

SUPPORTING STATEMENT (REG-142299-01 & REG-209135-88)

CIRCUMSTANCES NECESSITATING COLLECTION OF INFORMATION

This regulation contains two sets of rules, section 1.337(d)-6T and 1.337(d)-7T, both of which apply with respect to the net built-in gain of C corporation assets that become assets of a Regulated Investment Company [RIC] or Real Estate Investment Trust [REIT] by the qualification of a C corporation as a RIC or REIT or by the transfer of assets of a C corporation to a RIC or REIT in a carryover basis transaction. Section 1.337(d)-6T applies to transactions that occur on or after June 10, 1987 and before the date the regulation was published in the **Federal Register**, and 1.337(d)-7T applies to transactions that occur on or after the date the regulation was published in the Federal Register.

In addition, the regulation amended section 1.337(d)-5T, which was published on February 7, 2000, and which also imposes tax on the net built-in gain in C corporation property that becomes the property of a RIC or REIT upon the qualification of the C corporation as a RIC or REIT or upon the transfer of net built-in gain property to the RIC or REIT in carryover basis transactions. The regulation provides that taxpayers may rely on §1.337(d)-5T in lieu of §1.337(d)-6T for transactions occurring on or after June 10, 1987 and before the date the regulation was published in the **Federal Register**.

USE OF DATA

The information supplied to the Service is necessary to determine whether deemed sale treatment or section 1374 treatment is appropriate for the entity for which the regulation applies.

3. USE OF IMPROVED INFORMATION TECHNOLOGY TO REDUCE BURDEN

IRS Publications Regulations, Notices and Letters are to be electronically enabled on an as practicable basis in accordance with the IRS Reform and Restructuring Act of 1998.

4. EFFORTS TO IDENTIFY DUPLICATION

We have attempted to eliminate duplication within the agency wherever possible.

5. METHODS TO MINIMIZE BURDEN ON SMALL BUSINESSES OR OTHER SMALL ENTITIES

Not applicable.

6. **CONSEQUENCES OF LESS FREQUENT COLLECTION ON FEDERAL PROGRAMS OR POLICY ACTIVITIES**

Not applicable.

7. **SPECIAL CIRCUMSTANCES REQUIRING DATA COLLECTION TO BE INCONSISTENT WITH GUIDELINES IN 5 CFR 1320.5(d)(2)**

Not applicable.

8. **CONSULTATION WITH INDIVIDUALS OUTSIDE OF THE AGENCY ON AVAILABILITY OF DATA, FREQUENCY OF COLLECTION, CLARITY OF INSTRUCTIONS AND FORMS, AND DATA ELEMENTS**

A notice of proposed rulemaking (67 FR 48) was published simultaneously with temporary regulations (67 FR 8) in the **Federal Register** on January 2, 2002. Corrections to these regulations were published in the **Federal Register** on January 29, 2002 (67 FR 4177 & 67 FR 4218) .

In addition, this regulation (REG-209135-88) amended section 1.337(d)-5T, which was published on February 7, 2000 (65 FR 5775), and which also imposes tax on the net built-in gain in C corporation property that becomes the property of a RIC or REIT upon the qualification of the C corporation as a RIC or REIT or upon the transfer of net built-in gain property to the RIC or REIT in carryover basis transactions.

Final regulations were published in the **Federal Register** on **March 18, 2003 (68 FR 12817)**.

In response to the **Federal Register Notice** dated **January 15, 2008 (73 FR 2564)**, we received no comments during the comment period.

9. **EXPLANATION OF DECISION TO PROVIDE ANY PAYMENT OR GIFT TO RESPONDENTS**

Not applicable.

10. **ASSURANCE OF CONFIDENTIALITY OF RESPONSES**

Generally, tax returns and tax return information are confidential as required by 26 USC 6103.

11. **JUSTIFICATION OF SENSITIVE QUESTIONS**

Not applicable.

12. ESTIMATED BURDEN OF INFORMATION COLLECTION

Sections 1.337(d)-5T and 1.337(d)-6T allow an affected taxpayer, in lieu of deemed sale treatment and immediate taxation, to elect to be subject to section 1374 and the regulations thereunder. A taxpayer will make an election, if at all, under one but not both of these sections. The election is made by filing a statement with the taxpayer's tax return. The IRS estimates that the annual number of respondents will be 100; the burden per respondent will vary from .25 to .75 hours, depending on individual circumstances, with an estimated average of .5 hour, and that the estimated total burden will be 50 hours.

Section 1.337(d)-7T allows an affected taxpayer, in lieu of being subject to section 1374 treatment and the regulations thereunder, to elect deemed sale treatment and immediate taxation. The IRS estimates that the annual number of respondents will be 40; the burden per respondent will vary from .25 to .75 hours, depending on individual circumstances, with an estimated average of .5 hour, and that the estimated total burden will be 20 hours.

Estimates of the annualized cost to respondents for the hour burdens shown are not available at this time.

13. ESTIMATED TOTAL ANNUAL COST BURDEN TO RESPONDENTS

As suggested by OMB, our **Federal Register Notice** dated **January 15, 2008 (73 FR 2564)**, requested public comments on estimates of cost burden that are not captured in the estimates of burden hours, i.e., estimates of capital or start-up costs and costs of operation, maintenance, and purchase of services to provide information. However, we did not receive any response from taxpayers on this subject. As a result, estimates of the cost burdens are not available at this time.

14. ESTIMATED ANNUALIZED COST TO THE FEDERAL GOVERNMENT

Not applicable.

15. REASONS FOR CHANGE IN BURDEN

There is no change in the paperwork burden previously approved by OMB. We are making this submission to renew the OMB approval.

16. PLANS FOR TABULATION, STATISTICAL ANALYSIS AND PUBLICATION

Not applicable.

17. REASONS WHY DISPLAYING THE OMB EXPIRATION DATE IS INAPPROPRIATE

We believe that displaying the OMB expiration date is inappropriate because it could cause confusion by leading taxpayers to believe that the regulations sunset as of the expiration date. Taxpayers are not likely to be aware that the Service intends to request renewal of the OMB approval and obtain a new expiration date before the old one expires.

18. EXCEPTIONS TO THE CERTIFICATION STATEMENT ON OMB FORM 83-I

Not applicable.

Note: The following paragraph applies to all of the collections of information in this submission:

An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless the collection of information displays a valid OMB control number. Books or records relating to a collection of information must be retained as long as their contents may become material in the administration of any internal revenue law. Generally, tax returns and tax return information are confidential, as required by 26 U.S.C. 6103.