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KPMG report: Private letter rulings concerning REITs in 2019

During 2019, the IRS issued private letter rulings to real estate investment trusts (REITs).

Tax professionals know that each private letter ruling is written for a taxpayer's specific facts and is precedent only for that taxpayer; pursuant to section 6110(k)(3), a private letter ruling "may not be used or cited as precedent" by other taxpayers. As a practical matter, tax professionals also realize that a private letter ruling provides an indication of the IRS's position on the issues addressed. Thus, it is not uncommon for tax professionals advising REITs to consider private letter rulings because REITs are subject to various qualification requirements for which published guidance may be limited. Thus far during 2019, the IRS released private letter rulings in which the IRS ruled that:

- A privately held subsidiary REIT of an exchange-listed REIT, as described in the letter ruling, would be considered a "publicly offered REIT" and, thus, the subsidiary REIT would not be subject to the preferential dividend rule.
- Floating docks that are affixed to (1) pilings, which are represented by the taxpayer to be inherently permanent structures, or (2) the seabed by winches and cables at certain marina properties would be considered real property under the REIT rules. The IRS also ruled that while certain cabins together at a given marina property would be considered a lodging facility, the presence of those cabins at the marina property would not cause the assets at the marina property (other than the cabins and any areas reserved for cabin guests) to be treated as lodging facilities for REIT purposes.
- Payments received by a REIT under certain agreements for allowing others to use its fiber optic cable systems would qualify as rents from real property for purposes of REIT income tests.

Read a [November 2019 report](#) [PDF 102 KB] prepared by KPMG LLP: *What's News in Tax: What's new for REITs: Private letter rulings in 2019*

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