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## **Caution: DRAFT—NOT FOR FILING**

This is an early release draft of an IRS tax form, instructions, or publication, which the IRS is providing for your information. **Do not file draft forms** and do **not** rely on draft forms, instructions, and publications for filing. We do **not** release draft forms until we believe we have incorporated all changes (except when explicitly stated on this coversheet). However, unexpected issues occasionally arise, or legislation is passed—in this case, we will post a new draft of the form to alert users that changes were made to the previously posted draft. Thus, there are never any changes to the last posted draft of a form and the final revision of the form. Forms and instructions generally are subject to OMB approval before they can be officially released, so we post only drafts of them until they are approved. Drafts of instructions and publications usually have some changes before their final release.

Early release drafts are at [IRS.gov/DraftForms](https://www.irs.gov/DraftForms) and remain there after the final release is posted at [IRS.gov/LatestForms](https://www.irs.gov/LatestForms). All information about all forms, instructions, and pubs is at [IRS.gov/Forms](https://www.irs.gov/Forms).

Almost every form and publication has a page on IRS.gov with a friendly shortcut. For example, the Form 1040 page is at [IRS.gov/Form1040](https://www.irs.gov/Form1040); the Pub. 501 page is at [IRS.gov/Pub501](https://www.irs.gov/Pub501); the Form W-4 page is at [IRS.gov/W4](https://www.irs.gov/W4); and the Schedule A (Form 1040/SR) page is at [IRS.gov/ScheduleA](https://www.irs.gov/ScheduleA). If typing in a link above instead of clicking on it, be sure to type the link into the address bar of your browser, not a Search box.

If you wish, you can submit comments to the IRS about draft or final forms, instructions, or publications at [IRS.gov/FormsComments](https://www.irs.gov/FormsComments). We cannot respond to all comments due to the high volume we receive and may not be able to consider many suggestions until the subsequent revision of the product.

If you have comments on reducing paperwork and respondent (filer) burden, with respect to draft or final forms, please respond to the relevant information collection through the Federal Register process; for more info, click [here](#).



# Instructions for Form 1120-REIT

## U.S. Income Tax Return for Real Estate Investment Trusts

Section references are to the Internal Revenue Code unless otherwise noted.

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### Future Developments

For the latest information about developments related to Form 1120-REIT and its instructions, such as legislation enacted after they were published, go to [IRS.gov/Form1120REIT](https://www.irs.gov/Form1120REIT).

### What's New

**Credit for qualified sick and family leave wages.** The American Rescue Plan Act of 2021 (the ARP) provided credits for qualified sick and family leave wages similar to the credits that were previously enacted under the Families First Coronavirus Response Act (FFCRA) and amended and extended by the COVID-related Tax Relief Act of 2020. See the Instructions for Form 941.

**Employee retention credit.** Recent legislation modified the applicability of the employee retention credit. The credit now applies to qualified wages paid before October 1, 2021 (or, in the case of wages paid by an eligible employer which is a recover startup business, before January 1, 2022).

### Photographs of Missing Children

The Internal Revenue Service is a proud partner with the [National Center for Missing & Exploited Children® \(NCMEC\)](https://www.ncmec.org/). Photographs of missing children selected by the Center may appear in instructions on pages that would otherwise be blank. You can help bring these children home by looking at the photographs and calling 1-800-THE-LOST (1-800-843-5678) if you recognize a child.

### The Taxpayer Advocate Service

The Taxpayer Advocate Service (TAS) is an independent organization within the IRS that helps taxpayers and protects taxpayer rights. TAS's job is to ensure that

every taxpayer is treated fairly and knows and understands their rights under the [Taxpayer Bill of Rights](https://www.irs.gov/advocate).

As a taxpayer, the REIT has rights that the IRS must abide by in its dealings with the REIT. TAS can help the REIT if:

- A problem is causing financial difficulty for the business;
- The business is facing an immediate threat of adverse action; or
- The REIT has tried repeatedly to contact the IRS but no one has responded, or the IRS hasn't responded by the date promised.

The TAS tax toolkit at [www.TaxpayerAdvocate.IRS.gov](https://www.TaxpayerAdvocate.IRS.gov) can help the REIT understand these rights.

TAS has offices in every state, the District of Columbia, and Puerto Rico. Local advocates' numbers are in their local directories and at [www.TaxpayerAdvocate.IRS.gov](https://www.TaxpayerAdvocate.IRS.gov). The REIT can also call TAS at 877-777-4778.

TAS also works to resolve large-scale or systemic problems that affect many taxpayers. If the REIT knows of one of these broad issues, please report it to TAS through the Systemic Advocacy Management System at [IRS.gov/SAMS](https://www.irs.gov/SAMS).

For more information, go to [IRS.gov/Advocate](https://www.irs.gov/Advocate).

### How To Get Forms and Publications

**Internet.** You can access the IRS website 24 hours a day, 7 days a week, at [IRS.gov](https://www.irs.gov) to:

- Download forms, instructions, and publications;
- Order IRS products online;
- Research your tax questions online;
- Search publications online by topic or keyword;
- View Internal Revenue Bulletins (IRBs) published in recent years; and
- Sign up to receive local and national tax news by email.

**Tax forms and publications.** The REIT can download or print all of the forms and publications it may need at [IRS.gov/FormsPubs](https://www.irs.gov/FormsPubs).

Otherwise, the REIT can go to [IRS.gov/OrderForms](https://www.irs.gov/OrderForms) to place an order and have forms mailed to it. The IRS will process

your order for forms and publications as soon as possible.

## General Instructions

### Purpose of Form

Use Form 1120-REIT, U.S. Income Tax Return for Real Estate Investment Trusts, to report the income, gains, losses, deductions, credits, certain penalties, and to figure the income tax liability of a REIT.

### Who Must File

A corporation, trust, or association that meets certain conditions (discussed below) must file Form 1120-REIT if it elects to be treated as a REIT for the tax year (or has made that election for a prior tax year and the election has not been terminated or revoked). The election is made by figuring taxable income as a REIT on Form 1120-REIT.

**Qualified opportunity funds.** To be certified as a qualified opportunity fund, the corporation must file Form 1120-REIT and attach Form 8996, even if the corporation had no income or expenses to report. See [Schedule K, Question 12](#). Also, see the Instructions for Form 8996.

### General Requirements To Qualify as a REIT

To qualify as a REIT, an organization:

- Must be a corporation, trust, or association.
- Must be managed by one or more trustees or directors.
- Must have beneficial ownership **(a)** evidenced by transferable shares, or by transferable certificates of beneficial interest; and **(b)** held by 100 or more persons. (The REIT does not have to meet this requirement until its 2nd tax year.)
- Would otherwise be taxed as a domestic corporation.
- Must be neither a financial institution (referred to in section 582(c)(2)), nor a subchapter L insurance company.
- Cannot be closely held, as defined in section 856(h). (The REIT does not have to meet this requirement until its 2nd tax year.)

If a REIT meets the requirement for ascertaining actual ownership (see Regulations section 1.857-8 for details), and did not know (after exercising reasonable diligence), or have reason to know, that it was closely held, it will be treated as meeting the requirement that it is not closely held.

### Other Requirements

The gross income and diversification of investment requirements of section 856(c) must be met and the organization must:

- Have been treated as a REIT for all tax years beginning after February 28, 1986, or
- Had, at the end of the tax year, no accumulated earnings and profits from any tax year that it was not a REIT.

For this purpose, distributions are treated as made from the earliest earnings and profits accumulated in any non-REIT tax year. See section 857(d)(3).

- The organization must adopt a calendar tax year unless it first qualified for REIT status before October 5, 1976.
- The deduction for dividends paid (excluding net capital gain dividends, if any) must equal or exceed:
  1. 90% of the REIT's taxable income (excluding the deduction for dividends paid and any net capital gain), plus
  2. 90% of the excess of the REIT's net income from foreclosure property over the tax imposed on that income by section 857(b)(4)(A); less
  3. Any excess noncash income as determined under section 857(e).

See sections 856 and 857, and the related regulations for details and exceptions.

### Termination of Election

The election to be treated as a REIT remains in effect until terminated, revoked, or the REIT has failed to meet the requirements of the statutory relief provisions. It terminates automatically for any tax year in which the corporation, trust, or association is not a qualified REIT.

The organization may revoke the election for any tax year after the 1st tax year the election is effective by filing a statement with the service center where it files its income tax return. The statement must be filed on or before the 90th day after the 1st day of the tax year for which the revocation is to be effective. The statement must include the following:

- The name, address, and employer identification number (EIN) of the organization;
- The tax year for which the election was made;
- A statement that the organization (according to section 856(g)(2)) revokes its election under section 856(c)(1) to be a REIT; and
- The signature of an official authorized to sign the income tax return of the organization.

The organization may not make a new election to be taxed as a REIT during the 4 years following the 1st year for which the termination or revocation is effective. See section 856(g)(4) for exceptions.

### Taxable REIT Subsidiaries (TRS)

A REIT may own up to 100% of the stock in one or more taxable REIT subsidiaries (TRS). A TRS must be a corporation (other than a REIT or a qualified REIT subsidiary) and may provide services to the REIT's tenants without disqualifying the rent received by the REIT. See section 856(l) for details, including certain restrictions on the type of business activities a TRS may perform. Also, not more than 20% of the fair market value (FMV) of a REIT's total assets (25% for tax years beginning after July 30, 2008, and no later than December 31, 2017) may be securities of one or more TRSs (see section 856(c)(4) for details).

Transactions between a TRS and its associated REIT must be at arm's length. A REIT may be subject to a 100% tax to the extent it improperly allocates income and deductions between the REIT and the TRS (see section 857(b)(7) for details). Additional limitations on transactions between a TRS and its associated REIT include:

- Limitations on income from a TRS that may be treated as rents from real property by the REIT (see section 856(d)(8)).
- Limitations on a TRS's deduction for interest paid to its associated REIT (see section 163(j)).

To elect to have an eligible corporation treated as a TRS, the corporation and the REIT must jointly file Form 8875, Taxable REIT Subsidiary Election.

**Restrictions on tax-free spinoffs from REITs.** For distributions after December 6, 2015, a REIT is generally ineligible to participate in a tax-free spinoff as either a distributing or controlled corporation under section 355. This general rule does not apply if both the distributing corporation and the controlled corporation are REITs immediately after the distribution. Also, a REIT may spin off a TRS if the following apply.

- The distributing corporation has been a REIT at all times during the 3-year period ending on the date of distribution;
- The controlled corporation has been a TRS of the REIT at all times during such period; and
- The REIT has had control (as defined in section 368(c) applied by taking into account stock owned, directly and indirectly, including through partnerships, by the REIT) of the TRS at all times during such period.

A controlled corporation is treated as meeting the control requirements if the stock of the corporation was distributed by a TRS in a transaction to which section 355 applies and the assets of the corporation consist solely of the stock or assets held by one or more TRSs of the

distributing corporation meeting the control requirements described above.

If a corporation that is not a REIT was a distributing or controlled corporation with respect to any distribution to which section 355 applied, the corporation will not be eligible to make a REIT election for any tax year beginning before the end of the 10-year period beginning on the date of such distribution.

See sections 355(h) and 856(c)(8) for more details.

**Note.** These rules do not apply to any distribution pursuant to a transaction described in a ruling request initially submitted to the IRS on or before such date, which request has not been withdrawn and with respect to a ruling has not been issued or denied in its entirety as of such date.

## When To File

Generally, a REIT must file its income tax return by the 15th day of the 4th month after the end of its tax year. A new REIT filing a short period return must generally file by the 15th day of the 4th month after the short period ends. A REIT that has dissolved must generally file by the 15th day of the 4th month after the date it dissolved.

However, a REIT with a fiscal tax year ending June 30 must file by the 15th day of the 3rd month after the end of its tax year. A REIT with a short tax year ending anytime in June will be treated as if the short year ended on June 30, and must file by the 15th day of the 3rd month after the end of its tax year.

If the due date falls on a Saturday, Sunday, or legal holiday, the REIT can file on the next business day.

## Private Delivery Services

The REIT can use certain private delivery services (PDS) designated by the IRS to meet the “timely mailing as timely filing” rule for tax returns. Go to [IRS.gov/PDS](https://www.irs.gov/PDS) for the current list of designated services.

The PDS can tell you how to get written proof of the mailing date.

For the IRS mailing address to use if you're using a PDS, go to [IRS.gov/PDSStreetAddresses](https://www.irs.gov/PDSStreetAddresses).



**CAUTION** Private delivery services can't deliver items to P.O. boxes. You must use the U.S. Postal Service to mail any item to an IRS P.O. box address.

## Extension of Time To File

File Form 7004, Application for Automatic Extension of Time To File Certain Business Income Tax, Information, and Other Returns, to request an extension of

time to file. Generally, file Form 7004 by the regular due date of the REIT's income tax return. See the Instructions for Form 7004 for more information.

## Who Must Sign

The return must be signed and dated by:

- The president, vice president, treasurer, assistant treasurer, chief accounting officer; or
- Any other corporate officer (such as a tax officer) authorized to sign.

If a return is filed on behalf of a REIT by a receiver, trustee, or assignee, the fiduciary must sign the return, instead of the corporate officer. Returns and forms signed by a receiver or trustee in bankruptcy on behalf of a REIT must be accompanied by a copy of the order or instructions of the court authorizing signing of the return or form.

If an employee of the REIT completes Form 1120-REIT, the paid preparer's space should remain blank. Anyone who prepares Form 1120-REIT but does not charge the REIT should not complete that section. Generally, anyone who is paid to

prepare the return must sign it and fill in the “Paid Preparer Use Only” section.

The paid preparer must complete the required preparer information and:

- Sign the return in the space provided for the preparer's signature, and
- Give a copy of the return to the taxpayer.



**TIP** A paid preparer may sign the original or amended returns by rubber stamp, mechanical device, or computer software program.

## Paid Preparer Authorization

If the REIT wants to allow the IRS to discuss its 2021 tax return with the paid preparer who signed it, check the “Yes” box in the signature area of the return. This authorization applies only to the individual whose signature appears in the “Paid Preparer Use Only” section of the REIT's return. It does not apply to the firm, if any, shown in that section.

If the “Yes” box is checked, the REIT is authorizing the IRS to call the paid

## Where To File

File the REIT's return at the applicable IRS address listed below.

If the REIT's principal business, office, or agency is located in:	And the total assets at the end of the tax year are:	Use the following address:
Connecticut, Delaware, District of Columbia, Georgia, Illinois, Indiana, Kentucky, Maine, Maryland, Massachusetts, Michigan, New Hampshire, New Jersey, New York, North Carolina, Ohio, Pennsylvania, Rhode Island, South Carolina, Tennessee, Vermont, Virginia, West Virginia, Wisconsin	Less than \$10 million and Schedule M-3 is not filed	Department of the Treasury Internal Revenue Service Kansas City, MO 64999-0012
	\$10 million or more, or less than \$10 million and Schedule M-3 is filed	Department of the Treasury Internal Revenue Service Ogden, UT 84201-0012
Alabama, Alaska, Arizona, Arkansas, California, Colorado, Florida, Hawaii, Idaho, Iowa, Kansas, Louisiana, Minnesota, Mississippi, Missouri, Montana, Nebraska, Nevada, New Mexico, North Dakota, Oklahoma, Oregon, South Dakota, Texas, Utah, Washington, Wyoming	Any Amount	Department of the Treasury Internal Revenue Service Ogden, UT 84201-0012
A foreign country or U.S. possession	Any Amount	Internal Revenue Service P.O. Box 409101 Ogden, UT 84409

A group of corporations with members located in more than one service center area will often keep all the books and records at the principal office of the managing corporation. In this case, the tax returns of the corporations may be filed with the service center for the area in which the principal office of the managing corporation is located.

preparer to answer any questions that may arise during the processing of its return. The REIT is also authorizing the paid preparer to:

- Give the IRS any information that is missing from the return,
- Call the IRS for information about the processing of the return or the status of any related refund or payment(s), and
- Respond to certain IRS notices about math errors, offsets, and return preparation.

The REIT is not authorizing the paid preparer to receive any refund check, bind the REIT to anything (including any additional tax liability), or otherwise represent the REIT before the IRS.

The authorization will automatically end no later than the due date (without regard to extensions) for filing the REIT's 2022 tax return. If the REIT wants to expand the paid preparer's authorization, see Pub. 947, Practice Before the IRS and Power of Attorney.

## Assembling the Return

To ensure that the REIT's tax return is correctly processed, attach all schedules and other forms after page 5 of Form 1120-REIT, in the following order.

1. Schedule N (Form 1120).
2. Schedule D (Form 1120).
3. Form 8949.
4. Form 8996.
5. Form 4136.
6. Form 8978.
7. Form 965-B.
8. Form 8941.
9. Form 3800.
10. Form 8997
11. Additional schedules in alphabetical order.
12. Additional forms in numerical order.
13. Supporting statements and attachments.

Complete every applicable entry space on Form 1120-REIT. Do not enter "See attached" instead of completing the entry spaces. If more space is needed on the forms or schedules, attach separate sheets using the same size and format as the printed forms.

If there are supporting statements and attachments, arrange them in the same order as the schedules or forms they support and attach them last. Show the totals on the printed forms. Enter the REIT's name and EIN on each supporting statement or attachment.

## Tax Payments

Generally, the REIT must pay the tax due in full no later than the due date for filing its

tax return (not including extensions). See the instructions for [line 27](#), later. If the due date falls on a Saturday, Sunday, or legal holiday, the payment is due on the next day that isn't a Saturday, Sunday, or legal holiday.

## Electronic Deposit Requirement

REITs must use electronic funds transfer to make all federal tax deposits (such as deposits of employment, excise, and corporate income tax). Generally, electronic funds transfers are made using the Electronic Federal Tax Payment System (EFTPS). However, if the REIT does not want to use EFTPS, it can arrange for its tax professional, financial institution, payroll service, or other trusted third party to make deposits on its behalf. Also, it may arrange for its financial institution to submit a same-day wire payment (discussed below) on its behalf. EFTPS is a free service provided by the Department of the Treasury. Services provided by a tax professional, financial institution, payroll service, or other third party may have a fee.

To get more information about EFTPS or to enroll in EFTPS, visit [EFTPS.gov](#), or call 800-555-4477 (TTY/TDD 800-733-4829).

**Depositing on time.** For any deposit made by EFTPS to be on time, the REIT must submit the deposit by 8 p.m. Eastern time the day before the date the deposit is due. If the REIT uses a third party to make deposits on its behalf, they may have different cutoff times.

**Same-day wire payment option.** If the REIT fails to submit a deposit transaction on EFTPS by 8 p.m. Eastern time on the day before the date a deposit is due, it can still make its deposit on time by using the Federal Tax Collection Service (FTCS). To use the same-day payment method, the REIT will need to make arrangements with its financial institution ahead of time regarding availability, deadlines, and costs. Financial institutions may charge a fee for payments made this way. To learn more about the information the REIT will need to provide its financial institution to make a same-day wire payment, visit the IRS website at [IRS.gov/SameDayWire](#).

## Estimated Tax Payments

Generally, the following rules apply to the REIT's payments of estimated tax.


- The REIT must make installment payments of estimated tax if it expects its total tax for the year (less applicable credits) to be \$500 or more.
- The REIT must use electronic funds transfer to make installment payments of estimated tax.
- The installments are due by the 15th day of the 4th, 6th, 9th, and 12th months

of the tax year. If any date falls on a Saturday, Sunday, or legal holiday, the installment is due on the next regular business day.

- Use Form 1120-W, Estimated Tax for Corporations, as a worksheet to compute estimated tax. See the Instructions for Form 1120-W.
- If the REIT overpaid its estimated tax, it may be able to get a quick refund by filing Form 4466, Corporation Application for Quick Refund of Overpayment of Estimated Tax. The overpayment must be at least 10% of the REIT's expected income tax liability and at least \$500.

For more information, including penalties, see the instructions for [line 26](#), later.

## Interest and Penalties

 *If the corporation receives a notice about penalties after it files its return, send the IRS an explanation and we will determine if the corporation meets reasonable-cause criteria. **Do not** attach an explanation when the corporation's return is filed.*

**Interest.** Interest is charged on taxes paid late even if an extension of time to file is granted. Interest is also charged on penalties imposed for failure to file, negligence, fraud, substantial valuation misstatements, and substantial understatements of tax from the due date (including extensions) to the date of payment. The interest charge is figured at a rate determined under section 6621.

**Late filing of return.** A REIT that does not file its tax return by the due date, including extensions, may be penalized 5% of the unpaid tax for each month or part of a month the return is late, up to a maximum of 25% of the unpaid tax. The minimum penalty for a return that is over 60 days late is the smaller of the tax due or \$435. The penalty will not be imposed if the REIT can show that the failure to file on time was due to reasonable cause. See [Caution](#) above.

**Late payment of tax.** A REIT that does not pay the tax when due may generally be charged a penalty for the failure to pay tax. The amount of the penalty is 1/2 of 1% of the unpaid tax for each month or part of a month the tax is not paid, up to a maximum of 25% of the unpaid tax. The penalty will not be imposed if the REIT can show that the failure to pay on time was due to reasonable cause. See [Caution](#) above.

**Trust fund recovery penalty.** This penalty may apply if certain excise, income, social security, and Medicare taxes that must be collected or withheld are not collected or withheld, or these

taxes are not paid. These taxes are generally reported on:

- Form 720, Quarterly Federal Excise Tax Return;
- Form 941, Employer's QUARTERLY Federal Tax Return;
- Form 943, Employer Annual Federal Tax Return for Agricultural Employees;
- Form 944, Employer's ANNUAL Federal Tax Return; or
- Form 945, Annual Return of Withheld Federal Income Tax.

The trust fund recovery penalty may be imposed on all persons who are determined by the IRS to be responsible for collecting, accounting for, or paying over these taxes, and who acted willfully in not doing so. The penalty is equal to the full amount of the unpaid trust fund tax. See the Instructions for Form 720 or Pub. 15 (Circular E), Employer's Tax Guide, for details, including the definition of responsible persons.

**Note.** The trust fund recovery penalty will not apply to any amount of trust fund taxes an employer holds back in anticipation of the credit for qualified sick and family leave wages or the employee retention credit that they are entitled to. See Pub. 15 or Pub. 51 for more information.

**Failure to ascertain ownership.** If the REIT fails to comply with Regulations section 1.857-8 for ascertaining ownership and maintaining factual ownership records for a tax year, it must pay a \$25,000 penalty (\$50,000 for intentional disregard) upon notice and demand by the IRS. If the REIT can show that the failure was due to reasonable cause, the penalty may not be imposed. For more information, see section 857(f).

**Failure to satisfy certain REIT qualification provisions.** If the REIT is required to pay the \$50,000 penalty under section 856(g)(5)(C) for each failure to satisfy a REIT qualification provision of sections 856–859 (other than section 856(c)(2), 856(c)(3), or 856(c)(4)) due to reasonable cause and not willful neglect, see the instructions for [Schedule J, line 2f](#), later.

**Other penalties.** Other penalties can be imposed for negligence, substantial understatement of tax, reportable transaction understatements, and fraud. See sections 6662, 6662A, and 6663.

## Accounting Methods

Figure taxable income using the method of accounting regularly used in keeping the REIT's books and records. In all cases, the method used must clearly show taxable income.

Generally, permissible methods include:

- Cash,
- Accrual, or

- Any other method authorized by the Internal Revenue Code.

**Accrual method.** Generally, a REIT must use the accrual method of accounting if its average annual gross receipts for the 3 prior tax years exceed \$26 million. See section 448(c).

For more information, see Pub. 538, Accounting Periods and Methods.

### Change in accounting method.

Generally, the REIT must get IRS consent to change either an overall method of accounting or the accounting treatment of any material item for income tax purposes. To obtain consent, the REIT must generally file Form 3115, Application for Change in Accounting Method. See the Instructions for Form 3115 and Pub. 538 for more information and exceptions.

**Section 481(a) adjustment.** If the REIT's taxable income for the current tax year is figured under a method of accounting different from the method used in the preceding tax year, the REIT may have to make an adjustment under section 481(a) to prevent amounts of income or expenses from being duplicated or omitted. This is referred to as a "section 481(a) adjustment." The section 481(a) adjustment period is generally 1 year for a net negative adjustment and 4 years for a net positive adjustment. However, in some cases, a REIT can elect to modify the section 481(a) adjustment period. The REIT must complete the appropriate lines of Form 3115 to make the election. See the Instructions for Form 3115 for more information and exceptions. If the net section 481(a) adjustment is positive, report it on line 7 as other income. If the net section 481(a) adjustment is negative, report it on line 18 as a deduction.

**Note.** Include any net positive section 481(a) adjustment on page 1, line 7. Report any negative adjustment on page 1, line 18.

## Accounting Period

A REIT must figure its taxable income on the basis of a tax year. A tax year is the annual accounting period a REIT uses to keep its records and report its income and expenses. A REIT adopts a tax year when it files its first income tax return. It must adopt a tax year by the due date (not including extensions) of its initial income tax return.

**Note.** A REIT must adopt a calendar year unless it first qualified for REIT status before October 5, 1976.

**Change of tax year.** A REIT may not change its tax year to any tax year other than the calendar year. Generally, a REIT must receive consent from the IRS before changing its tax year by filing Form 1128,

Application To Adopt, Change, or Retain a Tax Year.

However, upon electing to be taxed as a REIT, an entity that has not engaged in any active trade or business may change its tax year to a calendar year without obtaining the consent.

See the Instructions for Form 1128 and Pub. 538 for more information on accounting periods and tax years.

## Rounding Off to Whole Dollars

The REIT may enter decimal points and cents when completing its return. However, the REIT should round off cents to whole dollars on its return, forms, and schedules to make completing its return easier. The REIT must either round off all amounts on its return to whole dollars, or use cents for all amounts. To round, drop amounts under 50 cents and increase amounts from 50 to 99 cents to the next dollar. For example, \$8.40 rounds to \$8 and \$8.50 rounds to \$9.

If two or more amounts must be added to figure the amount to enter on a line, include cents when adding the amounts and round off only the total.

## Recordkeeping

Keep the REIT's records for as long as they may be needed for the administration of any provision of the Internal Revenue Code. Usually, records that support an item of income, deduction, or credit on the return must be kept for 3 years from the date the return is due or filed, whichever is later. Keep records that verify the REIT's basis in property for as long as they are needed to figure the basis of the original or replacement property.

The REIT should also keep copies of all filed returns. They help in preparing future and amended returns and in the calculation of earnings and profits.

## Other Forms That May Be Required

In addition to Form 1120-REIT, the REIT may have to file some of the following forms. Also, see Pub. 542, Corporations, for an expanded list of forms the REIT may be required to file.

**Form 926,** Return by a U.S. Transferor of Property to a Foreign Corporation, is filed to report certain transfers to foreign corporations under section 6038B.

**Form 966,** Corporate Dissolution or Liquidation, is used to report the adoption of a resolution or plan to dissolve the corporation or liquidate any of its stock.

**Form 976,** Claim for Deficiency Dividends Deductions by a Personal Holding Company, Regulated Investment

Company, or a Real Estate Investment Trust, is used to claim a deduction for deficiency dividends. See section 860 and the related regulations.

**Forms 1042**, Annual Withholding Tax Return for U.S. Source Income of Foreign Persons, **Form 1042-S**, Foreign Person's U.S. Source Income Subject to Withholding, and **Form 1042-T**, Annual Summary and Transmittal of Forms 1042-S. Use these forms to report and send withheld tax on payments or distributions made to nonresident alien individuals, foreign partnerships, or foreign corporations to the extent these payments constitute gross income from sources within the United States (see sections 861 through 865).

Also, see sections 1441 and 1442, and Pub. 515, Withholding of Tax on Nonresident Aliens and Foreign Entities.

**Form 1099-DIV**, Dividends and Distributions. Use this form to report certain dividends and distributions.

**Form 2438**, Undistributed Capital Gains Tax Return, must be filed by the REIT if it designates undistributed net long-term capital gains under section 857(b)(3)(C).

**Form 2439**, Notice to Shareholder of Undistributed Long-Term Capital Gains, must be completed and a copy given to each shareholder for whom the REIT paid tax on undistributed net long-term capital gains under section 857(b)(3)(C).

**Form 3520**, Annual Return To Report Transactions With Foreign Trusts and Receipt of Certain Foreign Gifts, is required either if the REIT received a distribution from a foreign trust or if the REIT was a grantor of, transferor of, or transferor to a foreign trust that existed during the tax year. See Question 5 of Schedule N (Form 1120).

**Form 5471**, Information Return of U.S. Persons With Respect to Certain Foreign Corporations, is required if the REIT is a U.S. shareholder of a controlled foreign corporation, a specified foreign corporation, or otherwise subject to the reporting requirements of section 6038 or 6046, and the related regulations.

**Form 5472**, Information Return of a 25% Foreign-Owned U.S. Corporation or a Foreign Corporation Engaged in a U.S. Trade or Business. This form is filed if the REIT is 25% or more foreign owned. See the instructions for Schedule K, Question 5, later.

**Form 6198**, At-Risk Limitations. Use this form if a REIT is closely held as described in section 465(a)(1)(B), and (1) directly or indirectly has any amounts not at risk that are invested in an at-risk activity that incurred a loss; or (2) engages in certain activities and has borrowed amounts not

at risk. See section 465 and the Instructions for Form 6198.

**Form 8275**, Disclosure Statement, and **Form 8275-R**, Regulation Disclosure Statement, are used to disclose items or positions taken on a tax return that are not otherwise adequately disclosed on a tax return or that are contrary to Treasury Regulations (to avoid parts of the accuracy-related penalty or certain preparer penalties).

**Form 8300**, Report of Cash Payments Over \$10,000 Received in a Trade or Business. Use this form to report the receipt of more than \$10,000 in cash or foreign currency in one transaction or a series of related transactions.

**Form 8612**, Return of Excise Tax on Undistributed Income of Real Estate Investment Trusts, is filed if the REIT is liable for the 4% excise tax on undistributed income imposed under section 4981.

**Form 8621**, Information Return by a Shareholder of a Passive Foreign Investment Company or Qualified Electing Fund, is required if the REIT is a direct or indirect shareholder of a passive foreign investment company, as defined in section 1297(a).

**Form 8810**, Corporate Passive Activity Loss and Credit Limitations. Use this form if a REIT is closely held as described in section 469(j)(1), and has losses or credits from passive activities. See section 469, the related regulations, and the Instructions for Form 8810.

**Form 8865**, Return of U.S. Persons With Respect To Certain Foreign Partnerships. A REIT may have to file Form 8865 if it:

1. Controlled a foreign partnership (that is, owned more than a 50% direct or indirect interest in the partnership).
2. Owned at least a 10% direct or indirect interest in a foreign partnership while U.S. persons controlled that partnership.
3. Had an acquisition, disposition, or change in proportional interest in a foreign partnership that:
  - Increased its direct interest to at least 10% or reduced its direct interest of at least 10% to less than 10%.
  - Changed its direct interest by at least a 10% interest.
4. Contributed property to a foreign partnership in exchange for a partnership interest if:
  - Immediately after the contribution, the REIT owned, directly or indirectly, at least a 10% interest in the foreign partnership; or
  - The FMV of the property the REIT contributed to the foreign partnership in exchange for a partnership interest, when

added to other contributions of property made to the foreign partnership during the preceding 12-month period, exceeds \$100,000.

Also, the REIT may have to file Form 8865 to report certain dispositions by a foreign partnership of property it previously contributed to that foreign partnership if it was a partner at the time of the disposition. For more details, including penalties for failing to file Form 8865, see Form 8865 and its separate instructions.

**Form 8875**, Taxable REIT Subsidiary Election, is filed jointly by a corporation and a REIT to have the corporation treated as a taxable REIT subsidiary.

**Form 8927**, Determination Under Section 860(e)(4) by a Qualified Investment Entity. Use Form 8927 to make a determination under section 860(e)(4) and to establish the date of determination for purposes of making a deficiency dividend distribution.

**Form 8937**, Report of Organizational Action Affecting Basis of Securities. Use this form when any organizational action affects the basis of holders of either a security or a class of the security. For example, a REIT may use this form in connection with transactions such as a nontaxable cash or stock distribution to shareholders, or a conversion rate adjustment on a convertible debt instrument that results in a distribution under section 305(c). However, a REIT that reports undistributed capital gains to shareholders on Form 2439 can satisfy the organizational action reporting requirements for those undistributed gains if the REIT timely files and gives Form 2439 to all proper parties for the organizational action. For more information, see the Instructions for Form 8937.

**Form 8975**, Country-by-Country Report. Certain U.S. persons that are the ultimate parent entity of a U.S. multinational enterprise group with annual revenue for the preceding reporting period of \$850 million or more are required to file Form 8975. Form 8975 and its Schedules A (Form 8975) must be filed with the income tax return of the ultimate parent entity of a U.S. multinational enterprise group for the tax year in or within which the reporting period covered by Form 8975 ends. The first required reporting period for an ultimate parent entity is the 12-month reporting period that begins on or after the first day of a tax year of the ultimate parent entity that begins on or after June 30, 2016. For more information, see Form 8975, Schedule A (Form 8975) and the Instructions for Form 8975 and Schedule A (Form 8975).

**Form 8990**, Limitation on Business Interest Expense Under Section 163(j).

Use this form to calculate the amount of business interest expense you can deduct and the amount to carry forward to the next year.

**Form 8992**, U.S. Shareholder Calculation of Global Intangible Low-Taxed Income (GILTI). Use this form to figure the domestic corporation's GILTI under section 951A and attach it to Form 1120-REIT.

**Form 8996**, Qualified Opportunity Fund. Use this form to certify that the REIT organized as a qualified opportunity fund (QOF) to invest in qualified opportunity zone property. In addition, a QOF REIT files Form 8996 annually to report that it meets the 90% investment standard of section 1400Z-2 or to compute the penalty if it fails to meet the investment standard.

**Form 8997**, Initial and Annual Statement of Qualified Opportunity Fund (QOF) Investments. Use this form to report investments in one or more QOFs. Report the amount of deferred gains invested in QOFs for the current tax year, which include capital gains deferred and invested in QOFs and disposal investments in QOFs, and the amount of deferred gains invested in QOFs at the end of the current tax year.

## Statements

**Reportable transaction disclosure statement.** Disclose information for each reportable transaction in which the REIT participated. Form 8886, Reportable Transaction Disclosure Statement, must be filed for each tax year that the federal income tax liability of the REIT is affected by its participation in the transaction. The following are reportable transactions.

1. Any listed transaction, which is a transaction that is the same as or substantially similar to one of the types of transactions that the IRS has determined to be a tax avoidance transaction and identified by notice, regulation, or other published guidance as a listed transaction.

2. Any transaction offered under conditions of confidentiality for which the REIT (or a related party) paid an advisor a fee of at least \$250,000.

3. Certain transactions for which the REIT (or a related party) has contractual protection against disallowance of the tax benefits.

4. Certain transactions resulting in a loss of at least \$10 million in any single year or \$20 million in any combination of years.

5. Any transaction identified by the IRS by notice, regulation, or other published guidance as a "transaction of interest." See Notice 2009-55, 2009-31 I.R.B. 170.

For more information, see Regulations section 1.6011-4. Also, see the Instructions for Form 8886.

**Penalties.** The REIT may have to pay a penalty if it is required to disclose a reportable transaction under section 6011 and fails to properly complete and file Form 8886. Penalties may also apply under section 6707A if the REIT fails to file Form 8886 with its Form 1120-REIT, fails to provide a copy of Form 8886 to the Office of Tax Shelter Analysis (OTSA), or files a form that fails to include all the information required (or includes incorrect information). Other penalties, such as an accuracy-related penalty under section 6662A, may also apply. See the Instructions for Form 8886 for details on these and other penalties.

**Reportable transactions by material advisors.** Material advisors to any reportable transaction must disclose certain information about the reportable transaction by filing Form 8918, Material Advisor Disclosure Statement, with the IRS. For details, see the Instructions for Form 8918.

**Transfers to a corporation controlled by the transferor.** Every significant transferor (as defined in Regulations section 1.351-3(d)) that receives stock of a corporation in exchange for property in a nonrecognition event must include the statement required by Regulations section 1.351-3(a) on or with the transferor's tax to its return for the tax year of the exchange. The transferee corporation must include the statement required by Regulations section 1.351-3(b) on or with its return for the tax year of the exchange, unless all the required information is included in any statement(s) provided by a significant transferor that is attached to the same return for the same section 351 exchange. If the transferor or transferee corporation is a controlled foreign corporation, each U.S. shareholder (within the meaning of section 951(b)) must include the required statement on or with its return.

**Distributions under section 355.** Every REIT that makes a distribution of stock or securities of a controlled corporation, as described in section 355 (or so much of section 356 as it relates to section 355), must include the statement required by Regulations section 1.355-5(a) on or with its return for the year of the distribution. A significant distributee (as defined in Regulations section 1.355-5(c)) that receives stock or securities of a controlled corporation must include the statement required by Regulations section 1.355-5(b) on or with its return for the year of receipt. If the distributing or distributee corporation is a controlled foreign corporation, each U.S. shareholder (within the meaning of section 951(b)) must include the statement on or with its return.

**Dual consolidated losses.** If a domestic corporation incurs a dual consolidated loss (as defined in Regulations section 1.1503-2(c)(5)), the corporation (or consolidated group) may need to attach an elective relief agreement and/or an annual certification as provided in Regulations section 1.1503-2(g)(2).

**Election to reduce basis under section 362(e)(2)(C).** If property is transferred to a corporation subject to section 362(e)(2), the transferor and the acquiring corporation may elect under section 362(e)(2)(C) to reduce the transferor's basis in the stock received instead of reducing the acquiring corporation's basis in the property transferred. Once made, the election is irrevocable. For more information, see section 362(e)(2) and Regulations section 1.362-4. If an election is made, a statement must be filed in accordance with Regulations section 1.362-4(d)(3).

**Other forms and statements.** See Pub. 542 for a list of other forms and statements a corporation may need to file in addition to the forms and statements discussed throughout these instructions.

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## Specific Instructions

### Period Covered

File the 2021 return for calendar year 2021 and fiscal years that begin in 2021 and end in 2022. For a fiscal year return, fill in the tax year in the space at the top of the form.

**Note.** The 2021 Form 1120-REIT can also be used if:

- The REIT has a tax year of less than 12 months that begins and ends in 2022, and
- The 2022 Form 1120-REIT is not available at the time the REIT is required to file its return.

The REIT must show its 2022 tax year on the 2021 Form 1120-REIT and take into account any tax law changes that are effective for tax years beginning after December 31, 2021.

### Name and Address

Enter the REIT's true name (as set forth in the charter or other legal document creating it), address, and EIN on the appropriate lines. Include the suite, room, or other unit number after the street address. Enter the address of the REIT's principal office or place of business. If the Post Office does not deliver mail to the street address and the REIT has a P.O. box, show the box number instead.

**Note.** Do not use the address of the registered agent for the state in which the corporation is incorporated. For example,



if a business is incorporated in Delaware or Nevada and the corporation's principal office is located in Little Rock, Arkansas, the corporation should enter the Little Rock address.

If the REIT receives its mail in care of a third party (such as an accountant or an attorney), enter on the street address line "C/O" followed by the third party's name and street address or P.O. box.

## Item B. 100%-owned Subsidiaries and Personal Holding Companies

### REITs With 100%-owned Subsidiaries

Check this box if this return is filed for a REIT with 100%-owned REIT subsidiaries under section 856(i). These subsidiaries are not treated as separate corporations.

Do not check this box for a taxable REIT subsidiary. See the instructions for [Taxable REIT Subsidiaries](#), earlier.

### Personal Holding Companies

Personal holding companies must attach to Form 1120-REIT a Schedule PH (Form 1120), U.S. Personal Holding Company (PHC) Tax. See the Instructions for Schedule PH (Form 1120) for details.

## Item C. Employer Identification Number (EIN)

Enter the REIT's EIN. If the REIT does not have an EIN, it must apply for one. An EIN may be applied for:

- Online by visiting [IRS.gov/EIN](https://www.irs.gov/EIN). The EIN is issued immediately once the application information is validated.
- By faxing or mailing Form SS-4, Application for Employer Identification Number.

If the REIT has not received its EIN by the time the return is due, enter "Applied for" in the space for the EIN. For more details, see the Instructions for Form SS-4.

**Note.** REITs located in the United States or U.S. possessions can use the online application process.

## Item D. Date REIT Established

If the REIT is a corporation under state or local law, enter the date incorporated. If it is a trust or association, enter the date organized.

## Item E. Total Assets

Enter the REIT's total assets (as determined by the accounting method regularly used in keeping its books and

records) at the end of the tax year. If there are no assets at the end of the tax year, enter -0-.

## Item F. Final Return, Name Change, Address Change, or Amended Return

- If this is the REIT's final return, and it will no longer exist, check the "Final return" box. See the instructions for [Termination of Election](#), earlier.
- If the REIT has changed its name since it last filed a return, check the box for "Name change." Generally, a REIT must also have amended its articles of incorporation and filed the amendment with the state in which it was incorporated.
- If the REIT has changed its address since it last filed a return (including a change to an "in care of" address), check the box for "Address change."  
**Note.** If a change in address or responsible party occurs after the return is filed, use Form 8822-B, Change of Address or Responsible Party—Business, to notify the IRS of the new address. See the instructions for Form 8822-B for details.
- If the REIT is amending its return, check the box for "Amended Return," complete the entire return, correct the appropriate lines with the new information, and refigure the REIT's tax liability. Attach a statement that explains the reasons for the amendments and identifies the lines being changed on the amended return.

## Item G. Type of REIT

Check the appropriate box to indicate whether you are filing a return for a "Mortgage REIT" or an "Equity REIT." If the primary source of gross receipts is derived from mortgage interest and fees, check the "Mortgage" box. Otherwise, check the "Equity" box.

## Item H. PBA Code (Equity REITs Only)

Enter only one code that best reflects the principal business activity of an equity REIT from the selection below.

- 531110– Lessors of Residential Buildings & Dwellings.
- 531120– Lessors of Nonresidential Buildings (except Miniwarehouses).
- 531130– Lessors of Miniwarehouses & Self-Storage Units.
- 531190– Lessors of Other Real Estate Property.

## Part I—Real Estate Investment Trust Taxable Income

Include in Part I the REIT's share of gross income from partnerships in which the REIT is a partner, and the deductions

attributable to the gross income items. See Regulations section 1.856-3(g).

Real estate investment trust taxable income does not include the following.

- Gross income, gains, losses, and deductions from foreclosure property (defined in section 856(e)). If the aggregate of such amounts results in net income, report these amounts in Part II.
- Income or deductions from any prohibited transaction (defined in section 857(b)(6)) resulting in a gain. Report these amounts in Part IV.

### Income

**Line 1. Dividends.** Enter the total amount of dividends received during the tax year.

**Line 2. Interest.** Enter taxable interest on U.S. obligations and on loans, notes, mortgages, bonds, bank deposits, corporate bonds, tax refunds, etc. Do not offset interest expense against interest income. Special rules apply to interest income from certain below-market-rate loans. See section 7872 for details.

**Note.** Report tax-exempt interest income on Form 1120-REIT, Schedule K, line 8. Do not include tax-exempt interest on line 2. Also, if required, include the same amount on Schedule M-1, line 7.

Include interest income from tax credit bonds on line 2.

**Line 3. Gross rents.** Include the following.

- Charges for customary services that may qualify as rents from real property are described in Regulations section 1.856-4(b)(1). Services customarily furnished to tenants of a REIT include parking facilities. See Rev. Rul. 2004-24, 2004-10 I.R.B. 550, for guidance to determine whether amounts received by a REIT that provides parking facilities at its rental real properties qualify as rents from real property.
- Rent from personal property leased under or with a lease of real property (but only if the rent from the personal property does not exceed 15% of the total rent for the tax year charged for both the real and personal property under such lease). Figure the percentage of rents from personal property by comparing the FMV of the personal rental property to the FMV of the total rental property. See section 856(d)(1) for details.
- Rent from a taxable REIT subsidiary (TRS) either (a) if at least 90% of the leased space of the property is leased to persons other than TRSs of the REIT and other than persons described in section 856(d)(2)(B) at rents comparable to the rent paid by the other tenants of the REIT for comparable space; or (b) for certain lodging facilities or health care property operated by an eligible independent

contractor. For more information, including definitions and additional requirements, see sections 856(d)(8) and 856(d)(9). Also, see Rev. Proc. 2003-66, 2003-33 I.R.B. 364, for the special rules on rents paid to a REIT by certain joint ventures that include a TRS.

See section 856(d)(2) for amounts excluded from “rents from real property.”

**Line 4. Other gross rents.** Enter the gross amount received for renting property not included on line 3.

**Line 5. Capital gain net income.** Every sale or exchange of a capital asset must be reported on Schedule D (Form 1120), Capital Gains and Losses, even if there is no gain or loss.

**Line 7. Other income.** Enter any other taxable income not reported on lines 1 through 6, except amounts that must be reported in Part II or IV.

Enter amounts included in income under the section 951A GILTI provisions. See Form 8992, Part II, line 5, and the Instructions for Form 8992. Also, consider the applicability of section 951A with respect to controlled foreign corporations owned by domestic partnerships in which the REIT has an interest. If the REIT also has a Form 5471 reporting requirement, attach the form.

List the type and amount of income on an attached schedule. If the REIT has only one item of other income, describe it in parentheses on line 7. Examples of other income to report on line 7 are:

- Amounts received or accrued as consideration for entering into agreements to make real property loans or to purchase or lease real property.
- Recoveries of bad debts deducted in prior years under the specific charge-off method.
- Refunds of taxes deducted in prior years if they reduced income subject to tax in the year deducted (see section 111). Do not offset current year taxes against tax refunds.
- Any deduction previously taken under section 179A that is subject to recapture. The REIT must recapture the benefit of any allowable deduction for clean-fuel vehicle property (or clean-fuel vehicle refueling property), if the property later ceases to qualify. See Regulations section 1.179A-1 for details.
- Ordinary income from trade or business activities of a partnership (from Schedule K-1 (Form 1065)). Do not offset ordinary losses against ordinary income. Instead, include the losses on line 18 of Form 1120-REIT. Show the partnership's name, address, and EIN on a separate statement attached to this return. If the amount entered is from more than one partnership, identify the amount from each partnership.

- Any net positive section 481(a) adjustment. See [Section 481\(a\) adjustment](#), earlier.
- Income from cancellation of debt (COD) from the repurchase of a debt instrument for less than its adjusted issue price.
- If the REIT elected to take section 965(a) inclusions and corresponding section 965(c) deductions into account over 8 years in accordance with section 965(m), include the current year net section 965 inclusion (the section 965(a) inclusion less the corresponding section 965(c) deduction) on this line 7. You must also complete and attach Form 965-B, Corporate and Real Estate Investment Trust (REIT) Report of Net 965 Tax Liability and Electing REIT Report of 965 Amounts.
- Form 965-B must be completed by an electing REIT for every tax year for which the REIT has any section 965 amounts taken into account in accordance with section 965(m) or not fully taken into account at any point during the tax year. For more information, see Form 965-B and the related instructions.
- The amount of payroll tax credit taken by an employer on its employment tax returns (Forms 941, 943, and 944) for qualified paid sick and qualified paid family leave under the FFCRA and the ARP (both the nonrefundable and refundable portions). These amounts must be included in gross income for the tax year that includes the last day of the calendar quarter in which the credit is allowed.

## Deductions

### Limitations on Deductions

**Section 263A uniform capitalization rules.** The uniform capitalization rules of section 263A generally require REITs to capitalize certain costs to inventory or other property.

REITs subject to the section 263A uniform capitalization rules are required to capitalize:

1. Direct costs of assets produced or acquired for resale, and
2. Certain indirect costs (including taxes) that are properly allocable to property produced or property acquired for resale.

A REIT cannot deduct the costs required to be capitalized under section 263A until it sells, uses, or otherwise disposes of the property (to which the costs relate). The REIT recovers these costs through depreciation, amortization, or costs of goods sold.

For more details, including exemptions to the uniform capitalization rules, see Pub. 538. See section 263A(i) for exemption for certain small businesses. For non-small business taxpayers, see

Regulations sections 1.263A-1 through 1.263A-3. See section 263A(d), Regulations section 1.263A-4, and Pub. 225 for rules for property produced in a farming business.

**Transactions between related taxpayers.** Generally, an accrual basis taxpayer may only deduct business expenses and interest owed to a related party in the year the payment is included in the income of the related party. See sections 163(e)(3) and 267 for limitations on deductions for unpaid interest and expenses.

**Limitations on business interest expense.** Business interest expense may be limited. See section 163(j) and Form 8990, Limitation on Business Interest Expense Under Section 163(j). Also, see [Limitation on deduction](#) in the instructions for line 15 and [Schedule K, Question 11](#), later.

**Golden parachute payments.** A portion of the payments made by a REIT to key personnel that exceeds their usual compensation may not be deductible. This occurs when the REIT has an agreement (golden parachute) with these key employees to pay them these excessive amounts if control of the REIT changes. See section 280G and Regulations section 1.280G-1. Also, see the instructions for [line 9](#), later.

**Business start-up and organizational costs.** A REIT can elect to deduct a limited amount of start-up and organizational costs it paid or incurred. Any remaining costs must generally be amortized over a 180-month period. See sections 195 and 248 and the related regulations.

**Time for making an election.** The REIT generally elects to deduct start-up or organizational costs by claiming the deduction on its income tax return filed by the due date (including extensions) for the tax year in which the active trade or business begins. However, for start-up or organizational costs paid or incurred before September 9, 2008, the REIT may be required to attach a statement to its return to elect to deduct such costs.

For more details, including special rules for costs paid or incurred before September 9, 2008, see the Instructions for Form 4562. Also, see Pub. 535, Business Expenses.

If the REIT timely filed its return for the year without making an election, it can still make an election by filing an amended return within 6 months of the due date of the return (excluding extensions). Clearly indicate the election on the amended return and write “Filed pursuant to section 301.9100-2” at the top of the amended return. File the amended return at the same address the REIT filed its original

return. The election applies when figuring taxable income for the current tax year and all subsequent years.

**Note.** The REIT can choose to forgo the elections above by clearly electing to capitalize its start-up or organizational costs on an income tax return filed by the due date (including extensions) for the tax year in which the active trade or business begins.

Report the deductible amount of such costs and any amortization on line 18. For amortization that begins during the current tax year, complete and attach Form 4562.

**Passive activity and at-risk limitations.** Loss and credit limitations under sections 465 and 469 apply to REITs that are closely held as described in sections 465(a)(1)(B) and 469(j)(1). REITs subject to sections 465 and 469 must complete Forms 6198 and 8810 to compute allowable losses or credits. Before completing Form 8810, see Temporary Regulations section 1.163-8T for rules on allocating interest expense among activities.

**Reducing certain expenses for which credits are allowable.**

For each credit listed below, the REIT must reduce the otherwise allowable deductions for expenses used to figure the credit by the amount of the current year credit. Do not reduce the amount of the allowable deduction for any portion of the credit that was passed through to the REIT under a pass-through entity on Schedule K-1.

- Employment credits. See the instructions for [line 10](#), later.
- Disabled access credit (Form 8826).
- Credit for employer social security and Medicare taxes paid on certain employee tips (Form 8846).
- Credit for small employer pension plan start-up costs (Form 8881).
- Credit for employer-provided childcare facilities and services (Form 8882).

If the REIT is eligible to claim any of these credits, figure each current year credit before figuring the deduction for expenses on which the credit is based. If the REIT capitalized any costs on which it figured the credit, reduce the amount capitalized by the credit attributable to these costs.

See the instructions for the form used to figure the applicable credit.

**Line 9. Compensation of officers.**

Enter the deductible officer's compensation on line 9. Do not include compensation deductible elsewhere on the return, such as elective contributions to a section 401(k) cash or deferred arrangement, or amounts contributed under a salary reduction SEP agreement or a SIMPLE IRA plan.

If the REIT's total receipts are \$500,000 or more, complete and attach Form 1125-E. Total receipts are figured by adding:

- Part I, line 8;
- Net capital gain from Part III, line 10; and
- Form 2438, line 9a.

Enter on line 9 the amount from Form 1125-E, line 4.

**Line 10. Salaries and wages.** Enter the total salaries and wages paid for the tax year, reduced by the amount claimed on:

- Form 5884, Work Opportunity Credit;
- Form 5884-A, Employee Retention Credit for Employers Affected by Qualified Disasters, if applicable;
- Form 8844, Empowerment Zone Employment Credit;
- Form 8845, Indian Employment Credit;
- Form 8932, Credit for Employer Differential Wage Payments; and
- Form 8994, Employer Credit for Paid Family and Medical Leave.

See the instructions for these forms for more information.

Do not include salaries and wages deductible elsewhere on the return, such as amounts included in officers compensation, elective contributions to a section 401(k) cash or deferred arrangement, or amounts contributed under a salary reduction SEP agreement or a SIMPLE IRA plan.



*If the REIT provided taxable fringe benefits to its employees, such as personal use of a car, do not deduct as wages the amounts allocated for depreciation and other expenses claimed on lines 16 and 18.*



*Also, reduce the amounts deducted as compensation of officers and salaries and wages by the nonrefundable and refundable portions for the new CARES Act employee retention credit claimed on the REIT's employment tax return(s).*

**Line 11. Repairs and maintenance.**

Enter the cost of repairs and maintenance not claimed elsewhere on the return, such as labor and supplies, that are not payments to produce or improve tangible or real property. See Regulations section 1.263(a)-1. For example, amounts are paid for improvements if they are for betterments to the property, restorations of the property (such as replacements of major components or substantial structural parts), or if they adapt the property to a new or different use. Amounts paid to produce or improve property must be capitalized. See Regulations sections 1.263(a)-2 and -3. The corporation can deduct repair and maintenance expenses only to the extent they relate to a trade or business activity. See Regulations section

1.162-4. The corporation may elect to capitalize certain repair and maintenance costs consistent with its books and records. See Regulations section 1.263(a)-3(n) for information on how to make the election.

**Line 12. Bad debts.** Enter the total debts that became worthless in whole or in part during the tax year. A cash basis taxpayer may not claim a bad debt deduction unless the amount was previously included in income.

**Line 13. Rents.** If the REIT rented or leased a vehicle, enter the total annual rent or lease expense paid or incurred during the year. Also, complete Part V of Form 4562, Depreciation and Amortization. If the REIT leased a vehicle for a term of 30 days or more, the deduction for the vehicle lease expense may have to be reduced by an amount called the inclusion amount.

The REIT may have an inclusion amount if:

The lease term began:	And the vehicle's FMV on the first day of the lease exceeded:
<b>Cars (excluding trucks and vans):</b>	
After 12/31/20 but before 1/1/22 . . . .	\$51,000
After 12/31/17 but before 1/1/21 . . . .	\$50,000
After 12/31/12 but before 1/1/18 . . . .	\$19,000
After 12/31/07 but before 1/1/13 . . . .	\$18,500
<b>Trucks and vans:</b>	
After 12/31/20 but before 1/1/22 . . . .	\$51,000
After 12/31/17 but before 1/1/21 . . . .	\$50,000
After 12/31/13 but before 1/1/18 . . . .	\$19,500
After 12/31/09 but before 1/1/14 . . . .	\$19,000
After 12/31/08 but before 1/1/10 . . . .	\$18,500
After 12/31/07 but before 1/1/09 . . . .	\$19,000
See Pub. 463, Travel, Gift, and Car Expenses, for instructions on figuring the inclusion amount. The inclusion amount for lease terms beginning in 2022 will be published in the Internal Revenue Bulletin in early 2022.	

**Line 14. Taxes and licenses.** Enter taxes paid or incurred during the tax year, but do not include the following.

- Federal income taxes (except for the tax imposed on net recognized built-in gain allocable to ordinary income).
- Foreign or U.S. possession income taxes if a tax credit is claimed (however, see the Instructions for Form 5735 for special rules for possession income taxes).
- Taxes not imposed on the REIT.
- Taxes, including state or local sales taxes, that are paid or incurred in connection with an acquisition or disposition of property (these taxes must be treated as a part of the cost of the acquired property or, in the case of a disposition, as a reduction in the amount realized on the disposition).

- Taxes assessed against local benefits that increase the value of the property assessed (such as for paving, etc.).
- Taxes deducted elsewhere on the return.
- Excise taxes imposed under section 4981 on undistributed REIT income.

See section 164(d) for information on apportionment of taxes on real property between the seller and the purchaser.



**Do not reduce the REIT's deduction for social security and Medicare taxes by the following amounts claimed on its employment tax returns: (1) the nonrefundable and refundable portions of the CARES Act employee retention credit, and (2) the nonrefundable and refundable portions of the FFCRA and ARP credits for qualified sick and family leave wages. Instead, item (1) reduces the deductions for compensation of officers and salaries and wages on lines 9 and 10, and item (2) must be reported as income on line 7.**

**Line 15. Interest.** The deduction for interest is limited when the REIT is a policyholder or beneficiary with respect to a life insurance, endowment, or annuity contract issued after June 8, 1997. For details, see section 264(f). Attach a statement showing the computation of the deduction.

The REIT must make an interest allocation if the proceeds of a loan were used for more than one purpose. For example, the loan proceeds were used to purchase a financial investment and acquire an interest in a passive activity. See Temporary Regulations section 1.163-8T for the interest allocation rules.

The following interest is not deductible.

- Interest on indebtedness incurred or continued to purchase or carry obligations if the interest is wholly exempt from income tax. See section 265(b) for special rules and exceptions for financial institutions. Also, see section 265(b)(7) for a temporary de minimis safe-harbor exception for certain financial institutions for tax-exempt bonds issued in 2009 and 2010.
- For cash basis taxpayers, prepaid interest allocable to years following the current tax year (for example, a cash basis calendar year taxpayer who in 2021 prepaid interest allocable to any period after 2021 can deduct only the amount allocable to 2021).
- Interest and carrying charges on straddles. Generally, these amounts must be capitalized. See section 263(g).
- Interest paid or incurred on any portion of an underpayment of tax that is attributable to an understatement arising from an undisclosed listed transaction or an undisclosed reportable avoidance transaction (other than a listed

transaction) entered into in tax years beginning after October 22, 2004.

**Limitation on deduction.** Under section 163(j), business interest expense is generally limited to the sum of business interest income, an applicable percentage of the adjusted taxable income, and floor plan financing interest. Business interest expense includes any interest paid or accrued on indebtedness properly allocable to a trade or business.

A taxpayer, other than a tax shelter, that meets the gross receipts test is not required to limit business interest expense under section 163(j). A taxpayer meets the gross receipts test if the taxpayer has average annual gross receipts of \$26 million or less for the 3 prior tax years. Gross receipts generally include the aggregate gross receipts from all persons treated as a single employer such as a controlled group of corporations, commonly controlled partnerships or proprietorships, and affiliated service groups.

If the corporation fails to meet the gross receipts test, Form 8990, Limitation on Business Interest Expense Under Section 163(j), is generally required. An electing real property trade or business is excepted from the interest expense limitation of section 163(j). See section 163(j)(7), Form 8990 and the related instructions. Also, see the questions on Schedule K, Line 10, for business interest expense elections, and on Schedule K, line 11, regarding conditions for filing Form 8990.

**Special rules** apply to:

- Foregone interest on certain below-market-rate loans (see section 7872).
- Original issue discount (OID) on certain high-yield discount obligations. See section 163(e)(5) to determine the amount of the deduction for OID that is deferred and the amount that is disallowed on a high-yield discount obligation. The rules under section 163(e)(5) do not apply to certain high-yield discount obligations issued after August 31, 2008, and before January 1, 2011. See section 163(e)(5)(F). Also, see Notice 2010-11, 2010-4 I.R.B. 326.



**Interest expense cannot be used to offset interest income.**

**Line 16. Depreciation.** Include on line 16 depreciation and the cost of certain property that the REIT elected to expense under section 179. See Form 4562 and the related instructions to figure the amount to enter on this line.

**Line 18. Other deductions.** Attach a statement listing, by type and amount, all allowable deductions that are not deductible elsewhere on the return. Enter

the total on line 18. Include amortization and organization expenses. Generally, a deduction may not be taken for any amount that is allocable to a class of exempt income. See section 265(b) for exceptions.

Examples of other deductions include the following:

- Amortization (see Form 4562).
- Certain business start-up and organizational costs that the REIT elects to deduct.
- Depletion. Attach Form T (Timber), Forest Activities Schedule, if a deduction for depletion of timber is taken.
- Reforestation costs. The REIT can elect to deduct up to \$10,000 of qualified reforestation expenses for each qualifying timber property. The REIT can elect to amortize over 84 months any amount not deducted.
- Insurance premiums.
- Legal and professional fees.
- Supplies used and consumed in the business.
- Utilities.
- Ordinary losses from trade or business activities of a partnership (from Schedule K-1 (Form 1065)). Do not offset ordinary income against ordinary losses. Instead, include the income on line 7. Show the partnership's name, address, and EIN on a separate statement attached to this return. If the amount is from more than one partnership, identify the amount from each partnership.
- Any net negative section 481(a) adjustment. See [Section 481\(a\) adjustment](#), earlier.
- Any applicable deduction under section 179D for costs of energy efficient commercial building property.

Do not deduct expenses such as the following.

- Fines or penalties paid to a government for violating any law. However, exceptions apply for certain amounts paid or incurred after December 21, 2017. See section 162(f), as amended by P.L. 115-97, section 13306 (discussed later).
- Lobbying expenses. However, see exceptions (discussed later).
- Amounts paid or incurred after December 22, 2017, for any settlement, payout, or attorney fees related to sexual harassment or sexual abuse, if such payments are subject to a nondisclosure agreement. See new section 162(q).

**Charitable contributions.** Enter contributions or gifts actually paid within the tax year to or for the use of charitable and governmental organizations described in section 170(c) and any unused contributions carried over from prior years.

REITs reporting taxable income on the accrual method may elect to treat as paid during the tax year any deductible

contributions paid by the due date of the REIT's tax return (not including extensions) if the contributions were authorized by the board of directors during the tax year. Attach a declaration to the return stating that the resolution authorizing the contributions was adopted by the board of directors during the tax year. The declaration must include the date the resolution was adopted. See Regulations section 1.170(a)(2)(B).

**Limitation on deduction.** Generally, the total amount claimed may not be more than 10% of taxable income (the sum of Part I, line 22; Part II, line 5; Part IV, line 3; and Form 2438, line 11) computed without regard to the following.

- Any deduction for contributions.
- The limitation under section 249 on the deduction for bond premium.
- Any net operating loss (NOL) carryback to the tax year under section 172.
- Any capital loss carryback to the tax year under section 1212(a)(1).

**Carryover.** Charitable contributions that exceed the 10% limitation (or the 25% limitation, if elected; see [Temporary suspension of limitations on certain contributions](#), below) cannot be deducted for the tax year but may be carried over to the next 5 tax years.

Special rules apply if the REIT has an NOL carryover to the tax year. In figuring the charitable contributions deduction for the tax year, the 10% limit is applied using the taxable income after taking into account any deduction for the NOL.

To figure the amount of any remaining NOL carryover to later years, taxable income must be modified (see section 172(b)). To the extent that contributions are used to reduce taxable income for this purpose and increase an NOL carryover, a contributions carryover is not allowed. See section 170(d)(2)(B).

#### **Temporary suspension of limitations on certain contributions.**

The CARES Act allows a corporation to elect to deduct qualified cash contributions without regard to the 10% taxable income limit. For 2021, qualified contributions are charitable contributions that were made during the calendar year 2021 to an organization described in section 170(b)(1)(A) (other than certain private foundations described in section 509(a)(3) or donor-advised funds described in section 509(a)(3) or 4966(d)(2)). The total amount of the contribution claimed cannot exceed 25% of the excess of the corporation's taxable income (as computed above substituting "25%" for "10%") over all other allowable charitable contributions. Contributions over the 25% limitation cannot be deducted for the tax year but can be carried over to the next 5 years.

**Temporary suspension of 10% limitation for certain disaster-related contributions.** A REIT may elect to deduct qualified cash contributions without regard to the 10% taxable income limit. For 2021, qualified contributions are any charitable contributions that were made before February 26, 2021, to an organization described in section 170 (b)(1)(A) (other than certain private foundations described in section 509(a)(3) or donor-advised funds described in section 4966(d)(2)) for relief efforts in one or more qualified disaster areas. The REIT must obtain contemporaneous written acknowledgement (within the meaning of section 170(f)(8)) from the qualified charitable organization that the contribution was used or is to be used for disaster relief efforts.

The total amount of the contribution claimed for disaster relief efforts cannot exceed 100% of the excess of the REIT's taxable income (as computed above substituting "100%" for 10%) over all other allowable charitable contributions. Any excess qualified contributions are carried over to the next 5 years.

**Cash contributions.** For contributions of cash, check, or other monetary gifts (regardless of the amount), the REIT must maintain a bank record, or a receipt, letter, or other written communication from the donee organization indicating the name of the organization, the date of the contribution, and the amount of the contribution.

**Contributions of \$250 or more.** A REIT can deduct a contribution of \$250 or more only if the REIT receives a written acknowledgment from the donee organization that shows the amount of cash contributed, describes any property contributed, and gives a description and a good faith estimate of the value of any goods or services provided in return for the contribution, or states that no goods or services were provided in return for the contribution. The acknowledgment must be obtained by the due date (including extensions) of the REIT's return, or, if earlier, the date the return is filed. Do not attach the acknowledgment to the tax return, but keep it with the REIT's records.

For more information on charitable contributions, including substantiation and recordkeeping requirements, see section 170 and the related regulations, and Pub. 526, Charitable Contributions. For special rules that apply to corporations, see Pub. 542.

#### **Pension, profit-sharing, etc., plans.**

Include the deduction for contributions to qualified pension, profit-sharing, or other funded deferred compensation plans. Employers who maintain such a plan must generally file one of the forms listed below

unless exempt from filing under regulations or other applicable guidance, even if the plan is not a qualified plan under the Internal Revenue Code. The filing requirement applies even if the REIT does not claim a deduction for the current tax year. There are penalties for failure to file these forms on time and for overstating the pension plan deduction. See sections 6652(e) and 6662(f). Also, see the instructions for the applicable forms.

**Form 5500,** Annual Return/Report of Employee Benefit Plan.

**Form 5500-SF,** Short Form Annual Return/Report of Small Employee Benefit Plan, instead of Form 5500, generally if under 100 participants at the beginning of the plan year.

**Note.** Form 5500 and Form 5500-SF must be filed electronically under the computerized ERISA Filing Acceptance System (EFAST2). For more information, see the EFAST2 website at [www.EFAST.dol.gov](http://www.EFAST.dol.gov).

**Form 5500-EZ,** Annual Return of One-Participant (Owners/Partners and Their Spouses) Retirement Plan or a Foreign Plan. File this form for a plan that only covers the owner (or the owner and his or her spouse) or a foreign plan that is required to file an annual return and does not file the annual return electronically on Form 5500-SF. See the Instructions for Form 5500-EZ.

#### **Travel, meals, and entertainment.**

Subject to limitations and restrictions discussed below, a REIT can deduct ordinary and necessary travel, meals, and non-entertainment expenses paid or incurred in its trade or business. Generally, entertainment expenses, membership dues, and facilities used in connection with these activities cannot be deducted. In addition, no deduction is generally allowed for qualified transportation fringe benefits. Also, special rules apply to deductions for gifts, luxury water travel, and convention expenses. See section 274, Pub. 463, and Pub. 535 for more details.

**Travel.** A REIT cannot deduct travel expenses of any individual accompanying a corporate officer or employee, including a spouse or dependent of the officer or employee, unless:

- That individual is an employee of the REIT, and
- His or her travel is for a bona fide business purpose and would otherwise be deductible by that individual.

**Meals.** Generally, the REIT can deduct only 50% of the amount otherwise allowable for non-entertainment related meal expenses paid or incurred in its trade or business. However, the REIT can

deduct 100% of the business meal expenses if the meals are food and beverages provided by a restaurant. This applies only to amounts incurred after December 31, 2020, and before January 1, 2023.

Meals not separately stated from entertainment are generally not deductible. In addition (subject to exceptions under section 274(k)(2)):

- Meals must not be lavish or extravagant, and
- An employee of the REIT must be present at the meal.

See section 274(n)(3) for a special rule that applies to expenses for meals consumed by individuals subject to the hours of service limits of the Department of Transportation.

**Qualified transportation fringes (QTFs).** Generally, no deduction is allowed under section 274(a)(4) for QTFs provided by employers to their employees. QTFs are defined in section 132(f)(1) and include:

- Transportation in a commuter highway vehicle between the employee's residence and place of employment,
- Any transit pass, and
- Qualified parking.

See section 274, Pub. 15-B, and Pub. 535 for details.

**Membership dues.** The REIT can deduct amounts paid or incurred for membership dues in civic or public service organizations, professional organizations (such as bar and medical associations), business leagues, trade associations, chambers of commerce, boards of trade, and real estate boards. However, no deduction is allowed if a principal purpose of the organization is to entertain or provide entertainment facilities to members or their guests. In addition, REITs cannot deduct membership dues to any club organized for business, pleasure, recreation, or other social purpose. This includes country clubs, golf and athletic clubs, airline and hotel clubs, and clubs operated to provide meals under conditions favorable to business discussion.

**Entertainment facilities.** Generally, the REIT cannot deduct an expense paid or incurred for a facility (such as a yacht or hunting lodge) used for an activity usually considered entertainment, amusement, or recreation.

**Amounts treated as compensation.** Generally, the REIT may be able to deduct otherwise nondeductible meals, travel, and entertainment expenses if the amounts are treated as compensation to the recipient and reported on Form W-2 for an employee or on Form 1099-NEC for an independent contractor.

However, if the recipient is an officer, director, beneficial owner (directly or indirectly), or other "specified individual" (as defined in section 274(e)(2)(B) and Regulations section 1.274-9(b)), special rules apply. See section 274(e)(2) and Regulations sections 1.274-9 and 1.274-10.

**Fines or similar penalties.** Generally, no deduction is allowed for fines or similar penalties paid or incurred to, or at the direction of a government or governmental entity for violating any law, or for the investigation or inquiry into the potential violation of a law, except:

- Amounts that constitute restitution;
- Amounts paid to come into compliance with the law;
- Amounts paid or incurred as the result of orders or agreements in which no government or governmental entity is a party; and
- Amounts paid or incurred for taxes due.

No deduction is allowed unless the amounts are specifically identified in the order or agreement and the REIT establishes that the amounts were paid for that purpose. Also, any amount paid or incurred as reimbursement to the government for the costs of any investigation or litigation are not eligible for the exceptions and are nondeductible. See section 162(f).

**Lobbying expenses.** Generally, lobbying expenses are not deductible. These expenses include:

- Amounts paid or incurred in connection with influencing federal, state, or local legislation; or
- Amounts paid or incurred in connection with any communication with certain federal executive branch officials in an attempt to influence the official actions or positions of the officials. See Regulations section 1.162-29 for the definition of "influencing legislation."

Dues and other similar amounts paid to certain tax-exempt organizations may not be deductible. If certain in-house lobbying expenditures do not exceed \$2,000, they are deductible.

**Line 20. Taxable income before NOL deduction, total deduction for dividends paid, and section 857(b)(2)(E) deduction.** Generally, special at-risk rules under section 465 apply to closely held corporations engaged in any activity as a trade or business or for the production of income. Those REITs that are closely held may have to adjust the amount on line 20.

The at-risk rules do not apply to:

- Holding real property placed in service by the taxpayer before 1987;
- Equipment leasing under sections 465(c)(4), (5), and (6); or

- Any qualifying business of a qualified REIT under section 465(c)(7).

However, the at-risk rules do apply to the holding of mineral property.

If the at-risk rules apply, adjust the amount on this line for any section 465(d) losses. These losses are limited to the amount for which the REIT is at risk for each separate activity at the close of the tax year. If the REIT is involved in one or more activities, any of which incurs a loss for the year, report the losses for each activity separately. Attach Form 6198, At-Risk Limitations, showing the amount at risk and gross income and deductions for the activities with the losses.

If the REIT sells or otherwise disposes of an asset or its interest (either total or partial) in an activity to which the at-risk rules apply, determine the net profit or loss from the activity by combining the gain or loss on the sale or disposition with the profit or loss from the activity. If the REIT has a net loss, it may be limited because of the at-risk rules.

Treat any loss from an activity not allowed for the tax year as a deduction allocable to the activity in the next tax year.

**Line 21a. Net operating loss deduction.** A REIT can use the net operating loss (NOL) incurred in one tax year to reduce its taxable income in another tax year.

Generally, a REIT may carry an NOL over indefinitely to tax years following the year of loss. REITs are not permitted to carry back an NOL to any year preceding the year of the loss.

Enter the total NOL carryovers from other tax years, but do not enter more than the REIT's taxable income. The REIT's taxable income for purposes of the NOL deduction is taxable income (line 20) reduced by the dividends paid deduction (line 21b) and the section 857(b)(2)(E) deduction (line 21c). If this amount is less than zero, an NOL deduction cannot be taken for the tax year. Attach a statement showing the computation of the NOL deduction. Also, complete item 9 on Schedule K.

If capital gain dividends are paid during any tax year, the amount of the net capital gain for such tax year (to the extent of the capital gain dividends) is excluded in determining:

1. The NOL for the tax year, and
2. The amount of the NOL of any prior tax year that may be carried over to any succeeding tax year.

**Carryover rules.** The NOL for the current year is computed using the REIT's taxable income before it is reduced by the dividends paid deduction. After the REIT applies the NOL to the first tax year to

which it may be carried, the taxable income of that year must be modified (as described by section 172(b) and the modified rules for REITs in section 172(d) (6)) to determine how much of the remaining loss may be carried to other years. Although the current year NOL is computed without regard to the dividends paid deduction, an NOL carryover from a prior year is applied to the current year using taxable income after it is reduced by the dividends paid deduction. The NOL amounts carried forward by the REIT are not reduced by subsequent year dividends paid deductions. See Example 1 in Regulations section 1.172-5(a)(4).

**Note.** Generally, NOL deductions arising in tax years beginning after 2017 are limited to 80% of taxable income (determined without regard to the NOL).

Special NOL rules apply when:

- An ownership change (described in section 382(g)) occurs, the amount of the taxable income of a loss REIT that may be offset by the pre-change NOL carryovers is limited (see section 382 and the related regulations). A loss REIT must file an information statement with its income tax return for each tax year that certain ownership shifts occur (see Temporary Regulations section 1.382-2T(a)(2)(ii) for details). See Regulations section 1.382-6(b) for details on how to make the closing-of-the-books election.
- When a REIT acquires control of another REIT (or acquires its assets in a reorganization), the amount of pre-acquisition losses that may offset recognized built-in gains is limited (see section 384).
- A REIT may elect under section 965(n) to reduce the amount of the NOL for a tax year determined under section 172 and the amount of taxable income reduced by NOL carryovers to such tax year. The reduction amount is equal to the amount of the section 965(a) inclusion (net of the section 965(c) deduction) plus, in the case of a domestic corporation that claims a credit for deemed paid foreign taxes, the section 78 gross-up with respect to the foreign taxes deemed paid with respect to the section 965(a) inclusion. If, as a result of an election under section 965(n), the amount of the NOL for the tax year is reduced, the reduction amount is included in other income on line 7. If, as a result of an election under section 965(n), the taxable income reduced by NOL carryovers is reduced, the NOL deduction on line 21a is reduced by the reduction amount. See section 965(n) for more information.

## Tax and Payments

**Line 24.** Reserved for future use.

**Line 25b. Estimated tax payments.** Enter any estimated tax payments the REIT made for the tax year.

**Line 25f(1).** Enter the credit (from Form 2439) for the REIT's share of the tax paid by a RIC (Regulated Investment Company) or another REIT on undistributed long-term capital gains included in the REIT's income. Attach Form 2439 to Form 1120-REIT.

**Line 25f(2).** Enter the credit from Form 4136, Credit for Federal Tax Paid on Fuels, if the REIT qualifies to claim this credit. Attach Form 4136 to Form 1120-REIT.

**Line 25g.** Reserved for future use.

**Line 25h.** Reserved for future use.

**Line 25i.** Add the amounts on lines 25d through 25f and enter the total on line 25i.

**Backup withholding.** If the REIT had income tax withheld from any payments it received because, for example, it failed to give the payer its correct EIN, include the amount withheld in the total for line 25i. Enter the amount withheld and the words "Backup Withholding" in the blank space above line 25i.

**Line 26. Estimated tax penalty.** A REIT that does not make estimated tax payments when due may be subject to an underpayment penalty for the period of underpayment. Generally, a REIT is subject to the penalty if its tax liability is \$500 or more and it did not timely pay the smaller of:

- Its total tax for the current tax year, or
- Its prior year's tax.

Use Form 2220, Underpayment of Estimated Tax by Corporations, to determine whether the REIT owes a penalty and to figure the amount of the penalty. Generally, the REIT does not have to file this form because the IRS can figure the amount of any penalty and bill the REIT for it. However, even if it does not owe the penalty, the REIT must complete and attach Form 2220 if the annualized income or adjusted seasonal installment method is used, or the REIT is a large corporation computing its first required installment based on the prior year's tax. See the Instructions for Form 2220 for the definition of a "large corporation."

If Form 2220 is attached, check the box on this line and enter the amount of any penalty.

**Line 27. Tax due.** If the REIT cannot pay the full amount of tax owed, it can apply for an installment agreement online. The REIT can apply for an installment agreement online if:

- It cannot pay the full amount shown on line 27;

- The total amount owed is \$25,000 or less (including tax, penalties, and interest); and
- The REIT can pay the liability in full in 24 months.

To apply using the Online Payment Agreement Application, go to [IRS.gov/OPA](https://www.irs.gov/OPA)

Under an installment agreement, the REIT can pay what it owes in monthly installments. There are certain conditions that must be met to enter into and maintain an installment agreement, such as paying the liability within 72 months and making all required deposits and timely filing tax returns during the length of the agreement.

If the installment agreement is accepted, the REIT will be charged a fee and it will be subject to penalties and interest on the amount of tax not paid by the due date of the return.

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## Part II—Tax on Net Income From Foreclosure Property

Complete Part II only if the gross income, gains, losses, and deductions from foreclosure property (defined in section 856(e)) result in net income. If an overall net loss results, report the gross income, gains, losses, and deductions from foreclosure property on the appropriate lines of Part I.

Property may be treated as foreclosure property only if it meets the requirements of section 856(e) and the REIT elects to treat the property as foreclosure property in the year it was acquired. The property continues to be foreclosure property until the close of the 3rd tax year following the tax year in which the REIT acquired it. For more information, see section 856(e).

However, if the foreclosure property is qualified health care property, it will cease to be foreclosure property as of the close of the 2nd year following the tax year the REIT acquired it (although the REIT may request one or more extensions to this 2-year grace period not to extend beyond the 6th year). See section 856(e)(6) for details.

This election must be made by the due date for filing Form 1120-REIT (including extensions). To make the election, attach a statement that:

- Indicates that the election under section 856(e) is being made;
- Identifies the property to which the election applies;
- Includes the name, address, and EIN of the REIT, the date the property was acquired, and a brief description of how the property was acquired (including the

name of the person from whom the property was acquired); and

- Gives a description of the lease or debt with respect to which default occurred or was imminent.

The REIT can revoke the election by filing a revocation on or before the due date (including extensions) for filing Form 1120-REIT. See section 856(e) for more details.

**Line 2. Gross income from foreclosure property.** Do not include income that qualifies under the REIT's 75% gross income test under section 856(c)(3)(A), (B), (C), (D), (E), or (G). These amounts must be reported in Part I.

**Line 4. Deductions.** Deduct only those expenses that have a proximate and primary relationship to earning the income shown on line 3. This includes:

- Depreciation on foreclosure property;
- Interest paid or accrued on debt of the REIT that is attributable to the carrying of the property;
- Real estate taxes; and
- Fees charged by an independent contractor to manage such property.

Do not deduct general overhead and administrative expenses in Part II.

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## Part III—Tax for Failure To Meet Certain Source-of-Income Requirements

Section 856(c)(6) provides REITs with a relief provision if they have failed to satisfy the source-of-income requirements of sections 856(c)(2) and 856(c)(3). If section 856(c)(6) applies to a REIT for any tax year, a tax is imposed on the REIT under section 857(b)(5).

All REITs must complete lines 1a through 8 of Part III to determine whether they are subject to the tax imposed under section 857(b)(5). If line 8 is zero, the tax does not apply, and the REIT does not have to complete the rest of Part III. However, if line 8 is greater than zero, the REIT is subject to this tax, and must complete the rest of Part III to determine the amount of tax.

If a REIT reports passive foreign exchange gain on line 2b or real estate foreign exchange gain on line 5b, and any part of such gain is characterized as such by a determination of the Secretary under section 856(n)(3)(C) or 856(n)(2)(C), the REIT must attach a copy of this determination to its return. Similarly, if a REIT reports income that is excluded from section 856(c)(2) pursuant to a determination of the Secretary under section 856(c)(5)(J)(i) on line 2c or excluded from section 856(c)(3) pursuant to a determination of the Secretary under

section 856(c)(5)(J)(i) on line 5c, the REIT must attach a copy of this determination allowing for such exclusion to its return. Additionally, if a REIT reports income on line 7 in Part I that is excluded from sections 856(c)(2) and 856(c)(3) pursuant to section 965(m)(1), report that amount on lines 2d and 5d of Part III. The REIT must attach Forms 965 and 965-B, as applicable, to its return.

A REIT that has failed the source-of-income requirements of sections 856(c)(2) and 856(c)(3) may avoid loss of its REIT status as a result of the failure if, following identification of its failure to meet the source-of-income requirements, the REIT sets forth a description of each item of its gross income described in sections 856(c)(2) and 856(c)(3) on an attached schedule. In addition, its failure to meet the source-of-income requirements must be due to reasonable cause and not due to willful neglect.

For information on the relief provisions under sections 856(c)(7) and 856(g)(5), see the instructions for Schedule J, line 2f.

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## Part IV—Tax on Net Income From Prohibited Transactions

Section 857(b)(6) imposes a tax equal to 100% of the net income derived from prohibited transactions. The 100% tax is imposed to prevent a REIT from retaining any profit from ordinary retailing activities such as sales to customers of condominium units or subdivided lots in a development tract.

**Line 1. Gain from sale or other disposition of property.** Include only gain from the sale or other disposition of property described in section 1221(a)(1) that is not foreclosure property and that does not qualify as an exception. See section 857(b)(6)(C) for information on certain sales that do not qualify as prohibited transactions. See section 856(j) for a special rule regarding a shared appreciation mortgage. Exceptions apply for certain sales of timber property by a timber REIT. See section 857(b)(6)(D).

Do not net losses from prohibited transactions against gains in determining the amount to enter on line 1. Enter losses from prohibited transactions on the appropriate line in Part I.

**Line 2. Deductions.** Deduct only those expenses that have a proximate and primary relationship to the earning of the income shown on line 1. Do not deduct general overhead and administrative expenses in Part IV.

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## Schedule A—Deduction for Dividends Paid

**Lines 1 through 5.** Section 561 (taking into account sections 857(b)(8), 857(d)(3)(B), and 858(a)) determines the deduction for dividends paid.

**Line 3.** Dividends declared in October, November, or December and payable to shareholders of record in October, November, or December are treated by the REIT as paid on December 31 of that calendar year. The REIT is then eligible for the deduction for dividends paid for the year the dividends are declared even though they are not actually paid until January of the following calendar year.

If the REIT declared dividends in any of those months and actually paid them in January, as discussed above, enter on line 3 those dividends not already included on lines 1, 2, and 4 of Schedule A.

**Line 7.** If, for any tax year the REIT has net income from foreclosure property (as defined in section 857(b)(4)(B)), the deduction for dividends paid to be entered on line 6 (and on Part I, line 21b) is determined by multiplying the amount on line 5 by the following fraction.

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$$\frac{\text{REIT taxable income (determined without regard to the deduction for dividends paid)}}{\text{REIT taxable income (determined without regard to the deduction for dividends paid) +}}$$

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$$\frac{\text{REIT taxable income (determined without regard to the deduction for dividends paid) +}}{\text{(Net income from foreclosure property minus the tax on net income from foreclosure property)}}$$

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## Schedule J—Tax Computation

### Line 1

A member of a controlled group must check the box on line 1 and complete and attach Schedule O (Form 1120). See Schedule O (Form 1120) and its instructions for more information.

### Line 2a—Tax on REIT Taxable Income

Most REITs figure their tax by multiplying taxable income by 21%. A member of a controlled group must use Schedule O (Form 1120) to figure its tax.

### Line 2c

Taxes are imposed for the failure to meet the requirements of the asset test and/or gross income test. To qualify for relief from the failure to meet these requirements, attach an explanation of why the REIT failed to meet the asset test and/or gross income test. Attach supporting schedules and a statement showing the computation of the amount of tax. Also, include a reason why the failure was due to



reasonable cause and not willful neglect. See sections 856(c)(2), 856(c)(3), and 856(c)(4).

The statement for reasonable cause should be attached to Form 1120-REIT at the time it is filed.

### Line 2e

Enter the amount of the 100% REIT tax imposed on the following:

- Income of a REIT for services provided to the REIT's tenants that is improperly included in rents from real property reported by the REIT instead of being reported by the TRS (see section 857(b)(7)(B));
- Deductions that are improperly allocated between the REIT and its TRS (see section 857(b)(7)(C));
- Interest deductions of a TRS to the extent that interest payments to its REIT are in excess of a rate that is commercially reasonable (see section 857(b)(7)(D)); and
- Gross income of a TRS of a REIT attributable to services provided to, or on behalf of, the REIT (less the deductions properly allocable thereto) that is improperly allocated between the REIT and the TRS (see section 857(d)(7)(E)).

See section 857(b)(7) for details and exceptions.

### Line 2f—Taxes Imposed Under Section 856(c)(7) and Section 856(g)(5)

Enter the taxes imposed for the following relief provisions:

- Section 856(c)(7) relating to failures to meet the requirements of the asset test of section 856(c)(4); and
- Section 856(g)(5) relating to failures to meet certain requirements under sections 856 through 859 (other than sections 856(c)(2), 856(c)(3), and 856(c)(4)). See sections 856(c)(7) and 856(g)(5) for detailed information on the requirements for these relief provisions and check the appropriate box(es) for the tax(es) imposed under them.

If a tax is imposed under section 856(c)(7) or 856(g)(5), attach a statement providing an explanation of why the REIT failed to meet the requirements of the asset test or other qualification requirements under sections 856–859, and a description of why such failure is due to reasonable cause and not willful neglect.

**Failure to meet the asset test requirements of section 856(c)(4) (other than de minimus failures).** Under section 856(c)(7)(A), a REIT may avoid loss of its REIT status as a result of certain failures to meet the asset test requirements of section 856(c)(4) if, following identification of the failure, each of the following requirements are met:

- The REIT sets forth a description of each asset that causes the REIT to fail to satisfy the requirements of the asset test at the close of a quarter in a statement for the quarter attached to its timely filed Form 1120-REIT;
- The failure must be due to reasonable cause and not due to willful neglect; and
- The REIT either (a) disposes of the assets shown on the specified statement within 6 months after the last day of the quarter in which the REIT's identification of the failure occurred (or such other time and in the manner prescribed by regulations); or (b) the requirements of the asset test of section 856(c)(4) are otherwise met within the specified time period.

In addition, if section 856(c)(7)(A) applies to a REIT for any tax year, the REIT must pay a tax which is the greater of:

- \$50,000, or
- The amount determined (as prescribed by regulations to be promulgated by the Secretary) by multiplying the net income generated by the assets described in the specified schedule for the quarter in which the failure occurred by 21%.

**Note.** There is no tax imposed and you are not required to attach a schedule of assets to Form 1120-REIT for the de minimus relief provision under section 856(c)(7)(B).

Under section 856(c)(7)(B), a REIT may avoid loss of its REIT status as a result of certain failures to meet the asset test requirements of section 856(c)(4)(B)(iii) if:

- Following its identification of the failure, the REIT disposes of assets within 6 months after the last day of the quarter in which the REIT's identification of the failure occurred (or such time period prescribed by the Secretary and in the manner prescribed by the Secretary); or
- The requirements of the asset test of section 856(c)(4) are otherwise met within the specified time period.

**Certain REIT qualification failures of sections 856–859 (other than sections 856(c)(2), 856(c)(3), and 856(c)(4)).**

Under section 856(g)(5), a REIT that fails to meet the REIT qualification requirements under sections 856–859, except for section 856(c)(2), 856(c)(3), and 856(c)(4), may avoid loss of its REIT status if the failure is due to reasonable cause and not due to willful neglect. In addition, the REIT must pay (as prescribed by regulations and in the same manner as tax) a penalty of \$50,000 for each failure to satisfy a provision of sections 856–859. See section 856(g)(5).

## Line 2g—Income Tax

**Deferred tax under section 1291.** If the REIT was a shareholder in a passive foreign investment company (PFIC) and received an excess distribution or disposed of its investment in the PFIC during the year, it must include the increase in taxes due under section 1291(c)(2) in the total for line 2g. On the dotted line to the left of line 2g, enter "Section 1291" and the amount.

Do not include on line 2g any interest due under section 1291(c)(3). Instead, include the amount of interest owed on Schedule J, line 7, Other taxes.

For more information on reporting the deferred tax and interest, see the Instructions for Form 8621.

**Additional tax under section 197(f).** A REIT that elects to recognize gain and pay tax on the sale of a section 197 intangible under the related person exception to the anti-churning rules should include any additional tax due in the total for line 2g. On the dotted line next to line 2g, enter "Section 197" and the amount. See section 197(f)(9)(B)(ii).

**Increase in tax attributable to partner's audit liability under section 6226.** If the REIT is filing Form 8978 to report adjustments shown on Form 8986 they received from partnerships which have been audited and have elected to push out imputed underpayments to their partners, include any increase in taxes due (positive amount) from Form 8978, line 14, in the total for Form 1120-REIT, Schedule J, line 2g. On the dotted line next to line 2g, enter "Section 6226" and the amount. Attach Form 8978. If Form 8978, line 14, shows a decrease in tax, see the instructions for Schedule J, line 3d.

### Line 3a—Foreign Tax Credit

To find out when a REIT can claim the foreign tax credit for payment of income tax to a foreign country or U.S. possession, see Form 1118, Foreign Tax Credit—Corporations.

### Line 3b—Credit From Form 8834

Enter any qualified electric vehicle passive activity credits from prior years allowed for the current tax year from Form 8834, Qualified Electric Vehicle Credit, line 7.

### Line 3c—General Business Credit

The REIT is required to file Form 3800, General Business Credit, to claim most business credits. For a list of allowable credits, see Form 3800. Enter the allowable credit from Form 3800, Part II, line 38, on line 3c. Also, see the applicable credit form and its instructions. See Form

3800 for a complete listing of general business credits.

### Line 3d—Other Credits

**Minimum tax credit.** Enter any allowable credit from Form 8827, Credit for Prior Year Minimum Tax—Corporations. Complete and attach Form 8827.

**Bond credits from Form 8912.** Enter the allowable credits from Form 8912, Credit to Holders of Tax Credit Bonds, line 12.

**Decrease attributable to partner's audit liability under section 6226.** If the REIT is filing Form 8978 to report adjustments shown on Form 8986 they received from partnerships which have been audited and have elected to push out imputed underpayments to their partners, include any decrease in taxes due (negative amount) from Form 8978, line 14, in the total for Form 1120-REIT, Schedule J, line 3d. Attach Form 8978. If Form 8978, line 14, shows an increase in tax, see the instructions for Schedule J, line 2g.

### Line 5—Personal Holding Company Tax

A REIT is taxed as a personal holding company under section 542 if:

- At least 60% of its adjusted ordinary gross income for the tax year is personal holding company income, and
- At any time during the last half of the tax year more than 50% in value of its outstanding stock is owned, directly or indirectly, by five or fewer individuals.

See Schedule PH (Form 1120), U.S. Personal Holding Company (PHC) Tax, for definitions and details on how to figure the tax.

### Line 6—Interest on Deferred Tax Liability

Include any interest on deferred tax attributable to certain nondealer installment obligations (section 453A(c)) and dealer installment obligations (section 453(l)).

### Line 7—Other Taxes

Include any of the following taxes and interest in the total on line 8. Check the appropriate box(es) for the form, if any, used to compute the total.

**Recapture of investment credit.** If the REIT disposed of investment credit property or changed its use before the end of its useful life or recovery period, it may owe a tax. See Form 4255, Recapture of Investment Credit, for details.

**Recapture of low-income housing credit.** If the REIT disposed of property (or there was a reduction in the qualified basis of the property) for which it took the low-income housing credit, and the REIT

did not follow the procedures that would have prevented recapture of the credit, it may owe a tax. See Form 8611, Recapture of Low-Income Housing Credit.

**Interest due under the look-back methods.** If the REIT used the look-back method under section 460(b)(2) for certain long-term contracts, use Form 8697, Interest Computation Under the Look-Back Method for Completed Long-Term Contracts, to figure the interest the REIT may have to include. See the Instructions for Form 8697.

The REIT may also have to include interest due under the look-back method for property depreciated under the income forecast method. Use Form 8866, Interest Computation Under the Look-Back Method for Property Depreciated Under the Income Forecast Method, to figure any interest due or to be refunded. See the Instructions for Form 8866.

**Other.** Additional taxes and interest amounts can be included in the total entered on line 8. Check the box for "Other" if the REIT includes any of the taxes and interest discussed below. See [How to report](#) for the line 8 instructions for details on reporting these amounts on an attached schedule.

- Recapture of Indian employment credit. Generally, if an employer terminates the employment of a qualified employee less than 1 year after the date of initial employment, any Indian employment credit allowed for a prior tax year because of wages paid or incurred to that employee must be recaptured. For details, see Form 8845 and section 45A.
- Recapture of new markets credit (see Form 8874 and Form 8874-B).
- Recapture of employer-provided childcare facilities and services credit (see Form 8882).
- Interest due on deferred gain (section 1260(b)).
- Interest due under section 1291(c)(3). See Form 8621 and the Instructions for Form 8621.

### Built-in Gains Tax

If, on or after January 2, 2002, property of a C corporation becomes property of a REIT by either (a) the qualification of the C corporation as a REIT, or (b) the transfer of such property to a REIT, then the REIT will be subject to the built-in gains tax under section 1374 unless the C corporation elects deemed sale treatment on the transferred property. Generally, if the C corporation does not make this election for tax years beginning in 2020, the REIT must pay tax on the net recognized built-in gain during the 5-year period beginning on its first day as a REIT or the day it acquired the property. Special rules apply to conversion transactions on or after June 7, 2019, as well as

conversion transactions with a related section 355 distribution. See Regulations section 1.337(d)-7 for details.

A REIT's recognition period for conversion transactions that occur on or after August 8, 2016, and on or before February 17, 2017, is the 10-year period beginning on its first day as a REIT or the day the REIT acquired the property, as described in Temporary Regulations section 1.337(d)-7T(b)(2)(iii), as in effect on August 8, 2016. However, under the provisions of final Regulations section 1.337(d)-7(g)(2)(iii), a REIT may choose to apply a 5-year recognition period to conversion transactions that occur on or after August 8, 2016, and on or before February 17, 2017. See final Regulations section 1.337(d)-7 and Temporary Regulations section 1.337(d)-7T for details.

Recognized built-in gains and losses generally retain their character (for example, ordinary income or capital gain) and are treated the same as other gains or losses of the REIT. The REIT's tax on net recognized built-in gain is treated as a loss incurred by the REIT during the same tax year (see the instructions for [line i](#) of the [Built-in Gains Tax Worksheet](#), later). See Regulations section 1.337(d)-7 for details.

Different rules apply to elections to be a REIT and transfers of property in a carryover basis transaction that occurred prior to January 2, 2002. For REIT elections and property transfers before this date, the C corporation is subject to deemed sale treatment on the transferred property unless the REIT elects section 1374 treatment. See Regulations section 1.337(d)-6 for information on how to make the election and figure the tax for REIT elections and property transfers before this date. The REIT may also rely on Regulations section 1.337(d)-5 for REIT elections and property transfers that occurred before January 2, 2002.

### Built-in Gains Tax Worksheet Instructions

Complete the [Built-in Gains Tax Worksheet](#) to figure the built-in gains tax under Regulations section 1.337(d)-7 or 1.337(d)-6.

**Line a.** Enter the amount that would be the taxable income of the REIT for the tax year if only recognized built-in gain, recognized built-in loss, and recognized built-in gain carryover were taken into account, reduced by any portion of the REIT's recognized built-in gain from:

- Net income from foreclosure property,
- Amounts subject to tax for failure to meet certain source-of-income requirements under section 857(b)(5)

a.	Excess of recognized built-in gains over recognized built-in losses	a.	_____
b.	Taxable income	b.	_____
c.	Enter the net unrealized built-in gain reduced by any net recognized built-in gain for all prior years	c.	_____
d.	Net recognized built-in gain (enter the smallest of line a, b, or c)	d.	_____
e.	Section 1374(b)(2) deduction	e.	_____
f.	Subtract line e from line d. If zero, enter -0- here and on line i	f.	_____
g.	Enter 21% (0.21) of line f	g.	_____
h.	Business credit and minimum tax credit carryforwards under section 1374(b)(3) from C corporation years (see instructions)	h.	_____
i.	<b>Tax.</b> Subtract line h from line g (if zero or less, enter -0-). Enter here and include on line 7 of Schedule J. See instructions	i.	_____

computed in accordance with Regulations section 1.337(d)-6(c)(2),

- Net income from prohibited transactions under section 857(b)(6), and
- Amounts subject to tax under section 857(b)(7).

**Line b.** Add the amounts shown on:

- Form 1120-REIT, Part I, line 20;
- Form 1120-REIT, Part II, line 5; and
- Form 2438, line 11.

[Built-in Gains Tax Worksheet](#)

Subtract from the total the amount on Form 1120-REIT, line 21c. Enter the result on line b of the [Built-in Gains Tax Worksheet](#).

**Line c.** The REIT's net unrealized built-in gain is the amount, if any, by which the fair market value of the assets of the REIT at the beginning of its first REIT year (or as of the date the assets were acquired, for any asset with a basis determined by reference to its basis (or the basis of any other property) in the hands of a C corporation) exceeds the aggregate adjusted basis of such assets at that time.

Enter on line c the REIT's net unrealized built-in gain reduced by the net recognized built-in gain for prior years. See sections 1374(c)(2) and (d)(1).

**Line d.** If the amount on line b exceeds the amount on line a, the excess is treated as a recognized built-in gain in the succeeding tax year.

**Line e.** Enter the section 1374(b)(2) deduction. Generally, this is any NOL carryforward or capital loss carryforward (to the extent of the net capital gain included in recognized built-in gain for the tax year) arising in tax years for which the REIT was a C corporation. These loss carryforwards must be used to reduce recognized built-in gain for the tax year to the greatest extent possible before they can be used to reduce the REIT's taxable income.

**Line g.** A REIT reporting built-in gain for a tax year ending before 2021 will enter 21% of line f.

**Line h.** Credit carryforwards arising in tax years for which the REIT was a C corporation must be used to reduce the tax on net built-in gain for the tax year to the greatest extent possible before the credit carryforwards can be used to reduce the tax on the REIT's taxable income.

**Line i.** The REIT's tax on net recognized built-in gain is treated as a loss sustained by the REIT during the same tax year. Deduct the tax attributable to:

- Ordinary gain as a deduction for taxes on Form 1120-REIT, line 14.
- Short-term capital gain as a short-term capital loss in Part I of Form 8949.
- Long-term capital gain as a long-term capital loss in Part II of Form 8949.

### How To Report

If the REIT checked the "Other" box, attach a schedule showing the computation of each item included in the total for Schedule J, line 7. In addition, identify: (a) the applicable Code section; (b) the type of taxes or interest; and (c) enter the amount of tax or interest.

### Line 8—Total Tax

Include any deferred tax on the termination of a section 1294 election applicable to shareholders in a qualified electing fund in the amount entered on line 8. See Form 8621 and [How To Report](#) below.

Subtract from the total for line 8 the deferred tax on the REIT's share of the undistributed earnings of a qualified electing fund (see Form 8621).

### How To Report

Attach a statement showing the computation of each item included in, or subtracted from, the total for line 8. On the dotted line next to line 8, enter the amount of tax or interest, identify it as tax or interest, and specify the Code section that applies.

## Schedule K—Other Information

Be sure to answer all the lines that apply to the REIT.

### Question 3

Check the "Yes" box if the REIT is a subsidiary in a parent-subsidary controlled group (defined below), even if the REIT is a subsidiary member of one group and the parent corporation of another.

**Note.** If the REIT is an "excluded member" of a controlled group (see section 1563(b)(2)), it is still considered a member of a controlled group for this purpose.

### Parent-subsidary controlled group.

The term "parent-subsidary controlled group" means one or more chains of corporations connected through stock ownership (section 1563(a)(1)). Both of the following requirements must be met.

1. At least 80% of the total combined voting power of all classes of voting stock entitled to vote or at least 80% of the total value of all classes of stock of each corporation in the group (except the parent) must be owned by one or more of the other corporations in the group, and

2. The common parent must own at least 80% of the total combined voting power of all classes of stock entitled to vote or at least 80% of the total value of all classes of stock of one or more of the

other corporations in the group. Stock owned directly by other members of the group is not counted when computing the voting power or value.

See section 1563(d)(1) for the definition of “stock” for purposes of determining stock ownership above.

### Question 5

Check the “Yes” box if one foreign person owned at least 25% of (a) the total voting power of all classes of stock of the REIT entitled to vote, or (b) the total value of all classes of stock of the REIT.

The constructive ownership rules of section 318 apply in determining if a REIT is foreign owned. See section 6038A(c)(5) and the related regulations.

Enter on line 5a the percentage owned by the foreign person specified on line 5. On line 5b, enter the name of the owner’s country.

**Note.** If there is more than one 25%-or-more foreign owner, complete lines 5a and 5b for the foreign person with the highest percentage of ownership.

**Foreign person.** The term “foreign person” means:

- A foreign citizen or nonresident alien.
- An individual who is a citizen or resident of a U.S. possession (but who is not a U.S. citizen or resident).
- A foreign partnership.
- A foreign corporation.
- Any foreign estate or trust within the meaning of section 7701(a)(31).
- A foreign government (or one of its agencies or instrumentalities) if it is engaged in the conduct of a commercial activity as described in section 892.

**Owner’s country.** For individuals, the term “owner’s country” means the country of residence. For all others, it is the country where incorporated, organized, created, or administered.

**Requirement to file Form 5472.** If the REIT checked “Yes” on line 5, it may have to file Form 5472. Generally, a 25% foreign-owned corporation that had a reportable transaction with a foreign or domestic related party during the tax year must file Form 5472.

See Form 5472 for filing instructions and penalties for failure to file.

### Item 8

**Tax-exempt interest.** Show any tax-exempt interest received or accrued. Include any exempt-interest dividends received as a shareholder in a mutual fund or other RIC.

### Item 9

Enter the amount of the net operating loss (NOL) carryforward to the tax year from prior years, even if some of the loss is

used to offset income on this return. The amount to enter is the total of all NOLs generated in prior years but not used to offset income in a tax year prior to 2021. Do not reduce the amount by any NOL deduction reported on line 21a.

### Question 10

#### Business Interest Expense Election

The limitation on business interest expense applies to every taxpayer with a trade or business, unless the taxpayer meets certain specified exceptions. A taxpayer may elect out of the limitation for certain businesses otherwise subject to the business interest expense limitation.

Certain real property trades or businesses and farming businesses qualify to make an election not to limit business interest expense. This is an irrevocable election. If you make this election, you are required to use the alternative depreciation system to depreciate any property with a recovery period of 10 years or more. Also, you are not entitled to the special depreciation allowance for that property. For a taxpayer with more than one qualifying business, the election is made with respect to each business. Additionally, see Rev. Proc. 2020-22, 2020-18 I.R.B. 745, which provides an automatic extension of time for certain taxpayers to file a real property trade or business election or a farming business election for tax year 2018, 2019, or 2020. Rev. Proc. 2020-22 also provides an opportunity for certain taxpayers to withdraw a prior election. Rev. Proc. 2020-22 does not apply to utility trades or businesses.

Check “Yes” if the taxpayer has an election in effect to exclude a real property trade or business or a farming business from section 163(j). For more information, see section 163(j) and the Instructions for Form 8990.

### Question 11

#### Conditions for Filing Form 8990

Generally, a taxpayer with a trade or business must file Form 8990 to claim a deduction for business interest. In addition, Form 8990 must be filed by any taxpayer that owns an interest in a partnership with current year, or prior year carryover, excess business interest expense allocated from the partnership.

**Exclusions from filing.** A taxpayer is not required to file Form 8990 if the taxpayer is a small business taxpayer and does not have excess business interest expense from a partnership. A taxpayer is also not required to file Form 8990 if the taxpayer only has business interest expense from

the following excepted trades or businesses:

- An electing real property trade or business,
- An electing farming business, or
- Certain utility businesses.

**Small business taxpayer.** A small business taxpayer is not subject to the business interest expense limitation and is not required to file Form 8990.

A small business taxpayer is a taxpayer that (a) is not a tax shelter (as defined in section 448(d)(3)), and (b) meets the gross receipts test of section 448(c), discussed next.

**Gross receipts test.** A taxpayer meets the gross receipts test if the taxpayer has average annual gross receipts of \$26 million or less for the 3 prior tax years. A taxpayer’s average annual gross receipts for the 3 prior tax years is determined by adding the gross receipts for the 3 prior tax years and dividing the total by 3.

Gross receipts include the aggregate gross receipts from all persons treated as a single employer, such as a controlled group of corporations, commonly controlled partnerships, or proprietorships, and affiliated service groups. See section 448(c) and the Instructions for Form 8990 for additional information.

### Question 12

To be certified as a qualified opportunity fund, the corporation must file Form 1120-REIT and attach Form 8996, even if the corporation had no income or expenses to report. If the corporation is attaching Form 8996, check the “Yes” box for Question 12. On the line following the dollar sign, enter the amount from Form 8996, line 15.

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## Schedule L—Balance Sheets per Books

The balance sheets should agree with the REIT’s books and records.

**Line 1. Cash.** Include certificates of deposits as cash on line 1.

**Line 4. Tax-exempt securities.** Include on this line:

- State and local government obligations, the interest on which is excludable from gross income under section 103(a), and
- Stock in a mutual fund or other RIC that distributed exempt-interest dividends during the tax year of the REIT.

**Line 24. Adjustments to shareholders’ equity.** Examples of adjustments to report on this line include:

- Unrealized gains and losses on securities held “available for sale.”
- Foreign currency translation adjustments.

- The excess of additional pension liability over unrecognized prior service cost.
- Guarantees of employee stock (ESOP) debt.
- Compensation related to employee stock award plans.

If the total adjustment to be entered on line 24 is a negative number, enter the amount in parentheses.

## Schedule M-1

### Reconciliation of Income (Loss) per Books With Income per Return

**Line 5c. Travel and entertainment.** Include any of the following.

- Entertainment not deductible under section 274(a).
- Entertainment-related meal expenses.
- Non-entertainment meal expenses not deductible under section 274(n).
- Expenses for the use of an entertainment facility.
- The part of business gifts over \$25.
- Expenses of an individual over \$2,000, that are allocable to conventions on cruise ships.
- Employee achievement awards of nontangible or tangible property over \$400 (\$1,600 if part of a qualified plan).
- The cost of skyboxes.
- Nondeductible club dues.
- The part of luxury water travel not deductible under section 274(m).

- Expenses for travel as a form of education.
- Other nondeductible travel and entertainment expenses.

For more information, see Pub. 535.

**Line 7. Tax-exempt interest.** Include as interest any exempt-interest dividends received by the REIT as a shareholder in a mutual fund or other RIC.

**Paperwork Reduction Act Notice.** We ask for the information on these forms to carry out the Internal Revenue laws of the United States. You are required to give us the information. We need it to ensure that you are complying with these laws and to allow us to figure and collect the right amount of tax.

You are not required to provide the information requested on a form that is subject to the Paperwork Reduction Act unless the form displays a valid OMB control number. Books or records relating to a form or its instructions must be retained as long as their contents may become material in the administration of any Internal Revenue law. Generally, tax returns and return information are confidential, as required by section 6103.

**Estimates of Taxpayer Burden.** The following tables show burden estimates based on current statutory requirements as of December 2021 for taxpayers filing 2021 Forms 1065, 1066, 1120, 1120-C, 1120-F, 1120-H, 1120-ND, 1120-S, 1120-SF, 1120-FSC, 1120-L, 1120-PC, 1120-REIT, 1120-RIC, 1120-POL, and related attachments. Time spent and out-of-pocket costs are presented separately. Time burden is broken out by taxpayer activity, with reporting representing the largest component. Out-of-pocket costs include any expenses incurred by taxpayers to prepare and submit their tax returns. Examples include tax return preparation and submission fees, postage and photocopying costs, and tax preparation software costs. While these estimates do not include burden associated with post-filing activities, IRS operational data indicate that electronically prepared and filed returns have fewer arithmetic errors, implying lower post-filing burden.

Tables 1, 2, and 3 below show the burden model estimates for each of the three classifications of business taxpayers: Partnerships (Table 1), corporations (Table 2), and S corporations (Table 3). As the tables show, the average filing compliance is different for the three forms of business. Showing a combined average burden for all businesses would understate the burden for corporations and overstate the burden for the two pass-through entities (partnerships and corporations). In addition, the burden for small and large businesses is shown separately for each type of business entity in order to clearly convey the substantially higher burden faced by the largest businesses.

**Table 1 – Taxpayer Burden for Entities Taxed as Partnerships**

Forms 1065, 1066, and all attachments				
Primary Form Filed or Type of Taxpayer	Number of Returns (millions)	Average Time per Taxpayer (hours)	Average Cost per Taxpayer	Average Monetized Burden
All Partnerships	4.5	290	\$5,900	\$17,800
Small	4.2	270	\$4,400	\$13,200
Other*	0.3	610	\$29,000	\$89,300

\*"Other" is defined as one having end-of-year assets greater than \$10 million. A large business is defined the same way for partnerships, taxable corporations, and pass-through corporations. A small business is any business that does not meet the definition of a large business.

**Table 2 – Taxpayer Burden for Entities Taxed as Taxable Corporations**

Forms 1120, 1120-C, 1120-F, 1120-H, 1120-ND, 1120-SF, 1120-FSC, 1120-L, 1120-PC, 1120-POL, and all attachments				
Primary Form Filed or Type of Taxpayer	Number of Returns (millions)	Average Time per Taxpayer (hours)	Average Cost per Taxpayer	Average Monetized Burden
All Taxable Corporations	2.1	335	\$7,700	\$23,500
Small	2.0	280	\$4,000	\$13,500
Large*	0.1	1,255	\$70,200	\$194,800

\*A "large" business is defined as one having end-of-year assets greater than \$10 million. A "large" business is defined the same way for partnerships, taxable corporations, and pass-through corporations. A small business is any business that does not meet the definition of a large business.

**Table 3 – Taxpayer Burden for Entities Taxed as Pass-Through Corporations**

Forms 1120-REIT, 1120-RIC, 1120-S, and all attachments				
Primary Form Filed or Type of Taxpayer	Number of Returns (millions)	Average Time per Taxpayer (hours)	Average Cost per Taxpayer	Average Monetized Burden
All Pass-Through Corporations	5.4	245	\$3,500	\$11,300
Small	5.3	240	\$3,100	\$10,200
Large*	0.1	610	\$30,900	\$91,500
*A "large" business is defined as one having end-of-year assets greater than \$10 million. A "large" business is defined the same way for partnerships, taxable corporations, and pass-through corporations. A small business is any business that does not meet the definition of a large business.				

**Note.** The data shown are the best estimates for 2021 business entity income tax returns. Reported time and cost burdens are national averages and do not reflect a "typical" case. Most taxpayers experience lower than average burden varying considerably by taxpayer type. The estimates are subject to change as new forms and data become available.

**Comments.** If you have comments concerning the accuracy of these time estimates or suggestions for making these forms simpler, we would be happy to hear from you. You can send us comments from [IRS.gov/FormComments](https://www.irs.gov/FormComments). Or you can write to the Internal Revenue Service, Tax Forms and Publications, 1111 Constitution Ave. NW, IR-6526, Washington, DC 20224. Do not send the tax form to this address. Instead, see [Where To File](#), near the beginning of the instructions.