Insights: Publications

Structuring Real Estate Joint Ventures with Private REITs

BNA Tax Management Portfolio, No. 743-2nd

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Tax Management Portfolio, Structuring Real Estate Joint Ventures with Private REITs, No. 743-2nd, addresses how the goals of investors are achieved by entering into joint ventures using non-publicly traded or "private" REITs. The purpose of this portfolio is to provide a source of guidance to tax practitioners advising clients investing in U.S. real estate through or with a private REIT. It includes a discussion of the unique issues that a private REIT confronts in complying with the qualification requirements under the Code, including issues relating to joint venture structures designed to ensure that the REIT earns qualifying income while also serving the business objectives of the joint venture participants (often including management of the property by a significant participant in the joint venture). It also addresses issues unique to UPREITs and DownREITs, issues that arise in taking a public REIT or UPREIT private, and issues presented in selling or otherwise exiting from a private REIT. In addition, it addresses the particular concerns that arise for foreign investors, including withholding, the branch profits tax, issues under U.S. tax treaties, and issues unique to "qualified foreign pension funds" and foreign governmental investors who benefit from [section] 892 and [section] 897(l) of the Code, respectively.

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