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Rev. Proc. 2021-53: Temporary modification to safe harbor for distributions by REITs and RICs (COVID-19)

The IRS this afternoon released an advance version of Rev. Proc. 2021-53 as temporary guidance regarding the treatment of certain stock distributions by publicly offered real estate investment trusts (REITs) and publicly offered regulated investment companies (RICs).

[Rev. Proc. 2021-53](#) [PDF 97 KB] explains that in recognition of the need for liquidity as a result of the implications of the coronavirus (COVID-19) pandemic, today's guidance—like that guidance previously provided by Rev. Proc. 2020-19, read [TaxNewsFlash](#)—modifies the safe harbor provided in Rev. Proc. 2017-45 by temporarily reducing the minimum required aggregate amount of cash that distributee shareholders may receive to not less than 10% of the total distribution in order for section 301 of the Code, by reason of section 305(b) of the Code, to apply to such distribution.

Specifically—like the guidance previously provided by Rev. Proc. 2020-19—today's revenue procedure modifies a measure of Rev. Proc. 2017-45 by striking "The Cash Limitation Percentage is not less than 20 percent" and instead inserts "The Cash Limitation Percentage is not less than 10 percent."

The relief provided by Rev. Proc. 2021-53 is a temporary modification and is effective only with regard to distributions declared by a publicly offered REIT or publicly offered RIC on or after November 1, 2021, and on or before June 30, 2022.

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