

SUPPORTING STATEMENT

1. CIRCUMSTANCES NECESSITATING COLLECTION OF INFORMATION

Section 671 of the Tax Reform Act of 1986 (the 1986 Act) added to the Code new sections 860A through 860G, creating a new entity for Federal tax purposes that is a vehicle for investing in real estate mortgages. This investment vehicle is called a real estate mortgage investment conduit, or REMIC. In general, a REMIC is a fixed pool of mortgages in which multiple classes of interests are held by investors and which elects to be taxed as a REMIC. Treas. reg. §1.860D-1(d) prescribes the manner in which the election to be taxed as a REMIC is made.

Under section 860F(e), a REMIC is treated as a partnership and certain investors are treated as partners for purposes of subtitle F of the Code (Procedure and Administration). A REMIC is, therefore, required to file an annual income tax return with the Internal Revenue Service. The Service has developed Form 1066, U.S. Real Estate Mortgage Investment Conduit Income Tax Return, for this purpose. The REMIC must also use Schedule Q, which is associated with the Form 1066, to provide notice to the Service and to its partner-investors of their share of the REMIC's income. Treas. reg. §1.860F-4.

Other investors are treated as creditors of the REMIC and thus holders of debt instruments issued by the REMIC. These investors derive income from the REMIC in the form of interest paid to them by the REMIC and original issue discount accruing with respect to their investment interests. The REMIC or other issuer of a section 1272(a)(6) debt instrument is required to file a Form 8811 with the Service providing information to enable brokers and middlemen to contact the REMIC or other issuer to request the financial information necessary to complete the Forms 1099. The REMIC or other issuer of a section 1272(a)(6) debt instrument, brokers, and middlemen are required to report to the Service and to investors who are actual holders the amounts of interest income and original issue discount on Forms 1099-INT and 1099-OID. Treas. reg. §1.6049-7.

Generally, the operating expenses of a REMIC are treated as expenses paid or incurred for the production of income. The REMIC may deduct these expenses without limitation under section 212. Under section 67, however, if an individual (or an entity that computes its taxable income in the same manner as an individual) incurs the same expenses, a deduction is allowed only to the extent that the individual's aggregate section 212 expenses exceed two percent of his adjusted gross income. To prevent individuals from using a REMIC to avoid the section 67 limitations, certain individual investors in a REMIC must take into account their share of the REMIC's section 212 expenses.

If a REMIC's partner-investors include individuals and entities taxable as individuals, then the REMIC must notify the Service and those partner-investors of their shares of the REMIC's section 212 expenses. Notice is provided to the partner-investors on Schedule Q (Form 1066). Sections 1.67-3 (f)(2)(i) and 1.67-3(f)(3)(i). Moreover, if a REMIC is a single-class REMIC, and if the REMIC's debt holders include individuals or entities taxable as individuals, then the REMIC must notify the Service and those debt holders of their shares of the REMIC's section 212 expenses. Sections 1.67-3(f)(2)(ii) and 1.67-3(f)(3)(i). Notice is provided to the debt holders on the statement described in §1.6049-7(f) or on a separate statement provided in a separate mailing. In addition, if the interest of a partner-investor or debt holder is held by a nominee, then the REMIC may provide notice of the section 212 expenses to the nominee for the holder instead of to the partner-investor or debt holder. Section 1.67-3(f)(4)(i). Single-class REMICS, however, are required under §1.6049-7(e) to furnish other financial information to a broker upon request. Section 1.67-3(f)(4)(ii), therefore, requires single-class REMICs to provide the section 212 information with the information requested under §1.6049-7(e).

2. USE OF DATA

Investors use the section 67 information in completing their income tax returns. The Treasury Department then examines the income tax returns and information returns to ensure compliance. The REMIC election procedure is a means of identifying those taxpayers who are subject to the provisions governing REMICs

and their investors.

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

Temporary and final regulations (FI-27-89) and a notice of proposed rulemaking (FI-61-91) under sections 67 and 6049 were published in the **Federal Register** on September 30, 1991. No written comments were received on the proposed regulations. A public hearing was held on December 5, 1991, with respect to the proposed regulations. No statements were made at the hearing concerning the proposed regulations. The regulations were published as final regulations on September 3, 1992.

We received no comments during the comment period in response to the **Federal Register** notice dated January 15, 2009 (74 FR 2652).

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

Not applicable.

10. ASSURANCE OF CONFIDENTIALITY OF RESPONSES

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

11. JUSTIFICATION OF SENSITIVE QUESTIONS

Not applicable.

12. ESTIMATED BURDEN OF INFORMATION COLLECTION

We estimate the following burden for these regulations:

Section 1.67-3(f)(4)(ii) requires single-class REMICs to provide certain section 67 information to nominees when information is requested pursuant to §1.6049-7(e). We estimate that approximately 5 single-class REMICs will have to provide the information to 5 brokers each and that each request will take .3 hour to furnish. Total burden: 8 hours.

Section 1.67-3(f)(2)(ii) permits single-class REMICs to state the information on the statement described in §1.6049-7(f) instead of on a separate statement provided in a separate mailing. The burden for furnishing the information on the statement described in §1.6049-7(f) is reflected in the burden of Form 1099-INT and Form 1099-OID.

Sections 1.860D-1(d) and 1.860F-4 require the filing of Form 1066 and Schedule Q (Form 1066). The burden for the reporting requirements contained in those sections of the regulation are included in the burden of Form 1066.

The burden for the requirement under §1.6049-4 to notify other investors of their actual amount of original issue discount is reflected in the burden of Form 1099-OID.

The burden for the requirement under §1.6049-7(b)(1) to file Form 8811 is reflected in the burden of Form 8811.

The burden for the requirements under §§1.6049-7(b)(2) and 1.6049-7(f)(1) through (f)(6) to file Form 1099-INT and Form 1099-OID are reflected in the burden of these forms.

Section 1.6049-7(e) requires information to be furnished to brokers and middlemen who request the information in order to complete Forms 1099. We estimate that approximately 600 REMICs or other issuers of a section 1272(a)(6) obligation will have to provide the information to 12 brokers or middlemen and that each request will take .1 hour to furnish. Total burden: 720 hours.

Section 1.6049-7(f)(7) requires brokers and middlemen to furnish to certain corporations and non-calendar year taxpayers interest and original issue discount information. We estimate that approximately 50 brokers or middlemen will have to provide the information to 50 corporations each and that each request will take .1 hour to furnish. Total burden: 250 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, 2009 (74 FR 2652), 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.

