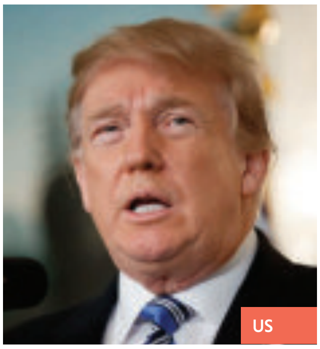
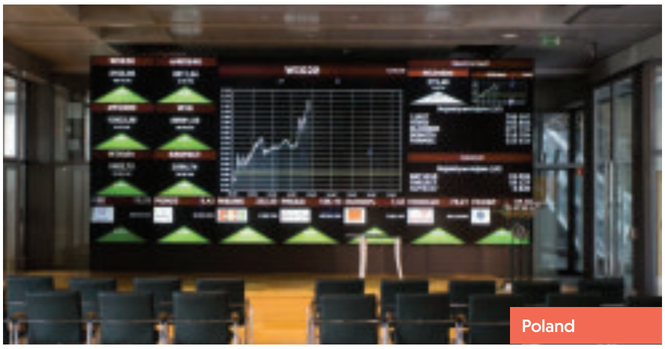
REX SHUTTERSTOCK



REX SHUTTERSTOCK



REX SHUTTERSTOCK


REX SHUTTERSTOCK

REIT AROUND THE WORLD

Already popular and well-understood in some countries, real estate investment trusts are now being adopted more widely and are subject to increasingly favourable tax treatment, write Elliot Weston and Cam Cosby of Hogan Lovells

We are seeing the continued strength of the global REIT brand. Being a tax-efficient structure, a REIT is an increasingly popular choice for real estate around the world. Here we take a look at the latest new REIT regimes being proposed or adopted and law changes to existing REIT markets around the world.

United States

On 22 December 2017, US president Donald Trump signed into law HR 1, known as the Tax Cuts and Jobs Act (the "Jobs Act"), which is the most comprehensive US tax legislation in more than 30 years. The cornerstone of the Jobs Act is a permanent reduction in the top US federal corporate income tax rate from 35% to 21%, effective from 1 January 2018 for calendar-year corporations.

While there are changes to certain aspects of the taxation of US REITs, the Jobs Act does not change the overall manner in which US REITs and their shareholders are taxed. One favourable effect of the Jobs Act on non-US shareholders in US REITs is the reduction in the tax rate (and withholding tax rate) under the Foreign Investment in Real Property Tax Act from 35% to 21%.

United Kingdom

There has been a substantial growth in the number of UK REITs in recent years. The government's proposals to charge non-UK resident investors a UK tax on gains on disposal of all UK property from April 2019 have made UK REITs an increasingly attractive option for property investors.

All UK REITs are exempt from UK corporation tax on UK property gains and rental income profits.

In addition, from April 2017 UK REITs that are at least 80% owned by qualifying institutional investors have been able to benefit from the full substantial shareholdings exemption from UK tax on gains on disposals of shareholdings of 10% or more.

Poland

A new draft law introducing REIT structures into Poland is being prepared. Polish REITs will operate in the form of

REX SHUTTERSTOCK

REX SHUTTERSTOCK

joint stock companies with a minimum share capital of 50m zloty ($15m) and shares listed on the Warsaw Stock Exchange. The legislation will provide tax incentives with regard to the profits distribution and dividends.

The draft law is subject to continuing changes – the latest version provides that REITs will be allowed to invest in residential properties only, which was a surprise for the market. We expect the new law to come into force this year. However, the draft legislation may yet be amended and we await the final wording.

It should be mentioned that during the past few months no new proposals of the regulation were presented, which may be caused by the changes in the government.

Hungary

As a result of a tax package adopted by the Hungarian parliament in the summer of 2017, real estate investors may now receive significant tax benefits, provided that they operate their businesses in the form of a REIT.

These benefits include certain exemptions from corporate and local taxes and stamp duty. Companies registered as a REIT do not have to pay corporate and local taxes as long as they pay 90% of their earnings to shareholders as dividends.

Since these changes came into force, there has been an increase in interest from market players in the REIT structure in Hungary and it is hoped that this will further encourage real estate investors to operate in the form of a REIT in Hungary.

Italy

The real estate market in Italy has started to grow again over the past two years and a further evolution is expected in 2018. This trend influenced the decision to amend the PIR (personal saving plan) rules – granting to individual investors a special tax exemption for income generated by the PIR – so as to include real estate investments and immediately caused a leap in the value of the real estate index on the Italian stock exchange.

In the mid-term, an increase of listings for the Italian SIIQ (real estate investment listed companies) – which has suffered more than other players in the past – is expected.

In addition, listed real estate funds might benefit. Indeed, even if their eligibility for inclusion in the PIR is still being discussed (as they are not properly real estate companies), their underlying assets might be targeted by PIR investments.

Indonesia

Tax incentives for Indonesian REITs were unveiled under the 11th Policy Package on 29 March 2016, followed by several Indonesian Financial Services Authority regulations.

The Indonesian REIT market had generally been considered unattractive because of high tax rates. However, the Indonesian government has made significant headway in promoting domestic REITs. Income tax on land or building transfers has been reduced from 5% to 0.5% and the 5% gross income tax imposed on non-REIT transfers of land or buildings has been reduced to 2.5%.

Moreover, to consolidate the regulations and encourage domestic REIT listings, amendments were made to the REIT regime (effective 22 December 2017), including a requirement for at least 80% of the REIT's net asset value to consist of real estate assets (a maximum of 20% of the REIT's net asset value can be other assets related to real estate, money market instruments, securities, and cash/cash equivalents).

REITs are now permitted to invest in real estate assets that are in final construction stages, as long as the asset provides the REIT with income within six months of transfer.

Elliot Weston and Cam Cosby are tax partners in Hogan Lovells' global REIT team. Weston is based in London and Cosby is based in Washington in the US.