DECEMBER 16, 2016

IRS Should Allow QCIV Self-Designation Under FIRPTA

Authors: Peter Glicklich, Neal H. Armstrong and Heath Martin

As part of the *Protecting Americans from Tax Hikes Act of 2016* (PATH Act), Congress enacted a new exemption from the *Foreign Investment in Real Property Tax Act of 1980* (FIRPTA) for foreign entities that are "qualified shareholders" of certain publicly traded real estate investment trusts (REITs) and other entities. The PATH Act provides that one way for a foreign entity to become a qualified shareholder is for the Treasury Department to designate the foreign entity as a "qualified collective investment vehicle" (QCIV). However, there is no guidance on how to obtain such designation.

In this article, originally published in Bloomberg BNA's *Tax Management International Journal*, Davies partners Peter A. Glicklich and Neal H. Armstrong and associate Heath Martin describe and discuss the qualified shareholder exemption to FIRPTA and suggest procedures that the U.S. Treasury should adopt for foreign entities to be designated as QCIVs. The article also provides an example of the way the suggested procedures would apply to a publicly listed Canadian REIT.

Download this article.

Key Contacts: Neal H. Armstrong and Peter Glicklich