



**FEDERAL INLAND REVENUE SERVICE**  
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INFORMATION CIRCULAR

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Subject: **CIRCULAR ON TAX IMPLICATIONS OF OPERATION OF REAL ESTATE INVESTMENT COMPANIES ('REIC') IN NIGERIA**

*This circular is issued for the information and guidance of the general public, taxpayers, tax practitioners and, in particular, real estate investment companies in line with the provisions of the relevant tax laws. This circular replaces FIRS Information Circular 2020/07 of 29<sup>th</sup> April 2020.*

### **1.0 Introduction**

The objective of this Information Circular is to provide clarifications on the tax treatment of Real Estate Investment Companies (REIC) approved or regulated by the Securities and Exchange Commission (SEC) under the relevant provisions on Real Estate Investment Scheme ('REIS'). Specifically, this Information Circular provides clarifications on the application of Sections 9, 19, 23, 24 and 80 of the Companies Income Tax Act (CITA) Cap. C21 LFN 2004 (as amended).

### **2.0 Relevant Regulatory Provisions**

The regulation of REIS in the Nigerian capital markets is pursuant to the provisions of the Investment and Securities Act of 2007, the Securities and Exchange Commission Rules 2017 (as may be amended from time to time) and other extant laws and regulations.

### **3.0 Interpretation**

Section 105 of CITA defines a "Real Estate Investment Company" (REIC) as a Company duly approved by the Securities and Exchange Commission to operate as a real estate investment scheme in Nigeria.

In this Information Circular:

**“Real Estate Investment Schemes”** (REIS) “includes a company, trust or other such corporate structures approved and regulated by the Securities and Exchange Commission, which is primarily engaged in and invest in income generating real estate asset or real estate related asset and is expected to distribute not less than 75% of its income within 12 months of receipt of the income”

**“Real estate”** for the purpose of this circular, means income generating property consisting of land or building. It also includes special purpose vehicle (SPV) holding such income generating lands and buildings.

#### **4.0 Nature of Business**

REIS are investment vehicles, which pool funds from investors comprising of individuals, companies, pension funds, associations etc. for investments in real estate as an asset class. REIS are usually established to acquire, develop and hold portfolios of real estate assets, and do not generally hold a single asset. While some REIS focus their investment specifically according to geographic location, others are structured to invest in specific property types. They primarily engage in and invest in income generating real estate asset or real estate related asset.

#### **5.0 Income of REIC**

Income of a REIC may be classified into four:

- i. Rental Income
- ii. Dividend from another REIC
- iii. Gains from disposal of assets
- iv. Others (fees and other income not related to REIS)

#### **6.0 Taxation of the Income of REIC**

##### **6.1 Dividend and Rental Income of REIC Earned under a REIS**

The following provisions of CITA shall apply to dividend and rental income of REIC earned under a REIS:

###### **6.1.1 Section 19 of CITA**

Distributions of rental and dividend income made by a REIC to its shareholders under REIS are exempt from the application of Section 19 of CITA. As such,

where a REIC distributes the rental or dividend income to its shareholders under REIS, the distributed income shall not constitute dividend for the purposes of Section 19 of CITA.

Consequently, rental and dividend income distributed to shareholders shall be deducted from the total dividend paid to arrive at the net amount of dividend that is relevant for the purposes of Section 19 of CITA.

Section 19 of CITA shall not apply to distribution made by a REIC to its shareholders from rental and dividend income provided that:

- i. a minimum of 75% of dividend and rental income is distributed, and
- ii. such distribution is made within 12 months of the end of the financial year in which the dividend or rental income was earned.

**Illustration 1**

XYZ Real Estate Investment Company Limited is a REIC under a REIS and makes up its account to 31<sup>st</sup> December each year.

The following information has been extracted from the books of the company for 2020 year of assessment:

	<b>₦</b>
Total Profits	300,000
Dividend and rental income received under REIS	280,000
Total dividend distributed	500,000
REIS dividend (included in the total dividend distributed)	240,000

The REIS dividend and rental income were received on 18<sup>th</sup> October 2019 and included in the dividend distributed for accounting year 2019, which was paid on 15<sup>th</sup> April 2020.

**Treatment**

86% of the REIS dividend and rental income was distributed (i.e. 240,000/280,000 X 100) and the distribution was done within six months. Since the two conditions for qualifications exemption from section 19 have been met, then the REIS distribution shall be deducted from the dividend distribution during the period for the purpose of section 19.

As such, the dividend payment for the purpose of section 19 is

$$\text{₦}500,000 - \text{₦}240,000 = \text{₦}260,000$$

Since the dividend distributed for the purpose of section 19 (N260,000) is lower than the total profit of the company (N300,000), the tax liability of the company shall be computed on the total profits and not on the basis of section 19 (i.e. the dividend paid shall not constitute the tax base for the purpose of computing the tax liability of the company).

**NOTE:**

Where the two conditions are not met, the distribution shall be included for tax under Section 19 of CITA.

**6.1.2 Section 23 of CITA**

Section 23(1) (s) of CITA exempts the rental or dividend income received by a REIC under a REIS from further tax in the hand of the Company. That is, the gross amount of rental income and dividend received by a REIC will be treated as a non-taxable income, because the amount is deemed received on behalf of its shareholders. Where such income is already included in the profits of the company, it will be deducted in computing the assessable profits of the company.

However, in order to qualify for this exemption, the REIC must fulfill the following conditions:

1. not less than 75% of such rental or dividend income received shall be distributed to the shareholders; and
2. such distribution shall be done not later than 12 months after the end of the financial year in which the rental or dividend income was received.

For example, if a REIC receives a rental or dividend income during its financial year 1<sup>st</sup> July 2019 to 30<sup>th</sup> June 2020, that income must be distributed to the shareholders not later than 30<sup>th</sup> June 2021.

**NOTE:**

The dividend or rental income distributed by the Real Estate Investment Company to the shareholders is fully taxable in the hands of the recipient shareholders.

### **6.1.3 Section 24 of CITA**

In accordance with Section 24(1)(k) of CITA, dividends or mandatory distributions made by the REIC to its shareholders under REIS is an allowable deduction.

Note that the rental or dividend income received by a REIC is exempt from tax under Section 23(1) (s) of CITA. However, in line with section 27(1)(h), The following shall not be allowed as deduction in computing the company's assessable profits;

- i. any distribution made by REIC to its shareholders; and
- ii. any expense of the REIC incurred for the purposes of earning income that is exempt from tax.

However, where the conditions for exemption provided in Section 23(1)(s) of the Act are not met, rental or dividend income received by the REIC shall constitute a taxable income under Section 9 of the Act. Consequently, all expenses incurred for the purposes of earning the rental and dividend income, including expenses incidental to dividends or mandatory distributions made by the REIC to its shareholders, under a REIS shall be allowed.

### **6.1.4 Section 80 of CITA**

Any distribution or dividend payment made to a REIC pursuant to a REIS shall not be subject to WHT under Section 80 of CITA. Consequently, such distribution or dividend payment shall not constitute "franked investment income". However, where such distribution or dividend payment, to a REIC, is not under a REIS, such payment shall be subject to WHT appropriately.

### **6.1.5 Section 80 (5) & (6) of CITA**

A REIC making a distribution or dividend payment to its shareholders shall withhold tax at the rate of 10% and remit the amount so deducted to the relevant tax authorities, unless such shareholder is a REIC under a REIS.

## **6.2 Fees and Other Income**

There are no tax exemptions or concessions applicable to gains, fees and other income of REIC other than dividend or rental income under a REIS. Such items of income are taxable in accordance with the provisions of the relevant laws.

## **7.0 Amendment or Revision of the Circular**

The Service may, at any time, withdraw or replace this Circular or publish an amended or updated version.

## **8.0 Enquiries**

Any request for further information or clarifications on this Information Circular should be directed to the:

Executive Chairman,  
Federal Inland Revenue Service,  
Revenue House,  
15, Sokode Crescent,  
Wuse Zone 5, Abuja.

Or

Director, Tax Policy and Advisory Department,  
Federal Inland Revenue Service, Revenue  
House Annex 4,  
12, Sokode Crescent,  
Wuse Zone 5, Abuja.

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