



April 14, 2020

The Honorable David J. Kautter  
Assistant Secretary of Tax Policy  
U.S. Department of Treasury

The Honorable Michael J. Desmond  
Chief Counsel  
Internal Revenue Service

Krishna P. Vallabhaneni  
Tax Legislative Counsel, Office of Tax Policy  
U.S. Department of Treasury

RE: Emergency Relief for Delaware Statutory Trusts Owning Real Property

Dear Mr. Kautter, Mr. Desmond and Ms. Vallabhaneni:

The Institute for Portfolio Alternatives (“IPA”) writes to support a letter submitted today by the law firms Baker McKenzie and DLA Piper (“Letter”) with respect to the Delaware statutory trust real estate investment industry. The IPA has an immediate interest in the emergency request as many of our members structure DST investments for property and business owners.

For over 30 years the IPA has raised awareness of portfolio diversifying investment (PDI) products among stakeholders and market participants, including investment professionals, policymakers and the investing public. We support increased access to investment strategies with low correlation to the equity markets: lifecycle real estate investment trusts (Lifecycle REITs), net asset value REITs (NAV REITs), business development companies (BDCs), interval funds and direct participation programs including DST investments (DPPs). Through advocacy and industry-leading education, the IPA is committed to ensuring that all investors have access to real assets and the opportunity to effectively diversify their investment portfolios.<sup>1</sup>

As discussed in the Letter, DSTs are at a distinct disadvantage with respect to their ability to adjust to the current economic climate. In order to allow DSTs the ability to protect the investments of the beneficial owners, we ask that DST be allowed the right to undertake on a temporary basis actions relating to lease modification, loan modification and acceptance of additional capital contributions that

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<sup>1</sup> IPA member firms support individual investor access to a wide variety of asset classes with low correlation to the traded markets and historically available only to institutional investors. These investment products have been held in the accounts of more than 3 million individual investors. With over \$135 billion in capital investments, they remain a critical component of an effectively balanced investment portfolio and serve an essential capital formation function for national, state and local economies.

are otherwise prohibited under Revenue Ruling 2004-86.<sup>2</sup> Each of those actions is addressed in the Letter, as is an alternative request to allow DSTs the ability to spring to an entity taxed as a partnership (e.g., limited liability company), which would be able to take the required actions. We ask that this relief begin immediately and extend through October 31, 2020 so that DSTs can protect the investment of their beneficial interest owners.

We appreciate your consideration of this request during this challenging time. If the IPA may be of any assistance, please do not hesitate to contact me or Anya Coverman, IPA's Senior Vice President, Government Affairs and General Counsel, at (202) 548-7190.

Sincerely,



Anthony Chereso  
President & CEO, Institute for Portfolio Alternatives

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<sup>2</sup> Similar relief was provided to investment trusts that own mortgages in Rev. Proc. 2020-26.