

Global REIT Survey

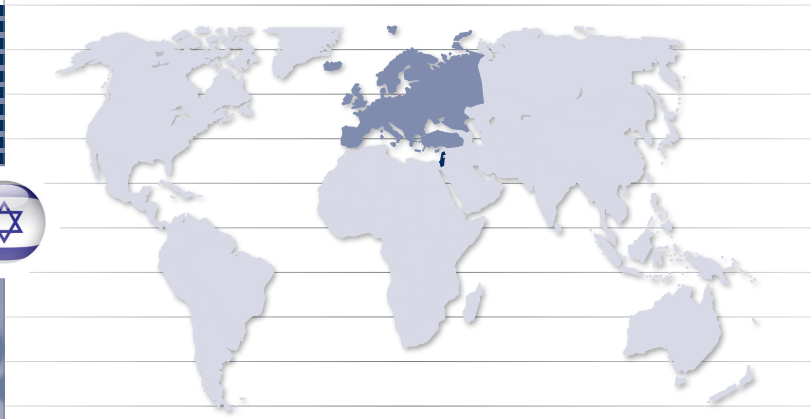
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Europe

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(REIT)



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European Public Real Estate Association

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1 General introduction

	Enacted year	Citation	REIT type
REIT	2006	Sections 64A2-64A11 of the Israeli Tax Ordinance	Corporate type

The REIT (Real Estate Investment Trust) regime was introduced into the Israeli tax legislation in 2006. The Israeli REIT is a 'flow-through' regime. As a result, each of the REIT investors is taxed on the distributed REIT incomes.

The REIT is governed by Sections 64A2-64A11 to the Israeli Tax Ordinance.

In this model, pension benefit funds, saving benefit funds and severance pay benefit funds are usually exempt from corporate tax on the income from the REIT, and corporations that invest in the REIT are subject to corporate taxes at ordinary rates (25% in 2010 and reduced to 24% in 2011, 23% in 2012, 21% in 2014, 20% in 2015, 18% in 2016). Individuals are subject to ordinary individual tax rate - 45% in 2010 and 2011, and reduced to 44% in 2012, 43% in 2013, 42% in 2014, 41% in 2015, and 39% in 2016).

The reduction in corporate tax rate and ordinary individual tax rate should be taken into consideration in every place in this document when tax rates are dealt.

2 Requirements

2.1 Formalities / procedure

Key requirements
- Special purpose company required. - Controlled and managed from Israel.

The REIT regime applies only to a new company that is established for this purpose. The new company must be incorporated in Israel and must be controlled and managed from Israel.

2.2 Legal form / minimum share capital

Legal form	Minimum share capital
Public company traded in the Tel Aviv Stock Exchange (TASE).	No

Legal form

A REIT must be a public company listed for trade in the Israeli stock exchange (TASE). It must be tax-resident in Israel. Apparently, the REIT Subsidiaries can be resident outside Israel, but 75% of the value of the income-yielding real estate of the REIT must be located in Israel.

Minimum share capital

No minimum share capital required.

2.3 Shareholder requirements / listing requirements

Shareholder requirements	Listing mandatory
At least 50% of the company's means of control should be held by more than five shareholders.	Yes

Shareholder requirements

At least 50% of the company's means of control should be held by more than five shareholders. "Means of control" is defined as one of the following: the right to profit, the right to appoint director or manager in the company or similar function, voting rights, the rights to liquidation proceeds, or the power to order or instruct someone who holds any of the rights listed above to act on his behalf.

The company must meet these conditions on the testing dates, June 30 and December 31 of each year.

Listing requirements

The company must be list for trade in the Israeli stock exchange (Tel-Aviv) within a period of 12 months from the date of incorporation. The REIT may also dually list abroad.

2.4 Asset levels

Restrictions on activities / investments
- 95% or more of the value of the REIT's assets must consist of income-yielding real estate and liquid assets (cash, deposit, bond, etc.) . - 75% or more of the value of the REIT's assets must consist of: income-yielding real estate. - Money received from a first issue of the REIT's securities, which were listed for trading on the stock exchange in Israel - during two years after the day of issue. - Money received from an additional issue of the REIT's securities, which were listed for trading on the stock exchange in Israel - during one year after the day of issue. - Consideration from the sale of real estate - during one year after the day of issue. - The value of the income-yielding real estate, and the money listed above, exceeds 200 million NIS. - 75% of the value of the income-yielding real estate must be located in Israel.

The REIT must meet the following conditions on the testing dates each year:

- 95% or more of the value of the REIT's assets must consist of income-yielding real estate and liquid assets (cash, deposit etc);
- 75% or more of the value of the REIT's assets must consist of:
  1. income-yielding real estate;
  2. Money received from a first issue of the REIT's securities, which were listed for trading on the stock exchange in Israel - during two years after the day of issue.
  3. Money received from an additional issue of the REIT's securities, which were listed for trading on the stock exchange in Israel - during one year after the day of issue.
  4. Consideration from the sale of real estate - during one year after the day of issue.
- The value of the income-yielding real estate exceeds NIS 200 million;
- 75% of the value of the income-yielding real estate must be located in Israel.

"Income-yielding real estate" is defined as real estate that generates income from rent and from additional activities, as long as at least 70% of the real estate is developed and the real estate is not considered inventory in the books of the fund.

2.5 Leverage

Leverage
Debit is limited to 60% of the income-yielding real estate's value plus 20% of the other assets it holds.

The company's obligations (other than equity) do not exceed 60% of the income-yielding real estate's value plus 20% of the other assets it holds.

2.6 Profit distribution obligations

Operative income	Capital gains	Timing
90% of its profits plus amount of depreciation.	100% of its capital gain from disposal of real estate.	- Distribution of the operating income must take place no later than April 30 of the following year. - Distribution of the capital gain must take place in a period of 12 months from the sales date of the real estate.

Operative income

The REIT is obliged to distribute 90% of its profits calculated based on accounting principles, including the amount equal to the depreciation.

Capital gains

The REIT is obliged to distribute 100% of its capital gain from disposal of real estate.

Timing

Distribution of the operating income must take place no later than April 30 of the following year.

Distribution of the capital gain must take place in a period of 12 months from the sales date of the real estate.

2.7 Sanctions

Penalties / loss of status rules
Loss of tax privilege.

The REIT will be taxed like an ordinary company from the date that requirements are no longer met. If the company fails to meet the conditions on the testing dates in any given year but, within a period of up to three months, successfully meets the conditions and continues to do so for a consecutive year, the company will be considered a REIT throughout the entire period.

REITs that do not meet the requirements or choose to discontinue REIT status will be taxed as ordinary company from the end of the year, in the case of election, or from the date that requirements are no longer met.

3 Tax treatment at the level of REIT

3.1 Corporate tax /withholding tax

Current income	Capital gains	Withholding tax
- No taxation of distributed eligible income. - Undistributed prohibited income subject to 60% tax rate. In case of distribution 70% tax rate.	Distributed capital gains tax-exempt.	- Deduction only if levied on taxable income. - No domestic withholding tax.

Current Income
The REIT is a 'flow-through' regime. However, the REIT is subject to corporate taxes on undistributed income.

A 70% tax rate applies to 'prohibited income' upon distribution; 60% if not distributed.

'Prohibited income' is defined as income from business activities other than the following: income-yielding real estate; income from the sale of inventory (real estate or otherwise) or the sale of other real estate that is not income-yielding real estate; or income from traded securities, state bonds and deposits to the extent that such income exceeds 5% of the revenues of the fund in that tax year.

Prohibited income, which is not distributed, is subject to 60% tax. Distribution of the prohibited income in later years will be consider as dividend distribution and is subject to 20%/25% withholding tax. No credit will be granted to the shareholders for the REIT taxation.

The REIT must submit an annual tax return which includes an accountant affirmation that the company has met all the conditions of an REIT.

Capital Gains
Distributed capital gains are not subject to taxation. The REIT must distribute 100% of its capital gain income.

Foreign taxes
Foreign taxes paid by the REIT will be deducted from the foreign taxable income which was subject to the foreign taxes. Also, no foreign tax credit will be granted to the REIT or to the REIT shareholders.

Accounting Rules
There are no special accounting rules for REIT. Listed REIT must follow the IFRS rules, as any other listed company.

3.2 Transition regulations

Conversion into REIT status
It is not possible.

3.3 Registration duties

Registration duties
Under certain conditions, Reduced real estate 'purchase tax'.

If a REIT acquired real estate from a company against an allocation of shares in the REIT, then the REIT shall pay a 'purchase tax' (a special tax levied upon the acquisition of real estate) at the rate of 0.5%, on condition that the acquisition was made no later than 12 months after the date on which it became a REIT and before its shares were listed for trading on an exchange, and that the director of the Israeli tax authority approved the real estate sale in advance.

4 Tax treatment at the shareholder's level

4.1 Domestic shareholder

Corporate shareholder	Individual shareholder	Withholding tax
- Corporate tax is 25% in 2010. - Capital gains tax is 25% in 2010.	- Individual tax rate is 45% in 2010. - Capital gains tax is 20%.	In principle, no final withholding tax.

Corporate shareholder
The REIT income is subject to corporate tax. The corporate tax rate of 2010 is 25%. The corporate tax rate will be reduced to 24% in 2011.

Individual shareholder
The REIT income is subject to individual tax. The maximum individual tax rate in 2010 and in 2011 is 45%. The individual tax rate will be reduced to 44% in 2010.

Withholding tax
Upon distributions, the REIT must withhold the tax that the shareholder would have paid had their investment been directly in the real estate. The individual or corporate tax rates would be based on ordinary income. For example, the withholding tax would be 25% on capital gains, ordinary income based on the corporate tax or individual income tax rate.

The withholding is not the final obligation - the shareholder must submit an annually tax return which reflects his real taxable income (including losses), credit will be granted for the withholding tax that was made by the REIT.

Distribution of prohibited income will be subject to 70% withholding tax. Distribution of the prohibited income in later years will be considered as dividend distribution and will be subject to 20%/25% withholding tax.

4.2 Foreign shareholder

Corporate shareholder	Individual shareholder	Withholding tax
- Withholding tax subject to tax rates applicable for Israeli companies. - Prohibited income' which is not distributed subject to 60% tax.	- Withholding tax subject to tax rates applicable for Israeli individual. - 'Prohibited income' which is not distributed subject to 60% tax.	- Final withholding tax. - Treaty relief available to distributions of 'Prohibited income' in later years.

Corporate shareholder
Distributions of current income and capital gains are subject to a withholding tax at the corporate tax rates applicable to Israeli investors. Treaty country resident pension funds and mutual funds are exempt from the withholding tax to the extent that the profits are exempt in their country of residence.

Individual shareholder
Distributions of current income and capital gains are subject to a withholding tax at the individual income tax rates applicable to Israeli investors.

Withholding tax
Treaty relief should be granted for distribution of the prohibited income in later years which are considered as dividend distribution.

5 Tax treatment of foreign REIT and its domestic shareholder

Foreign REIT	Corporate shareholder	Individual shareholder
Taxed under normal Israeli tax rules.	- Taxed at corporate tax rate of 25% in 2010 if REIT is a flow-through entity. - Dividend is subject to 25% tax if the REIT is not a flow-through entity.	- Taxed at 45% in 2010 if REIT is a flow-through entity. - Dividend income will be subject to 20/25% tax if the REIT is not a flow-through entity.

Foreign REIT
A foreign REIT will be taxable under normal Israeli tax rules, based on its legal character (Corporation, Fund, Partnership etc.).

Corporate shareholders
A corporate shareholder in a foreign REIT, which derived taxable income from foreign sources should be subject to corporate income tax in the rate of 25% in 2010 as long as the REIT will be consider as flow-through entity for Israeli tax purposes (regardless of its election under foreign country rules).

Dividend income should be subject to 25% tax. If the foreign REIT is not a flow-through, a tax credit will be allowed.

Individual shareholder
An individual shareholder in a foreign REIT, which derives taxable income from foreign sources, will be subject to individual income tax in the rate of 45% in 2010, as long as the REIT is considered as flow-through entity.

Dividend income will be subject to 20%/25% tax. If the foreign REIT is not a flow-through entity, a tax credit will be allowed. ■

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