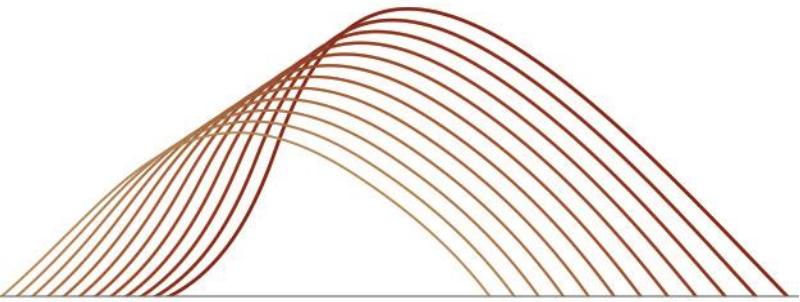


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May 2020

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## *IRS Provides REIT and RIC Dividend Relief*

By [Joe Opich](#) and Lauren Smith

On May 4, 2020, the Internal Revenue Service released guidance temporarily allowing publicly offered REITs and RICs to meet their shareholder distribution requirements with a greater portion of stock. This relief is likely to provide a meaningful benefit to REITs and RICs facing cash flow challenges.

Newly released [Rev. Proc. 2020-19](#) modifies the safe harbor provided in [Rev. Proc. 2017-45](#) regarding the proportion of a dividend that can be paid in stock of the fund compared to cash and still qualify for the dividends paid deduction. Under the new temporary guidance, REIT or RIC shareholders may, at their election, receive distributions in the form of cash, stock, or both so long as cash constitutes at least 10 percent of the total value distributed. Under prior IRS guidance the cash portion had to be at least 20 percent of the distribution. This relief is available for distributions declared from April 1, 2020, to December 31, 2020.

In general, REITs and RICs must distribute 90 percent of their taxable income to shareholders in the form of dividends to maintain their REIT or RIC status. This rule is intended to address the situation where a REIT or RIC may have insufficient liquidity to pay all of its required distributions in cash. Rev. Proc. 2017-45 offers flexibility, providing that a REIT or RIC may satisfy its distribution requirement by making distributions in a combination of stock and cash, provided that each shareholder has a cash-or-stock election with respect to all or part of the distribution(s) and at least 20 percent of the value of the distribution is cash. Under Rev. Proc. 2020-19, only 10 percent or more of a distribution otherwise qualifying under Rev. Proc. 2017-45 must be in cash.

The IRS provided a similar liberalization of the cash distribution requirement following the 2008 financial crisis. That provision was not extended beyond its initial temporary period even though many funds experience liquidity constraints beyond the specified temporary relief period. Therefore, it is unclear whether the IRS will ultimately extend this benefit beyond this year.

For more information and insights on the latest developments in COVID-19's impact on business, [click here](#).

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*If you have any questions concerning these developing issues, please do not hesitate to contact the following Paul Hastings New York lawyer:*

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