

SUPPORTING STATEMENT
Internal Revenue Service (IRS)
Notice 2006-97
Taxation and Reporting of Excess Inclusion Income by REITs, RICs, and Other Pass-Through Entities
OMB Control Number 1545-2036

1. CIRCUMSTANCES NECESSITATING COLLECTION OF INFORMATION

The notice is necessary to provide guidance on the tax treatment of excess inclusion income of a Real Estate Investment Trust (REIT) that is or has created a Taxable Mortgage Pool (TMP). The relevant Code provisions require REITs and other pass-through entities to allocate the amount and character of their excess inclusion income to their record interest owners, under regulations prescribed by the Secretary. Those regulations have not been issued.

In general, the notice provides interim guidance and requests comments from the public. The notice requires certain REITs, partnerships and other pass-through entities that have excess inclusion income to allocate and disclose the amount and character of such income to their record interest owners in proportion to dividends paid or in accordance with other applicable tax provisions. The Notice also provides exemption from the reporting requirement to certain Regulated Investment Companies under certain circumstances.

2. USE OF DATA

The data will be used by the relevant taxpayers (to whom excess inclusion income is allocated from a REIT or another pass-through entity) to properly report and pay tax on such income.

3. USE OF IMPROVED INFORMATION TECHNOLOGY TO REDUCE BURDEN

The disclosure of information to third-parties (record interest owners of REITs or other pass-through entities) does not involve the use of automated, electronic, or other technological collection techniques.

4. EFFORTS TO IDENTIFY DUPLICATION

The information obtained through this collection is unique and is not already available or use or adaption from another source.

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

There are no small entities affected by this collection.

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

The information required is needed to verify compliance with the Internal Revenue Code section 860E the Treasury Regulations. A less frequent collection of taxes and tax information could adversely affect the government's effectiveness and would reduce the oversight of the public in ensuring compliance with Internal Revenue Code and hinder the IRS from meeting its mission. If the IRS did not collect this information, the IRS would not be able to insure that the proper tax is

reported and paid; on excess inclusion income that is allocated from a REIT or another pass-through entity.

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

There are no special circumstances requiring data collection to be inconsistent with Guidelines in 5 CFR 1320.5(d)(2).

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

In response to the Federal Register notice dated October 2, 2019 (84 FR 52593), we received no comments during the comment period regarding these regulations.

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

No payment or gift has been provided to any respondents.

10. ASSURANCE OF CONFIDENTIALITY OF RESPONSES

Generally, tax returns, and tax return information are confidential as required by 26 U.S.C. 6103.

11. JUSTIFICATION OF SENSITIVE QUESTIONS

No personally identifiable information (PII) is collected.

12. ESTIMATED BURDEN OF INFORMATION COLLECTION

Section 5 of the Notice provides that certain REITs, partnerships and other pass-through entities that have excess inclusion income must allocate and disclose the amount and character of such income to their record interest owners, in proportion to dividends paid or in accordance with other applicable tax provisions. Certain Regulated Investment Companies under certain circumstances are exempt from the above allocation and disclosure requirements.

We estimate that 50 respondents will be required to comply with the above allocation and disclosure requirements. The estimated burden per respondent for recordkeeping/disclosure is from one to three hours with the average burden of two hours, for a total estimated burden of 100 hours annually.

Notice Number	Description	# Respondents	# Responses Per Respondent- Approximate	Total Annual Responses	Hours Per Response	Total Burden
Notice 2006-97	1.860E (d) and 1.7701(i)(3)	50	1	50	2 hours	100 hours
TOTAL		50	1	50	2 hours	100 hours

13. ESTIMATED TOTAL ANNUAL COST BURDEN TO RESPONDENTS

To ensure more accuracy and consistency across its information collections, IRS is currently in the process of revising the methodology it uses to estimate burden and costs. Once this methodology is complete, IRS will update this information collection to reflect a more precise estimate of burden and costs.

14. ESTIMATED ANNUALIZED COST TO THE FEDERAL GOVERNMENT

To ensure more accuracy and consistency across its information collections, IRS is currently in the process of revising the methodology it uses to estimate burden and costs. Once this methodology is complete, IRS will update this information collection to reflect a more precise estimate of burden and costs.

15. REASONS FOR CHANGE IN BURDEN

There are no changes being made to the notice at this time.

	Requested	Program Change Due to New Statute	Program Change Due to Agency Discretion	Change Due to Adjustment in Agency Estimate	Change Due to Potential Violation of the PRA	Previously Approved
Annual Number of Responses	50					50
Annual Time Burden (Hr)	100					100

16. PLANS FOR TABULATION, STATISTICAL ANALYSIS AND PUBLICATION

There are no plans for tabulation, statistical analysis, and publication.

17. REASONS WHY DISPLAYING THE OMB EXPIRATION DATE IS INAPPROPRIATE

IRS believes that displaying the OMB expiration date is inappropriate because it could cause confusion by leading taxpayers to believe that the regulations 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

There are no exceptions to the certification statement.

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.