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Legislative Update

REIT All About It: One Big Beautiful Bill — Tax Updates for REITs

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On July 4, 2025, President Donald Trump signed the One Big Beautiful Bill Act (OBBBA) into law, following the approval of Congress. OBBBA contains the following compelling updates from a real estate investment trust (REIT) perspective.

Permanent 199A Deduction

REIT shareholders currently enjoy an effective federal tax rate of 29.6% on their dividends thanks to the Section 199A deduction, also known as the Qualified Business Income (QBI) deduction. The QBI deduction allows REIT shareholders, who have historically paid the ordinary tax rate on dividends as a tradeoff for there being no entity level tax for the REIT itself, to deduct up to 20% of their QBI, lowering the highest individual federal income tax bracket tax rate from 37% to the 29.6% tax rate.

Although the QBI deduction was set to expire at the end of the taxable year ending on December 31, 2025, OBBBA now makes this favorable tax rate for ordinary REIT dividends a permanent one.

Increase in Asset Test Limit for Taxable REIT Subsidiaries

For 2026 and future tax years, the value of taxable REIT subsidiary (TRS) securities that a REIT is permitted to hold will increase from 20% to 25% of the REIT’s total assets. This increase will restore the limitation to the prior percentage that applied for taxable years ended on December 31, 2017, or earlier.

This restoration is a welcome one, as it permits REITs to potentially expand their TRS operations and maximize structuring efficiency with less likelihood and concern of failing one of the REIT securities tests.

‘Revenge Tax’ Removed From OBBBA

Versions of both the House and Senate bills originally included proposed Section 899, which would have implemented tax increases on investors from countries and impose “unfair foreign taxes” on U.S. companies. Significantly, proposed Section 899 included a repeal of Section 892 benefits for governments of offending foreign countries. The final version of the OBBA did not include proposed Section 899. Consequently, the status quo remains for foreign investors in REITs, including sovereign wealth funds.

Favorable Business Interest Deduction Method

OBBBA has permanently modified and restored the Section 163(j) interest deduction limitation metrics for 2025 and future tax years.

Under the Tax Cuts and Jobs Act (TCJA) of 2017, adjusted taxable income (ATI) was initially calculated in a method comparable to earnings before interest, taxes, depreciation and amortization (EBITDA). However, for taxable years beginning on January 1, 2022, ATI calculations were determined by taking depreciation and amortization deductions (EBIT) into account. This impacted the business interest deduction limitation under Section 163(j), which limits such deduction to 30% of ATI. By returning to the use of EBITDA, OBBBA gives REITs more leeway to take interest deductions than the harsher EBIT method permits.

Bonus Depreciation Made Permanent

Enacted as part of the TCJA, Section 168(k) of the Code permitted a 100% deduction for the cost of certain depreciable property, including property that had a recovery period of 20 years or less and was placed in service prior to January 1, 2027. The OBBBA eliminated these placed-in-service date requirements and made the 100% expensing allowed under Section 168(k) of the Code permanent.

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