

## Income/Franchise:

### Missouri Court of Appeals Affirms REIT's Rental Income is Subject to City Earnings Tax and Dividends Paid are Not Deductible

*Case No. WD87288*, Mo. Ct. App. W.D. (6/3/25). In a case involving an entity owning over a thousand investment assets, including four medical office buildings in Kansas City, Missouri (City), and which qualified and elected to be taxed as a real estate investment trust (REIT) for federal tax purposes, a Missouri Court of Appeals (Court) affirmed a circuit court's ruling that:

URL: <https://www.courts.mo.gov/fv/c/Opinion.PDF?courtCode=WA&di=491203>

1. The REIT's receipt of rental income from the four medical office buildings qualifies as "business activity" subject to the City's earnings tax under City tax law (specifically, City Regulation 1.382(e)(4)); and
2. The REIT's federally required dividend paid deductions are not deductible expenses in calculating its City earnings tax liability pursuant to City Ordinance § 68-381.

In doing so, the Court rejected the taxpayer's claim that its rental income from real estate is not "earned income" from an "activity" in Kansas City, concluding instead that the facts showed the taxpayer operates in the City as a real estate business with income generated by the real estate that it owns as investments, regardless of its federal tax "REIT" status. The Court also rejected the taxpayer's claim that its federally required dividends paid deductions are necessary expenses of its operation as a REIT and thus properly deductible in calculating its City earnings and profits tax – holding instead that such expenses are *not* an expense necessary to operate its real estate business and generate the taxable income which is converted to dividends and paid out to investors. In reaching this conclusion, the Court explained that the taxpayer does *not* generate its gross profits at the four medical buildings in the City "from being a REIT, but from the rental income of its real estate business," and its 90% dividend payment requirement is merely to maintain its federal income tax REIT status. Please contact us with any questions.

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