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Client Alert

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Qualified REIT Dividends Paid by RICs are Eligible for the Code Section 199A Deduction

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On January 18, 2019, the Department of the Treasury published proposed regulations that would allow shareholders of regulated investment companies (RICs) to take advantage of the deduction under Section 199A of the Internal Revenue Code of 1986, as amended (the "Code") with respect to qualified real estate investment trust (REIT) dividends. In general, Code Section 199A provides a deduction of up to 20 percent of qualified business income from certain U.S. trades or businesses that are operated in a pass-through entity. Code Section 199A also allows certain taxpayers to deduct up to 20 percent of their combined qualified REIT dividends (defined in Code Section 199A(e)(3) as any dividend from a REIT that is not a capital gain dividend or qualified dividend income) and qualified publicly traded partnership (PTP) income (as defined in Code Section 199A(e)(4)), including qualified REIT dividends and qualified PTP income earned from a pass-through entity.

Under certain circumstances, if a RIC has certain items of income or gain, the RIC may pay dividends that a shareholder of the RIC can treat in the same or a similar manner as the manner in which the shareholder would treat the underlying item of income or gain as if the shareholder realized it directly. The preamble to the proposed regulations refer to this tax treatment as "conduit treatment." The proposed regulations extend this conduit treatment to qualified REIT dividends received by a RIC by permitting the RIC to pay "Section 199A Dividends" to its shareholders. A Section 199A Dividend is "any dividend or part of such dividend that a RIC pays to its shareholders and reports as a section 199A dividend in written statements furnished to its shareholders." Non-corporate shareholders receiving Section 199A Dividends would treat such dividends as qualified REIT dividends as defined in Code Section 199A(e)(3), provided the shareholder meets the holding period and certain other requirements for its shares in the RIC. The amount of a RIC's Section 199A Dividends for a taxable year would be limited to the excess of the RIC's qualified REIT dividends for the taxable year over allocable expenses. Importantly, the proposed regulations provide only for conduit treatment of a RIC's qualified REIT dividends. The Department of the Treasury is still reviewing whether a RIC's qualified PTP income also should receive conduit treatment.

The proposed regulations will apply to taxable years ending after the date the Treasury decision adopting the regulations as final regulations is published in the Federal Register. However, taxpayers may rely on the regulations as proposed until they are adopted as final.

Investment Management Group

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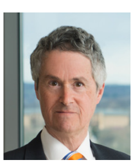

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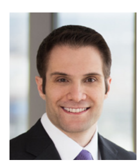

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