

# Global Tax Alert

News from EY Americas Tax

## Peru extends tax regime applicable to REITs

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On 31 October 2019, Peru issued Urgent Decree 009-2019, extending the tax regime applicable to Real Estate Investment Trusts (REITs) in Peru from 31 December 2019 to 31 December 2022. Urgent Decree 009-2019 is effective 1 January 2020.

### Background

In Peru, the REIT tax regime applies to trusts and funds that invest in real estate and meet several regulatory requirements.

Taxpayers may transfer real property to REITs and have the tax deferred. They will be liable for capital gains tax and real estate transfer tax once the REIT property is transferred to a third party or when the certificates of participation are transferred, whichever occurs first. Special provisions apply for determining the tax basis and the fair market value of the real estate.

Income from a property lease or another form of assignment to use the real estate is subject to: (i) a 5% withholding tax on the gross basis, in the case of nonresident individuals; and (ii) a 24% withholding tax on the gross income of nonresident entities.

Also, under the REIT regime, a tax exemption applies to the capital gains from REIT certificates traded on the Lima Stock Exchange. If a REIT certificate is not traded on the Lima Stock Exchange, a 5% tax rate applies to the capital gains resulting from the transfer of a certificate through the Lima Stock Exchange.

The REIT tax regime was originally in force from 1 January 2016 to 31 December 2019.

## Urgent Decree 009-2019

The Urgent Decree's extension of the REIT regime will allow taxpayers to defer tax on real property transfers to REITs for another three years. They also may qualify for the tax exemption applicable to capital gains from REIT certificates traded on the Lima Stock Exchange. Taxpayers should review their real property investments and determine if they might benefit from this regime.

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