

STATE OF DELAWARE  
DEPARTMENT OF FINANCE  
DIVISION OF REVENUE  
601 DELAWARE AVENUE  
WILMINGTON, DELAWARE 19899

TAX NEWSGRAM 73-8

April 24, 1973

SUBJECT: Real Estate Investment Trusts

A Real Estate Investment Trust which is qualified under Federal Law and elects to be treated as such is taxed on the same income for State purposes as it is for Federal purposes. A Real Estate Investment Trust must file a Corporation income tax return. However, if it distributes as dividends at least 90% of its "real estate investment trust taxable income" (as defined for Federal purposes), the corporate tax is imposed only on its undistributed earnings and profits and undistributed capital gains. If the 90% distribution is not made or if the Trust fails to meet certain other requirements, the Trust is subject to the Corporation tax on all its income.

Chapter 19, 30 Delaware Code, provides that the entire net income of a corporation means the amount of its "Federal taxable income... as computed for purposes of the Federal income tax." It is the position of the Division of Revenue that "Federal taxable income" in the case of a qualified Real Estate Investment Trust means income subject to tax as determined for Federal purposes.

  
J. H. Kennedy  
Director of Revenue

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