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Midstream Energy REITs: A New Structure

Executive Summary

- Key advantages of REIT structure:
    - Issue 1099s, rather than K-1s
    - Block unrelated business taxable income for tax-exempt investors and effectively connected income for foreign investors
    - If public, eligible for inclusion in stock indices
- Real Estate Investment Trusts ("REITs") are corporations or trusts that, if specific Internal Revenue Code requirements are met, do not pay entity level federal income taxes to the extent their earnings are distributed each year to shareholders.
- New IRS private ruling allows a REIT to own and operate traditional midstream infrastructure assets, including storage assets and pipelines, and derive income from traditional commercial arrangements with customers. If structured correctly, the REIT's income from these assets and arrangements is treated as "rents from real property," an important aspect of qualifying for REIT status under the Internal Revenue Code.
- REITs can be public or private, and both public and private REITS are vehicles through which significant capital can be raised.
- REITs are generally more attractive for investors from a tax perspective than public or private partnerships.
- REITs issue 1099s, rather than K-1s, and block unrelated business taxable income ("UBTI") for tax-exempt investors and effectively connected income ("ECI") for foreign investors.
- REITs can be internally or externally managed.
- REITs must meet specific real property related tests but do not have to meet the publicly traded partnership ("PTP") qualifying income test. Thus, assuming the REIT and its assets and operations otherwise meet the REIT tests, any product, such as chemicals or refined products not on the PTP "angels" list, can be stored in the storage tanks or moved through the pipelines – the PTP qualifying income test is not relevant to REIT status.
- Contribution of appreciated assets by a sponsor to a newly formed REIT in connection with an issuance of REIT stock for cash (e.g., in an initial public offering) or to an already existing REIT is generally a taxable transaction, but the umbrella partnership REIT ("UPREIT") structure can be used to defer tax on such appreciation.
- If this structure is pursued, it is recommended that a private ruling be requested from the IRS.

150+

IPOs and Rule 144A equity offerings

1,000+

Capital markets transactions involving **200+** REITs and other real estate companies

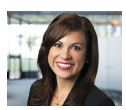
60+

REIT M&A transactions we have acted as counsel, aggregating more than **$70 billion**

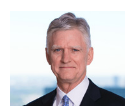
Representative REIT Equity Offerings

Issuer	Number of Deals	Aggregated Value	Our Role
AGNC Investment Corp	15	$11.5 billion	Underwriters' Counsel
Annaly Capital Management, Inc.	8	$6.5 billion	Issuer's Counsel
National Retail Properties, Inc.	18	$4.2 billion	Underwriters' Counsel
Rexford Industrial Realty, Inc.	13	$3.4 billion	Underwriters' Counsel
Pebblebrook Hotel Trust	15	$2.3 billion	Issuer's Counsel
CubeSmart	10	$1.6 billion	Underwriters' Counsel
Chimera Investment Corporation	5	$1.2 billion	Issuer's Counsel
Chatham Lodging Trust	8	$811 million	Issuer's Counsel
AG Mortgage Investment Trust, Inc.	8	$703 million	Issuer's Counsel
City Office REIT, Inc.	7	$542 million	Issuer's Counsel
Postal Realty Trust, Inc.	1	$77 million	Issuer's Counsel

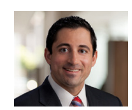
Our Team



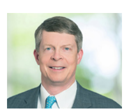
Courtney Cochran Butler
Partner, Houston
courtneybutler@HuntonAK.com
+1 713 220 4396



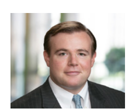
Thomas W. Ford, Jr.
Partner, Houston
tford@HuntonAK.com
+1 713 220 4498



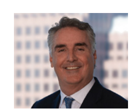
Jordan Hirsch
Partner, Houston
jordanhirsch@HuntonAK.com
+1 713 220 4349



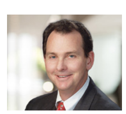
George C. Howell, III
Partner, New York, Richmond
Chair of the Executive Committee
ghowell@HuntonAK.com
+1 212 309 1228 (New York)
+ 1 804 788 8793 (Richmond)



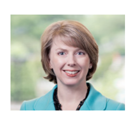
Taylor Landry
Partner, Houston
taylorlandry@HuntonAK.com
+1 713 220 4458



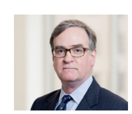
Robert J. McNamara
Partner, Houston
rmcnamara@HuntonAK.com
+1 713 220 4413



G. Michael O'Leary
Partner, Houston
moleary@HuntonAK.com
+1 713 220 4360



Kendal A. Sibley
Partner, Richmond
ksibley@HuntonAK.com
+ 1 804 788 8697



David C. Wright
Partner, Richmond
dwright@HuntonAK.com
+1 804 788 8638

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