

SUPPORTING STATEMENT

1545-1672

Certain Transfers of Property to Regulated Investment Companies (RICs) and Real Estate Investment Trusts (REITs)

T.D. 9047

CIRCUMSTANCES NECESSITATING COLLECTION OF INFORMATION

The Tax Reform Act of 1986 (Public Law 99-514) amended section 336 and 337 to require corporations to recognize gain or loss on the distribution of property in connection with complete liquidations other than certain subsidiary liquidations. In 2000, temporary regulations relating to certain transactions or events that result in a Regulated Investment Company (RIC) or Real Estate Investment Trust (REIT) owning property that has a basis determined by reference to a C corporation's basis in the property were published in the *Federal Register*. These temporary regulations were intended to carry out the purposes of the repeal of the *General Utilities* doctrine as enacted in the Tax Reform Act of 1986, as amended by the Technical and Miscellaneous Revenue Act of 1988 (Public Law 100-647, 102 Stat. 3342) and reflect principles set forth in Notices 88-19 and 88-96. Subsequent temporary regulations were published that applied to conversion transactions occurring on or after June 10, 1987 and before January 2, 2002 (§1.337(d)-6) and those occurring on or after January 2, 2002 (§1.337(d)-7). Final regulations and the removal of temporary regulations were made by TD 9047 on March 18, 2003 (68 FR 12817).

Treasury Decision 9047 applies to certain transactions or events that result in RIC or a REIT owning property that has a basis determined by reference to a C corporation's basis in the property and affect RICs, REITs, and C corporations and clarify the tax treatment of transfers of C corporation property to a RIC or REIT.

The regulations under §1.337(d)-7(b) provide that, if property of a C corporation that is not a RIC or REIT becomes the property of a RIC or REIT in a conversion transaction, then the RIC or REIT will be subject to tax on the net built-in gain in the converted property under the rules of section 1374 and the regulations thereunder, unless the C corporation that qualifies as a RIC or REIT or transfers property to a RIC or REIT elects deemed sale treatment.

A C corporation (or a partnership to which the principles of this section apply under paragraph (e) of this section) makes the deemed sale election with the following statement: “[Insert name and employer identification number of electing corporation or partnership] elects deemed sale treatment under §1.337(d)-7(c) with respect to its property that was converted to property of, or transferred to, a RIC or REIT, [insert name

and employer identification number of the RIC or REIT, if different from the name and employer identification number of the C corporation or partnership].” This statement must be attached to the Federal income tax return of the C corporation or partnership for the taxable year in which the deemed sale occurs. An election under this paragraph (c) is irrevocable.

2. 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

Final regulations and removal of temporary regulations were published in the **Federal Register** on March 18, 2003 (68 FR 12817), as TD 9047.

In response to the **Federal Register** notice dated July 1, 2014 (79 FR 37393), 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**

No personally identifiable information (PII) is collected.

12. **ESTIMATED BURDEN OF INFORMATION COLLECTION**

Sections 1.337(d)-5 and 1.337(d)-6 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)-7 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.

Total number of responses is 140; total burden hours 70.

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 July 1, 2014 (79 FR 37393), 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

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.