

# JER INVESTORS TRUST INC (JERT)

## 8-K

Current report filing

Filed on 01/02/2009

Filed Period 01/02/2009

THOMSON REUTERS ACCELUS™



THOMSON REUTERS

**UNITED STATES  
SECURITIES AND EXCHANGE COMMISSION**  
Washington, D.C. 20549

---

**FORM 8-K**

---

**CURRENT REPORT**

Pursuant to Section 13 or 15(d) of the Securities Exchange Act of 1934

Date of Report (Date of earliest event reported): January 2, 2009 (January 2, 2009)

---

**JER Investors Trust Inc.**

(Exact Name of Registrant as Specified in Charter)

---

Maryland  
(State or other jurisdiction  
of incorporation)

001-32564  
(Commission File Number)

75-3152779  
(IRS Employer  
Identification No.)

1650 Tysons Boulevard, Suite 1600, McLean, VA  
(Address of Principal Executive Offices)

22102  
(Zip Code)

Registrant's telephone number, including area code

(703) 714-8000

(Former Name or Former Address, if Changed Since Last Report)

---

Check the appropriate box below if the Form 8-K filing is intended to simultaneously satisfy the filing obligation of the registrant under any of the following provisions:

- Written communications pursuant to Rule 425 under the Securities Act (17 CFR 230.425)
  - Soliciting material pursuant to Rule 14a-12 under the Exchange Act (17 CFR 240.14a-12)
  - Pre-commencement communications pursuant to Rule 14d-2(b) under the Exchange Act (17 CFR 240.14d-2(b))
  - Pre-commencement communications pursuant to Rule 13e-4(c) under the Exchange Act (17 CFR 240.13e-4(c))
-

**Item 8.01 Other Events.**

JER Investors Trust, Inc. (the "Company") has filed with the SEC a prospectus supplement to Registration Statement No. 333-150610 relating to shares of its common stock that may be issued in payment of the Company's fourth quarter dividend. The dividend, payable to stockholders of record at the close of business on December 30, 2008, is expected to be paid on Jan 29, 2009. The dividend is payable in cash or shares of common stock, at the election of each stockholder, subject to certain limitations. In connection therewith, the Company is filing as Exhibit 8.1 to this report, the opinion of Skadden, Arps, Slate, Meagher & Flom LLP as to certain tax matters.

**Item 9.01 Financial Statements and Exhibits.**

(d) Exhibits.

8.1 Opinion of Skadden, Arps, Slate, Meagher & Flom LLP as to certain tax matters

23.1 Consent of Skadden, Arps, Slate, Meagher & Flom LLP (included in Exhibit 8.1)

---

## SIGNATURES

Pursuant to the requirements of the Securities Exchange Act of 1934, the Registrant has duly caused this report to be signed on its behalf by the undersigned hereunto duly authorized.

JER Investors Trust Inc.  
(Registrant)

Date: January 2, 2009

By: /s/ J. Michael McGillis  
Name: J. Michael McGillis  
Title: Chief Financial Officer

---

## **EXHIBIT INDEX**

### **Exhibit No. Description**

- |      |                                                                               |
|------|-------------------------------------------------------------------------------|
| 8.1  | Opinion of Skadden, Arps, Slate, Meagher & Flom LLP as to certain tax matters |
| 23.1 | Consent of Skadden, Arps, Slate, Meagher & Flom LLP (included in Exhibit 8.1) |

[LETTERHEAD OF SKADDEN, ARPS, SLATE, MEAGHER & FLOM LLP]

January 2, 2009

JER Investors Trust Inc.  
1650 Tysons Boulevard, Suite 1600  
McLean, Virginia 22102

Re: Certain United States Federal Income Tax Matters

Ladies and Gentlemen:

You have requested our opinion concerning certain United States Federal income tax considerations in connection with a special dividend of shares of common stock ("Common Stock") of JER Investors Trust, Inc., a Maryland corporation ("JER") pursuant to a prospectus supplement and shelf registration statement on Form S-3 (together, the "Registration Statement") filed with the Securities and Exchange Commission (the "Commission") and dated as of the date hereof. We have acted as tax counsel to JER in connection with, and have participated in the preparation of, and the Registration Statement.

In connection with this opinion, we have examined originals or copies, certified or otherwise identified to our satisfaction, of the Registration Statement and such other documentation and information provided to us by you as we have deemed necessary or appropriate as a basis for the opinion set forth herein, including a private letter ruling issued to JER on September 23, 2008 (the "Letter Ruling"). In addition, you have provided us with, and we are relying upon, a certificate containing certain factual representations and covenants of officers of JER (the "Officers' Certificate") relating to, among other things, the actual and proposed operations of JER and the entities in which it holds, or has held, a direct or indirect interest (collectively, the "Company"). These representations and covenants relate, in some cases, to transactions and investments for which we did not act as the Company's primary counsel. For purposes of our opinion, we have not independently verified all of the statements, representations and covenants set forth in the Officers' Certificate, the Registration Statement, the Letter Ruling or in any other document. We have, consequently, assumed and relied on your representation that the statements, representations and covenants presented in the Officers' Certificate, the Registration Statement, the Letter Ruling, and other documents, or otherwise furnished to us, accurately and completely describes all material facts relevant to our

---

opinion. We have assumed that such statements, representations and covenants are true without regard to any qualification as to knowledge, belief, or intent. Our opinion is conditioned on the continuing accuracy and completeness of such statements, representations and covenants. We are not aware of any facts inconsistent with such statements, representations and covenants. Any material change or inaccuracy in the facts referred to, set forth, or assumed herein or in the Officers' Certificate may affect our conclusions set forth herein.

In our review of certain documents in connection with our opinion as expressed below, we have assumed the legal capacity of all natural persons, the genuineness of all signatures, the authenticity of all documents submitted to us as originals, the conformity to original documents of all documents submitted to us as certified, conformed, photostatic, or electronic copies, and the authenticity of the originals of such copies. Where documents have been provided to us in draft form, we have assumed that the final executed versions of such documents will not differ materially from such drafts.

Our opinion is also based on the correctness of the following assumptions: (i) JER and each of the entities comprising the Company has been and will continue to be operated in accordance with the laws of the jurisdiction in which it was formed and in the manner described in the relevant organizational documents, (ii) there will be no changes in the applicable laws of the State of Maryland or of any other jurisdiction under the laws of which any of the entities comprising the Company have been formed, and (iii) each of the written agreements to which the Company is a party has been and will be implemented, construed and enforced in accordance with its terms.

In rendering our opinion, we have considered and relied upon the Internal Revenue Code of 1986, as amended (the "Code"), the regulations promulgated thereunder ("Regulations"), administrative rulings and other Treasury interpretations of the Code and the Regulations by the courts and the Internal Revenue Service ("IRS"), including Revenue Procedure 2008-68, 2008-52 I.R.B. 1373, all as they exist at the date hereof. It should be noted that the Code, Regulations, judicial decisions, and administrative interpretations are subject to change at any time and, in some circumstances, with retroactive effect. A material change that is made after the date hereof in any of the foregoing bases for our opinion could affect our conclusions set forth herein. In this regard, an opinion of counsel with respect to an issue represents counsel's best judgment as to the outcome on the merits with respect to such issue, is not binding on the IRS or the courts, and is not a guarantee that the IRS will not assert a contrary position with respect to such issue or that a court will not sustain such a position if asserted by the IRS.

We express no opinion as to the laws of any jurisdiction other than the federal laws of the United States. We express no opinion on any issue relating to JER or any investment therein, other than as expressly stated herein.

Based on and subject to the foregoing, we are of the opinion that:

---

1. Commencing with JER's initial taxable year that ended on December 31, 2004, JER was organized in conformity with the requirements for qualification as a REIT under the Code, and its actual method of operation through the date of this letter has enabled, and its proposed method of operation will enable, it to meet the requirements for qualification and taxation as a REIT under the Code. As noted in the Registration Statement, JER's qualification and taxation as a REIT depend upon its ability to meet, through actual operating results, certain requirements relating to the sources of its income, the nature of its assets, distribution levels and diversity of stock ownership, and various other qualification tests imposed under the Code, the results of which are not reviewed by us. Accordingly, no assurance can be given that the actual results of JER's operation for any one taxable year will satisfy the requirements for taxation as a REIT under the Code.

2. Although the discussion set forth in the Registration Statement under the heading "Federal Income Tax Considerations" does not purport to discuss all possible United States Federal income tax consequences of the ownership and disposition of Common Stock of JER, such discussion, though general in nature, constitutes, in all material respects, a fair and accurate summary under current law of the material United States Federal income tax consequences of the ownership and disposition of Common Stock of JER, subject to the qualifications set forth therein. The United States federal income tax consequences of the ownership and disposition of such Common Stock by an investor will depend on that holder's particular situation and we express no opinion as to the completeness of the discussion set forth under the heading "Federal Income Tax Considerations" as applied to any particular holder.

This opinion has been prepared for you in connection with the Registration Statement. We consent to the filing of this opinion as an exhibit to the Registration Statement and to the reference to Skadden, Arps, Slate, Meagher & Flom LLP under the captions "Federal Income Tax Considerations" and "Legal Matters" in the Registration Statement. In giving this consent, we do not thereby admit that we are in the category of persons whose consent is required under Section 7 of the Securities Act of 1933, as amended, or the rules and regulations of the Commission. This opinion is expressed as of the date hereof, and we are under no obligation to supplement or revise our opinion to reflect any legal developments or factual matters arising subsequent to the date hereof, or the impact of any information, document, certificate, record, statement, representation, covenant, or assumption relied upon herein that becomes incorrect or untrue.

Very truly yours,

/s/ Skadden, Arps, Slate, Meagher & Flom LLP