

Instructions for Forms REIT-1, REIT-2, and REIT-3

Virginia Real Estate Investment Trust Registration and Certification Forms

Use these instructions to complete Form REIT-1, Virginia Real Estate Investment Trust Registration Application; Form REIT-2, Virginia Real Estate Investment Trust Confirmation Application; and Form REIT-3, Virginia Real Estate Investment Trust Investor Information Report.

Forms REIT-1, REIT-2, and REIT-3 must be submitted before investors may claim a subtraction on their Virginia income tax return.

General Information

For taxable years beginning on and after January 1, 2019, taxpayers may claim an individual and corporate income tax subtraction for income attributable to an investment in a Virginia real estate investment trust (REIT) made on or after January 1, 2019, but before December 31, 2024. In order for the subtraction to be claimed on an investor's income tax return, the REIT must be certified by the Department of Taxation as a Virginia real estate investment trust fund for the year of the investment.

To qualify as a Virginia REIT, the trust must:

- (i) qualify as a REIT as defined in Internal Revenue Code § 856; and
- (ii) invest at least 90% of trust funds in Virginia; and
- (iii) invest at least 40% of trust funds in real estate in localities that are distressed or double distressed.

Investments do not qualify for the subtraction if:

- The investment is made in a trust that is managed by a family member or an affiliate of the taxpayer;
- The taxpayer claimed the subtraction for certain long-term capital gains for the same investment;
- The taxpayer claimed the subtraction for investments in a Virginia venture capital account for the same investment; or
- The taxpayer claimed the Qualified Equity and Subordinated Debt Investments Tax Credit for the same investment (applies to individual taxpayers only).

If the Department determines that the REIT meets the qualifications, the Department will certify the trust as a Virginia REIT when the trust actually invests at least 90% of trust funds in Virginia and 40% of the trust funds in real estate in localities that are distressed or double distressed.

A locality is considered **distressed** if it meets either of the following criteria:

- The locality has an annual unemployment rate for the most recent calendar year for which such data is available that is greater than the final statewide average unemployment rate for that calendar year; or
- The locality has a poverty rate for the most recent calendar year for which such data is available that exceeds the statewide average poverty rate for that year.

A locality is considered **double distressed** if it meets both of the criteria above.

Identifying Localities and FIPS Codes

To determine the locality in which the property is located, use the FIPS (Federal Information Processing Standards) code lookup tool on the Department of Taxation's website at www.tax.virginia.gov/fips. A list of qualifying distressed and double distressed localities is available on the Virginia Economic Development Partnership website at www.vedp.org.

How to Register and Certify the Fund

Registration and certification of the Virginia REIT is a 3-step process.

STEP 1 – Submit Form REIT-1

Use Form REIT-1, Virginia Real Estate Investment Trust Registration Application, to register the trust. To be registered, the trust must indicate that it intends to invest at least 90% of trust funds in Virginia and at least 40% of trust funds in real estate in distressed or double distressed localities.

STEP 2 – Submit Form REIT-2

After the investment has been made, use Form REIT-2, Virginia Real Estate Investment Trust Confirmation Application, to apply for certification as a Virginia REIT. You must include documentation to demonstrate at least 90% of trust funds were invested in Virginia and at least 40% of the trust funds were invested in real estate in localities that are distressed or double distressed. Documentation includes, but is not limited to account statements, receipts, and any other documents to support the investment.

STEP 3 – Submit Form REIT-3

Use Form REIT-3, Virginia Real Estate Investment Trust Investor Information Report, to provide investor information to the Department. This information must be received before the investor is able to claim the subtraction on his/her income tax return.

Annual Certification Process

Certification as a Virginia REIT is valid only for the year in which it was issued. The trustee must complete steps 1-3 for each year it desires certification as a Virginia REIT. If the trust is not certified by the Department for the taxable year during which an investment is made, income from the investment will not qualify for the subtraction.

When to Submit Application

Submit Forms, REIT-1, REIT-2, and REIT-3 by **January 31st** of the year after the taxable year in which the income was earned. Form REIT-1 must be submitted first or at the same time as Forms REIT-2 and REIT-3. All 3 forms must be submitted before investors may claim the subtraction on their income tax returns.

Where to Submit Application

Submit forms and enclosures to **Virginia Department of Taxation, Tax Credit Unit, P.O. Box 715, Richmond, VA 23218-0715** or fax it to **(804) 774-3902**. Do not do both.

What to Expect from the Department

After Form REIT-1 is Submitted (Step 1)

The Department will review the form to determine if the fund meets the qualifications of a Virginia REIT. If the application is approved, you will receive a registration letter for the trust. If the trust does not meet the qualifications, you will receive a denial letter.

Important: A registration letter is not a guarantee that the fund meets the certification requirements that are reviewed in Step 2 of the application process.

After Form REIT-2 is Submitted (Step 2)

The Department will determine whether the trust has met the certification requirements. If the trust qualifies, a certification letter will be issued to confirm that the trust is a Virginia REIT for purposes of the income tax subtraction. The certification is valid for **1 year**.

Where to Get Help

Visit the Department's website, **www.tax.virginia.gov**, for guidelines regarding the Virginia Real Estate Investment Trust Subtraction, most Virginia tax forms, and tax information. You may also write to **Department of Taxation, Tax Credit Unit, P.O. Box 715, Richmond, VA 23218-0715** or call **(804) 786-2992**