

SUPPORTING STATEMENT  
Notice 97-64

**1. CIRCUMSTANCES NECESSITATING COLLECTION OF INFORMATION**

The Taxpayer Relief Act of 1997 (the 1997 Act) amended §1(h) to subject various items of long-term capital gain to different tax rates. Section 1(h)(9), as amended, gives the Secretary the power to promulgate regulations that will permit Regulated Investment Companies (RICs) and Real Estate Investment Trusts (REITs) to distribute capital gains in a manner that permits them to be assigned to the appropriate tax rate group. Notice 97-64 gives notice that temporary regulations will carry out this mandate and gives a brief synopsis of what the temporary regulations will provide.

The temporary regulations will permit RICs and REITs that designate dividends as capital gain dividends (the primary designation) to additionally designate the dividends as capital gain dividends taxed in a specific tax rate group (the secondary designation) subject to a limitation on the amount of capital gain dividend of each type that may be distributed. Such designation usually is made within 60 days of the end of the RIC's or REIT's taxable year.

**2. USE OF DATA**

RIC and REIT shareholders will use the information provided to complete their income tax returns.

**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**

Notice 97-64 was published in the **Internal Revenue Bulletin** on November 24, 1997 (1997-47 IRB 7).

We received no comments during the comment period in response to the **Federal Register** notice (75 FR 5859), dated February 4, 2010.

**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 9 and 10 of the Notice require that RICs and REITs provide shareholders with certain additional information. They will do this on Form 1099-DIV and Form 2439. The burden of this requirement is reflected in the burden of Form 1099-DIV and Form 2439.

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 February 4, 2010, 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 notice sunsets 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.