

THE REAL ESTATE  
INVESTMENT  
STRUCTURE  
TAXATION REVIEW

FOURTH EDITION

Editors

Giuseppe Andrea Giannantonio and Tobias Steinmann

THE LAWREVIEWS

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This article was first published in June 2022  
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**Editors**

Giuseppe Andrea Giannantonio and Tobias Steinmann

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PUBLISHER  
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Published in the United Kingdom  
by Law Business Research Ltd, London  
Meridian House, 34–35 Farringdon Street, London, EC4A 4HL, UK  
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[www.TheLawReviews.co.uk](http://www.TheLawReviews.co.uk)

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ISBN 978-1-80449-088-4

Printed in Great Britain by  
Encompass Print Solutions, Derbyshire  
Tel: 0844 2480 112

# ACKNOWLEDGEMENTS

The publisher acknowledges and thanks the following for their assistance throughout the preparation of this book:

AABØ-EVENSEN & CO ADVOKATFIRMA AS

ARENDT & MEDERNACH SA

CAIADO GUERREIRO

CHIOMENTI

CMS PASQUIER CIULLA MARQUET PASTOR SVARA & GAZO

DENTONS

EPRA

GIDE LOYRETTE NOUEL AARPI

GLEISS LUTZ

HCSD TAX ADVISORS

HOMBURGER AG

LOYENS & LOEFF

WILLIAM FRY

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# PREFACE

The real estate sector plays a crucial role in the global economy and social environment.

In particular, the commercial property sector offers the infrastructure needed for the growth and development of entrepreneurship and business, including offices, shops, industrial and logistics premises, and hotels. In Europe alone, commercial real estate represents a business of €8.5 trillion.

The real estate sector is also a fundamental source of employment. In 2019, the European real estate sector employed 4.2 million people – more than the car manufacturing and telecommunications sectors combined. Moreover, it provides residential accommodation and is seen as a tool to meet social and public needs. New types of properties are emerging and have increasingly been included in investment portfolios, such as senior living, student accommodation and life sciences. In addition, urban regeneration has become a key element of many decisions taken at EU level, boosting city renovation, decarbonisation and green transition. In this respect, the NextGenerationEU recovery fund will play a key role in supporting this transformation.

In this context, attracting investments from institutional investors such as pension funds, insurance companies and sovereign wealth funds is crucial for the growth of the real estate sector. In particular, it is desirable that those investors are involved in both financing large development projects and investing in properties held for rent.

Based on market practice, investments from foreign institutional investors are mainly carried out indirectly rather than through direct acquisitions, and particularly through specialised vehicles such as non-listed real estate funds, listed property companies and real estate investment trusts.

The emergency caused by the covid-19 pandemic over the past couple of years has affected the real estate sector like so many other sectors. Although any disturbance to private real estate valuations is normally only revealed over time, listed real estate stocks suffered a sharp decline in 2020. However, thanks to strategies put in place after the 2008 global financial crisis (GFC) (most notably restructuring of debt), the listed sector's recovery was five times faster than that following the GFC. With investors increasingly focusing on thematic investment, the post-crisis landscape has been characterised by higher demand for alternative real estate sectors and assets, accelerating a process of transformation that was already ongoing.

After a deep recession in most of the European economies in 2020 due to the pandemic, 2021 has been characterised by an economic recovery that, in principle, was forecasted to continue on a more moderate path in 2022 and 2023.

However, in April 2022, inflation in the eurozone reached a record level (7.5 per cent) due to heightened uncertainty and geopolitical risks as well as skyrocketing energy and raw material prices caused by the war in Ukraine. This is not slowing down investments despite the uncertainty, because the sector has strong fundamentals.

Based on the above, national legislators are facing a new phase of uncertainty, inflation and geopolitical risks that will have an impact on new provisions aimed at stimulating or attracting selected investments in their countries. Part of the NextGenerationEU recovery fund might be reviewed in light of new ‘what if’ scenarios as well as tax credits and allowances resulting from increased costs of construction. Any review of national legislation should also take into account international sanctions against Russia.

We are convinced that the role of the real estate sector as an economic, employment and social catalyst needs to be supported by a legislative framework that increases transparency and competitiveness and simplifies, as well as standardises, bureaucratic processes.

However, within the European Union, the covid-19 crisis, the conflict between Russia and Ukraine and, consequently, the rise in inflation have all had different impacts on different countries. This will, of course, further exacerbate differences between the interventions made by legislators in the individual jurisdictions, with allowances, tax credits, and other tax provisions introduced and applied very differently from one Member State to another. Generally, these disparities reflect the level of impact those elements have in particular jurisdictions, the economic policies followed by their respective governments and the level of resources available to achieve those aims.

Correlatively, national legislators will need to adapt any new provisions to those pre-existing types of specialised real estate investment vehicles that currently benefit from tax exemptions or other advantageous tax allowances, for both direct and indirect tax purposes.

Given all of the above, the aim of this volume is to provide a useful guide to those international and institutional investors that are willing to invest in real estate properties located in Europe and elsewhere, and to illustrate in a comparative manner possible alternatives for the establishment of investment platforms in Europe and investment vehicles at a local level. In particular, each country-specific chapter provides insights from leading experts into key tax considerations and investment opportunities based on the relevant national legislation. Furthermore, in this edition, we have sought to provide indications of any allowances and facilitations introduced temporarily in response to the current economic crisis that might also present investors with investment opportunities in specific countries.

We would like to thank the authors of this volume for their extensive expertise and their efforts to ensure the successful outcome of this work. We hope that the reader finds this volume useful and we welcome any comments and suggestions for improvement for the next edition.

**Giuseppe Andrea Giannantonio**

Chiomenti  
Milan

**Tobias Steinmann**

EPRA  
Brussels

June 2022



## ABOUT THE AUTHORS

### GIUSEPPE ANDREA GIANNANTONIO

#### *Chiomenti*

Giuseppe Andrea Giannantonio is a chartered accountant (*dottore commercialista* – 1993) and has been a partner at Chiomenti Studio Legale since 2002, covering different managing roles in the firm (he is now part of the client group and the policy and conduct committee). His practice covers diversified fields of taxation and, in particular, international taxation, the taxation of investment funds and the structures of cross-border investments, the taxation of real estate, and corporate M&A and financial taxation. He sits on the tax committees of the Italian Real Estate Industry Association (ASSOIMMOBILIARE) and the Italian Private Equity Venture Capital Association (AIFI), and on the tax and regulatory committee of the European Public Real Estate Association (EPRA). In this role, he attended the public consultation meeting of the OECD on base erosion and profit shifting regarding collective investment vehicles and real estate investment trusts in February 2015. In 2006, he advised the Italian Treasury on the introduction of the law on listed real estate investment companies (SIIQ) and recently advised the Italian Ministry of Economic Development (MISE) on its reform in 2014. He is a frequent speaker at conferences and has written articles in specialist newspapers and magazines. He graduated *cum laude* in economics from the University of Rome, La Sapienza in 1992 and attended the University of Cambridge Judge Business School in 2012 and the Harvard Law School Executive Education in 2020.

### TOBIAS STEINMANN

#### *EPRA*

Tobias Steinmann is the director of public affairs at the European Public Real Estate Association (EPRA) and is responsible for giving listed real estate and EPRA members a voice in legislative processes across the European Union.

Before joining EPRA, Tobias worked for BASF's government relations office in Brussels, representing the company's interests in the field of innovation and technology policy. Prior to that, Tobias worked as a parliamentary adviser and head of office for a member of the European Parliament, followed by a position as consultant for public affairs in several areas of EU policymaking. Tobias holds a degree in business administration from Munich University of Applied Sciences and received a master's double degree in European studies from the Universities of Vienna and Krakow.

**CHIOMENTI**

Via Giuseppe Verdi 2-4  
Milan 20121  
Italy  
Tel: +39 02 72 15 76 80  
Fax: +39 02 72 15 72 27  
giuseppeandrea.giannantonio@chiomenti.net  
gabriele.paladini@chiomenti.net  
giulia.bighignoli@chiomenti.net  
www.chiomenti.net

**EPRA**

Square de Meeûs 23  
1000 Brussels  
Belgium  
Tel: +32 2 739 10 10  
t.steinmann@epra.com  
www.epra.com

ISBN 978-1-80449-088-4