



## RULES and REGULATIONS

## DEPARTMENT OF THE TREASURY

Internal Revenue Service

26 CFR Parts 1, 5c, and 602

[T.D. 8366]

RIN 1545-AN52

Real Estate Mortgage Investment Conduits; Reporting Requirements and Other Administrative Matters

Monday, September 30, 1991

**\*49512** AGENCY: Internal Revenue Service, Treasury.

ACTION: Temporary and final regulations.

SUMMARY: This document contains temporary and final regulations relating to real estate mortgage investment conduits (REMICs). The relevant provisions in the Internal Revenue Code were added or amended by the Tax Reform Act of 1986 and by the Technical and Miscellaneous Revenue Act of 1988. These regulations prescribe the manner in which an entity elects status as a REMIC for Federal income tax purposes and the procedures to be followed when filing a Federal income tax return as a REMIC. The regulations also require REMICs and certain other issuers to file information returns with the Internal Revenue Service and to provide to holders of REMIC interests or certain other collateralized debt instruments notice of income and certain allocable expenses attributable to their interests.

In addition, the temporary regulations set forth in this document serve as the text of the proposed regulations cross-referenced in the notice of proposed rulemaking elsewhere in this issue of the Federal Register.

EFFECTIVE DATE: These regulations are effective after December 31, 1986, and are applicable after that date except as follows:

Sections	Applicability dates
1.67-3T(f)(4)(ii)	Calendar quarters and calendar year after 1991
1.6049-4(b)(2)	
1.6049-7(e)(2)(xi)	
1.67-3T(f) except for (f)(4)(ii)	After September 7, 1989
1.6049-7(e)(2)(x)	Calendar years after 1989
1.6049-7(f)(2)(i)(G) and (f)(2)(ii)(K)	
1.860F-4(e)(1)(ii) (A) and (B)	Calendar quarters and calendar years after 1988
1.6049-7(c) (6) through (15)	

1.6049-7(e)(1), (2)(i) through (ix), (3), (4), and (5)	
1.6049-7(f)(3) (i) and (ii)	
1.6049-7(f)(5)(i) and (f)(7)	
1.6049-7(f)(2)(ii) (E), (F), and (I)	Calendar quarters and calendar years after 1987
1.860F-4(e)(1)(ii)(D)	Calendar quarters in and calendar years 1988 and 1989
1.6049-7(f)(3)(iii)	
1.860F-4(e)(1)(ii)(C)	Calendar quarters in and calendar years 1987
1.860F-4(c)(1)	For REMICs with a startup day on or after November 10, 1988
1.6049-7(g)	For debt instruments issued after April 8, 1988

FOR FURTHER INFORMATION CONTACT: James W. C. Canup, 202-566-6624 (not a toll-free number).

#### SUPPLEMENTARY INFORMATION:

##### Paperwork Reduction Act

The collections of information contained in the final regulations have been reviewed and approved by the Office of Management and Budget in accordance with the requirements of the Paperwork Reduction Act ([44 U.S.C. 3504\(h\)](#)) under control number 1545-1018. The temporary regulation is being issued without prior notice and public procedure pursuant to the Administrative Procedure Act ([5 U.S.C. 553](#)). For this reason, the collection of information contained in the temporary regulations has been reviewed and, pending receipt and evaluation of public comments, approved by the Office of Management and Budget (OMB) under control number 1545-1018.

The estimated total annual reporting and/or recordkeeping burden for the requirements contained in §§ [1.67-3T\(f\)](#) (1), (2), (3), (4)(i), (5), and (6), [1.860D-1\(d\)](#), [1.860F-4](#), [1.6049-4\(b\)\(2\)](#), [1.6049-7\(b\)](#), [1.6049-7 \(f\)\(1\)](#) through (f)(6) of this regulation is reflected on Schedule Q and Forms 1066, 1099-INT, 1099-OID, 8281, and 8811. The estimated annual burden per respondent/recordkeeper for [§ 1.67-3T\(f\)\(4\)\(ii\)](#) varies from 0.1 hours to 1.0 hours, depending on individual circumstances, with an estimated average of 0.3 hours. The estimated annual burden per respondent/recordkeeper for [§ 1.6049-7\(e\)](#) varies from 0.1 hours to 12.0 hours, depending on individual circumstances, with an estimated average of 1.2 hours. The estimated annual burden per respondent/recordkeeper for [1.6049-7\(f\)\(7\)](#) varies from 0.1 hours to 20.0 hours, depending on individual circumstances, with an estimated average of 5 hours.

These estimates are an approximation of the average time expected to be necessary for a collection of information. They are based on such information as is available to the Internal Revenue Service. Individual respondents/recordkeepers may require more or less time, depending on their particular circumstances.

Comments concerning the accuracy of the burden estimate for the temporary and final regulations and suggestions for reducing this burden should be directed to the Internal Revenue Service, Attention: IRS Reports Clearance Officer, T:FP, Washington, DC 20224, and the Office of Management and Budget, Attention: Desk Officer for the Department of the Treasury, Office of Information and Regulatory Affairs, Washington, DC 20503.

##### Issuance of Proposed Regulation

The temporary rules contained in this document are also being issued as proposed regulations by the notice of proposed rulemaking (FI-61-91) on this subject elsewhere in this issue of the Federal Register. Pursuant to [section 7805\(f\) of the](#)

[Internal Revenue Code](#), a copy of the temporary rules are being sent to the Chief Counsel for Advocacy of the Small Business Administration for comment on their impact on small business.

## Background

Temporary regulations (T.D. 8259) and a notice of proposed rulemaking (FI-27-89) under [sections 67, 860D, 860F, and 6049 of the Internal Revenue Code](#) of 1986 (Code), relating to REMICs were published in the Federal Register on September 7, 1989, (54 FR 37098 and 37125, respectively). Section 671 of the Tax Reform Act of 1986 (the 1986 Act) added to the Code new sections 860A through 860G to provide rules relating to real estate mortgage investment conduits. [Section 674](#) of the 1986 Act amended [section 6049](#) to impose certain information reporting requirements with respect to REMIC interests and certain other debt instruments. Section 1006(t) of the Technical and Miscellaneous Revenue Act of 1988 (TAMRA) amended certain provisions in [sections 860A through 860G](#) and [section 6049](#).

In general, a REMIC is a fixed pool of mortgages in which multiple classes of interests are held by investors and which elects to be taxed as a REMIC. The regulations under [section 860D](#) prescribe the manner in which an entity elects status as a REMIC. The regulations under [section 860F](#) govern the filing of the REMIC's income tax return and, together with the regulations under [section 6049](#), require notice of income and other information to be provided to REMIC investors and the Internal Revenue Service.

Written comments were received from the public on the proposed regulations. \*49513 In addition, on March 14, 1990, the Internal Revenue Service held a public hearing concerning the regulations. After consideration of the comments received and the statements made at the public hearing, the proposed regulations are adopted as revised by this Treasury decision.

## Explanation of Provisions

### *REMIC Income Tax Return and Election*

[Section 1.860F-4\(b\)](#) generally requires a REMIC to file an income tax return annually with the Internal Revenue Service. The Service has developed Form 1066, U.S. Real Estate Mortgage Investment Conduit Income Tax Return, for this purpose. As required by [section 860F\(e\)](#), the return must include the amount of the daily accruals determined under [section 860E\(c\)](#). The due date and any extensions for filing the REMIC's annual return are determined as if the REMIC were a partnership that uses the calendar year. [Section 1.860F-4\(c\)\(1\)](#) provides that the REMIC return must be signed by a person who is authorized to sign the return of the entity absent the REMIC election.

As provided in [§ 1.860D-1\(d\)\(1\)](#), a qualified entity, as defined in [§ 1.860D-1\(c\)\(3\)](#), elects to be treated as a REMIC by timely filing, for its first taxable year, a Form 1066, U.S. Real Estate Mortgage Investment Conduit Income Tax Return, signed by a person authorized to sign that return under [§ 1.860F-4\(c\)](#). The Commissioner may, however, upon a showing of good cause, grant a reasonable extension of time under [§ 1.9100-1](#) for electing REMIC status. Once made, the election is irrevocable for that taxable year and all succeeding taxable years.

### *Notice to Residual Interest Holders*

At the close of each calendar quarter, a REMIC is required under [§ 1.860F-4\(e\)\(1\)](#) to provide to each person who held a residual interest in the REMIC during the quarter notice on Schedule Q (Form 1066) of certain information. That information includes (a) the residual holder's share of REMIC taxable income or net loss for the calendar quarter, (b) the amount of the excess inclusion with respect to the holder's residual interest, (c) in the case of certain holders, the alloc-

able investment expenses for the quarter, and (d) for calendar years after 1987, the percentage of the REMIC's assets that are qualifying real property loans under section 593, assets described in section 7701(a)(19), and real estate assets defined in section 856(c)(6)(B). A residual interest holder may rely upon the information provided on Schedule Q concerning the percentage of assets tests in determining the tax treatment of its residual interest under sections 593, 7701(a)(19)(C), and 856. This right of reliance will be explicitly stated in future regulations under those code sections.

Section 1.860F-4(e)(2) requires that Schedule Q be mailed (or otherwise delivered) to each holder of a residual interest during a calendar quarter not later than the last day of the month following the close of the calendar quarter. Further, § 1.860F-4(e)(4) provides that, for each person who was a residual interest holder at any time during a calendar year, the REMIC must attach to its income tax return for that year a copy of Schedule Q for each quarter in which that person was a residual interest holder. Quarterly notice to the Internal Revenue Service is not required.

#### *Reporting to the Internal Revenue Service*

Section 1.6049-7(b)(1) requires every REMIC and issuer of a collateralized debt obligation (as defined in § 1.6049-7(d)(2)) to file Form 8811, Information Return for Real Estate Mortgage Investment Conduits (REMICs) and Issuers of Collateralized Debt Obligations, with the Internal Revenue Service on or before the later of July 31, 1989, or the 30th day after the startup day (as defined in section 860G(a)(9)) of the REMIC or the issue date (as defined in section 1275(a)(2)) of a collateralized debt obligation. Further, a new Form 8811 must be filed on or before the 30th day after any change in the information previously provided on Form 8811.

The Internal Revenue Service prints in Publication 938 the information on Form 8811 concerning the representative to be contacted by persons specified in § 1.6049-7(e)(4) and the manner for requesting the tax information specified in § 1.6049-7(e)(2) from the representative.

#### *Reporting to Certain Brokers, Middlemen, Corporations, Non-Calendar Year Taxpayers, and Other Persons Specified in § 1.6049-7(e)(4)*

Pursuant to § 1.6049-7(e)(3), a REMIC or issuer of a collateralized debt obligation that receives a request from a person specified in § 1.6049-7(e)(4) must provide the tax information specified in § 1.6049-7(e)(2) to the person requesting the information. The tax information may be provided by telephone, by written statement, by causing it to be published in a publication generally read by persons permitted to make the request, or by any other method agreed to by the parties, on or before the later of the 30th day after the close of the calendar quarter for which the information was requested, or the day that is two weeks after the receipt of the request.

#### *Reporting to Regular Interest Holders*

Section 6049 of the Code requires that certain returns of information be made regarding payments of interest. Under section 6049(d)(7) and § 1.6049-7(a), the term "interest" includes amounts includible in the gross income of any holder of a REMIC regular interest or a collateralized debt obligation.

As required by § 1.6049-7(b)(2), an information return must be made on a Form 1099 with respect to any payment of interest (as defined in § 1.6049-7(a)) aggregating \$10 or more. For calendar years after 1988, this return must be made by a REMIC or an issuer of a collateralized debt obligation and by any broker or middleman who holds as a nominee any REMIC regular interest or any collateralized debt obligation for the actual owner. Information returns are not required, however, with respect to amounts includible as interest by certain holders specified in § 1.6049-7(c).

The information returns required under § 1.6049-7(b)(2) are to be filed annually in the manner prescribed in paragraph (b)(2)(iv) of that section. Generally, § 1.6049-7(f) requires that the information provided to the Service and, if applicable, an additional statement containing information regarding market discount and original issue discount be furnished to each person in whose income amounts are includible as interest in the time and manner specified in paragraphs (f) (5) and (6) of that section respectively. Under § 1.6049-7(f)(3), certain information regarding REMIC assets must also be provided to investors.

*Nominee Requirement To Furnish Information to Corporations, Non-Calendar Year Taxpayers, and Other Persons Specified in § 1.6049-7(c) (9) through (15)*

Section 1.6049-7(f)(7)(i) requires brokers and middlemen holding as nominees REMIC regular interests or collateralized debt obligations to provide in writing or by telephone the information specified in § 1.6049-7(e)(2). The information must be provided to corporations, non-calendar year taxpayers, and other persons specified in § 1.6049-7(c) (9) through (15) in the time prescribed in § 1.6049-7(f)(7)(ii).

**\*49514 Information Required on Debt Instrument**

Under § 1.6049-7(g), the issuer of any REMIC regular interest or any collateralized debt obligation is required to set forth certain information on the face of the regular interest or collateralized debt obligation. This requirement is effective, however, only with respect to any regular interest or collateralized debt obligation that is issued after April 8, 1988.

*Reporting Original Issue Discount on Debt Instruments Not Subject to Section 1272(a)(6)*

Section 1.6049-4 requires information returns to be filed with respect to all debt instruments issued with original issue discount. With respect to instruments other than REMIC regular interests and other collateralized debt obligations, § 1.6049-4(b)(2) permits brokers to send Forms 1099-OID only to those persons who were holders of record on the semi-annual record date, if any, or on June 30 and December 31. The amendments to § 1.6049-4(b)(2), which were proposed in 1989 and are finalized in this document, require brokers to provide a Form 1099-OID to each person who was a holder of record at any time during the calendar year, even if the person was not the holder of record on June 30 or December 31 of that year, and to report the original issue discount for the period that the person held the debt instrument.

*Notice to Pass-Through Interest Holders Who Hold Regular Interests in Single-Class REMICs*

Section 1.67-3T(f) provides that a single-class REMIC (generally, one that would be classified as a trust had it not elected REMIC status) must furnish quarterly information to certain of its regular interest holders showing each such interest holder's allocable share of the REMIC's investment expenses.

*Exclusion of Interest on Certain All-Savers Certificates*

Section 5c.128-1 only applied to All-Savers Certificates issued after August 30, 1981, and before January 1, 1983. That section no longer applies to any taxpayers and, consequently, is being withdrawn.

**Summary of Amendments**

Commentators have requested that the REMIC or issuer of a collateralized debt obligation be permitted to require that requests for information from brokers and other persons entitled to request the information be in writing. The previous regulations provided that requests could be made in writing or by telephone. The regulations now provide that the REMIC or issuer need only specify on Form 8811 an address (not a telephone number) if all requests must be made in writing. If

Publication 938 contains only an address, requests must be made in writing.

Commentators have also requested that the tax information from the REMIC or issuer specify the following: (1) The daily portion of original issue discount per \$1,000 of original principal amount and no unit other than \$1,000, (2) whether the information being reported is with respect to a REMIC regular interest or a collateralized debt obligation, and (3) the [section 67](#) information with respect to a single class REMIC. The regulations have been amended to incorporate the changes suggested by these comments. The requirement for information concerning the market discount fraction has also been amended to clarify the meaning of the term “remaining original issue discount at the beginning of the accrual period.” That term means the original issue discount allocable to that accrual period, plus the remaining original issue discount as of the end of that accrual period. Further, temporary regulations permit the use of de minimis original issue discount in computing the market discount fraction. See H.R. Conf. Rep. No. 841, 99th Cong., 2nd Sess. II-842 (1986), for the application of the market discount rules to amortizing amortizable bond premium within the meaning of section 171.

In addition, commentators requested that the 30-day time period for REMICs and issuers of collateralized debt obligations to respond to requests for tax information and for REMICs to furnish Schedule Qs be extended. This issue is not addressed in these temporary and final regulations. In order to allow an opportunity for comment, this issue is addressed in a notice of proposed rulemaking (FI-38-91) elsewhere in this issue of the Federal Register.

Commentators have requested other amendments that have not been adopted. Some requests dealt with subject matter outside the scope of these temporary and final regulations, while others related to procedural instructions that are more detailed than those customarily provided in regulations.

Other editorial changes, however, have been made to clarify the temporary and final regulations. Further, the effective date for the requirement in [§ 1.6049-4\(b\)](#) that original issue discount information must be provided to each holder for the period that person held the debt instrument has been delayed. It is effective for calendar years beginning after December 31, 1991. Finally, the quarterly information required to be furnished to regular interest holders pursuant to [§ 1.67-3T\(f\)\(2\)\(ii\)](#) may be separately stated on the statement containing Form 1099 information instead of in a separate statement provided in a separate mailing.

#### Need for Temporary Regulations

The provisions contained in this Treasury Decision are needed immediately to clarify guidance already provided to the public with respect to single-class REMICs. Therefore, it is found impracticable and contrary to the public interest to issue this Treasury Decision with prior notice under [section 553\(b\) of title 5 of the United States Code](#).

#### Special Analyses

These rules are not major rules as defined in [Executive Order 12291](#). Therefore, a Regulatory Impact Analysis is not required. Although this Treasury decision was preceded by a notice of proposed rulemaking that solicited public comments, the notice was not required by [5 U.S.C. 553](#) since the regulations proposed in that notice and adopted by this Treasury decision are interpretative. Therefore, a final Regulatory Flexibility Analysis is not required by the Regulatory Flexibility Act (5 U.S.C. chapter 6). Pursuant to [section 7805\(f\) of the Internal Revenue Code](#), the proposed regulations were sent to the Chief Counsel for Advocacy of the Small Business Administration for comment on their impact on small business.

#### Drafting Information

The principal authors of these regulations are James W.C. Canup and Laura Ann M. Lauritzen, Office of the Assistant Chief Counsel (Financial Institutions and Products), Internal Revenue Service. However, personnel from other offices of the IRS and Treasury Department participated in their development.

List of Subjects

[26 CFR 1.61-1 Through 1.67-4T](#)

Income taxes, Reporting and recordkeeping requirements.

[26 CFR 1.860D-1T Through 1.860F-4T](#)

Income taxes, Investments, Mortgages, Reporting and recordkeeping requirements.

[26 CFR 1.6031-1 Through 1.6060-1](#)

Income taxes, Reporting and recordkeeping requirements.

**\*49515** [26 CFR Part 5c](#)

Economic Recovery Tax Act of 1981, Income taxes.

[26 CFR Part 602](#)

Reporting and recordkeeping requirements.

Amendments to the Regulations

Accordingly, title 26, parts 1, 5c, and 602, of the Code of Federal Regulations, is amended as follows:

PART 1—INCOME TAX; TAXABLE YEARS BEGINNING AFTER DECEMBER 31, 1953  
[26 CFR § 1.860F-4T](#)

Paragraph 1. The authority for part 1 is amended by removing the authorities for [§ 1.860F-4T](#) and adding the following citations:

Authority: [Sec. 7805](#), 68A Stat. 917; [26 U.S.C. 7805](#) \* \* \* [§ 1.860D-1](#) also issued under [26 U.S.C. 860G\(e\)](#) \* \* \* [§ 1.860F-4](#) also issued under [26 U.S.C. 860G\(e\)](#) \* \* \* [§ 1.6049-7](#) also issued under [26 U.S.C. 860G\(e\)](#), [26 U.S.C. 1275\(c\)](#), and [26 U.S.C. 6049\(d\)\(7\)\(D\)](#). \* \* \*

[26 CFR § 1.67-3T](#)

Par. 2. In [§ 1.67-3T](#), paragraph (f) is revised to read as follows:

[26 CFR § 1.67-3T](#)

[§ 1.67-3T](#) Allocation of expenses by real estate mortgage investment conduits (temporary).

\* \* \* \* (f) Notice to pass-through interest holders—(1) Information required. A REMIC must provide to each pass-through interest holder to which an allocation of allocable investment expense is required to be made under paragraph (a)(1) of this section notice of the following—

(i) If, pursuant to paragraph (f)(2) (i) or (ii) of this section, notice is provided for a calendar quarter, the aggregate amount of expenses paid or accrued during the calendar quarter for which the REMIC is allowed a deduction under section 212;

(ii) If, pursuant to paragraph (f)(2)(ii) of this section, notice is provided to a regular interest holder for a calendar year, the aggregate amount of expenses paid or accrued during each calendar quarter that the regular interest holder held the regular interest in the calendar year and for which the REMIC is allowed a deduction under section 212; and

(iii) The proportionate share of these expenses allocated to that pass-through interest holder, as determined under paragraph (c) of this section.

(2) Statement to be furnished—(i) To residual interest holder. For each calendar quarter, a REMIC shall provide to each pass-through interest holder who holds a residual interest during the calendar quarter the notice required under paragraph (f)(1) of this section on Schedule Q (Form 1066), as required in [§ 1.860F-4\(e\)](#).

(ii) To regular interest holder—(A) In general. For each calendar year, a single-class REMIC (as described in paragraph (a)(2)(ii)(B) of this section) must provide to each pass-through interest holder who held a regular interest during the calendar year the notice required under paragraph (f)(1) of this section. Quarterly reporting is not required. The information required to be included in the notice may be separately stated on the statement described in [§ 1.6049-7\(f\)](#) instead of on a separate statement provided in a separate mailing. See [§ 1.6049-7\(f\)\(4\)](#). The separate statement provided in a separate mailing must be furnished to each pass-through interest holder no later than the last day of the month following the close of the calendar year.

(B) Special rule for 1987. The information required under paragraph (f)(2)(ii)(A) of this section for any calendar quarter of 1987 shall be mailed (or otherwise delivered) to each pass-through interest holder who holds a regular interest during that calendar quarter no later than March 28, 1988.

(3) Returns to the Internal Revenue Service—(i) With respect to residual interest holders. Any REMIC required under paragraphs (f)(1) and (2)(i) of this section to furnish information to any pass-through interest holder who holds a residual interest shall also furnish such information to the Internal Revenue Service as required in [§ 1.860F-4\(e\)\(4\)](#).

(ii) With respect to regular interest holders. A single-class REMIC (as described in paragraph (a)(2)(ii)(B) of this section) shall make an information return on Form 1099 for each calendar year beginning after December 31, 1987, with respect to each pass-through interest holder who holds a regular interest to which an allocation of allocable investment expenses is required to be made pursuant to paragraphs (a)(1) and (2)(ii) of this section. The preceding sentence applies with respect to a holder for a calendar year only if the REMIC is required to make an information return to the Internal Revenue Service with respect to that holder for that year pursuant to [section 6049](#) and [§ 1.6049-7\(b\)\(2\)\(i\)](#) (or would be required to make an information return but for the \$10 threshold described in [section 6049\(a\)\(1\)](#) and [§ 1.6049-7\(b\)\(2\)\(i\)](#)). The REMIC shall state on the information return—

(A) The sum of—

(1) The aggregate amounts includible in gross income as interest (as defined in [§ 1.6049-7\(a\)\(1\)](#) (i) and (ii)), for the calendar year, and

(2) The sum of the amount of allocable investment expenses required to be allocated to the pass-through interest holder for each calendar quarter during the calendar year pursuant to paragraph (a) of this section, and

(B) Any other information specified by the form or its instructions.

(4) Interest held by nominees and other specified persons—(i) Pass-through interest holder's interest held by a nominee. If a pass-through interest holder's interest in a REMIC is held in the name of a nominee, the REMIC may make the information return described in paragraphs (f)(3) (i) and (ii) of this section with respect to the nominee in lieu of the pass-through interest holder and may provide the written statement described in paragraphs (f)(2) (i) and (ii) of this section to that nominee in lieu of the pass-through interest holder.

(ii) Regular interests in a single-class REMIC held by certain persons. For calendar quarters and calendar years after December 31, 1991, if a person specified in § 1.6049-7(e)(4) holds a regular interest in a single-class REMIC (as described in paragraph (a)(2)(ii)(B) of this section), then the single-class REMIC must provide the information described in paragraphs (f)(1) and (f)(3)(ii) (A) and (B) of this section to that person with the information specified in § 1.6049-7(e)(2) as required in § 1.6049-7(e).

(5) Nominee reporting—(i) In general. In any case in which a REMIC provides information pursuant to paragraph (f)(4) of this section to a nominee of a pass-through interest holder for a calendar quarter or, as provided in paragraph (f)(2)(ii) of this section, for a calendar year—

(A) The nominee shall furnish each pass-through interest holder with a written statement described in paragraph (f)(2) (i) or (ii) of this section, whichever is applicable, showing the information described in paragraph (f)(1) of this section, and

(B) If—

(1) The nominee is a nominee for a pass-through interest holder who holds a regular interest in a single-class REMIC (as described in paragraph (a)(2)(ii)(B) of this section), and

(2) The nominee is required to make an information return pursuant to section 6049 and § 1.6049-7(b)(2)(i) and (b)(2)(ii)(B) (or would be required to make an information return but for the \$10 threshold described in section 6049(a)(2) and § 1.6049-7(b)(2)(i)) with respect to the pass-through interest holder,

**\*49516** the nominee shall make an information return on Form 1099 for each calendar year beginning after December 31, 1987, with respect to the pass-through interest holder and state on this information return the information described in paragraph (f)(3)(ii) (A) and (B) of this section.

(ii) Time for furnishing statement. The statement required by paragraph (f)(5)(i)(A) of this section to be furnished by a nominee to a pass-through interest holder for a calendar quarter or calendar year shall be furnished to this holder no later than 30 days after receiving the written statement described in paragraph (f)(2) (i) or (ii) of this section from the REMIC. If, however, pursuant to paragraph (f)(2)(ii) of this section, the information is separately stated on the statement described in § 1.6049-7(f), then the information must be furnished to the pass-through interest holder in the time specified in § 1.6049-7(f)(5).

(6) Special rules—(i) Time and place for furnishing returns. The returns required by paragraphs (f)(3)(ii) and (f)(5)(i)(B) of this section for any calendar year shall be filed at the time and place that a return required under section 6049 and § 1.6049-7(b)(2) is required to be filed. See § 1.6049-4(g) and § 1.6049-7(b)(2)(iv).

(ii) Duplicative returns not required. The requirements of paragraphs (f)(3)(ii) and (f)(5)(i)(B) of this section for the making of an information return shall be met by the timely filing of an information return pursuant to section 6049 and § 1.6049-7(b)(2) that contains the information required by paragraph (f)(3)(ii) of this section.

26 CFR § 1.860D-1T

26 CFR § 1.860F-4T

§§ 1.860D-1T and 1.860F-4T [Removed]

26 CFR § 1.860D-1T

26 CFR § 1.860F-4T

**Par. 3.** Sections 1.860D-1T and 1.860F-4T are removed.

[26 CFR § 1.860D-1](#)

[26 CFR § 1.860F-4](#)

**Par. 4.** [Sections 1.860D-1](#) and [1.860F-4](#) are added to read as follows:

[26 CFR § 1.860D-1](#)

[§ 1.860D-1](#) Definition of a REMIC.

(a) In general. (Reserved)

(b) Specific requirements. (Reserved)

(c) Segregated pool of assets—(1) Formation of REMIC. A REMIC may be formed as a segregated pool of assets rather than as a separate entity. To constitute a REMIC, the assets identified as part of the segregated pool must be treated for all Federal income tax purposes as assets of the REMIC and interests in the REMIC must be based solely on assets of the REMIC.

(2) Identification of assets. (Reserved)

(3) Qualified entity defined. For purposes of this section, the term “qualified entity” includes an entity or a segregated pool of assets within an entity.

(d) Election to be treated as a real estate mortgage investment conduit—(1) In general. A qualified entity, as defined in paragraph (c)(3) of this section, elects to be treated as a REMIC by timely filing, for the first taxable year of its existence, a Form 1066, U.S. Real Estate Mortgage Investment Conduit Income Tax Return, signed by a person authorized to sign that return under [§ 1.860F-4\(c\)](#). See [§ 1.9100-1](#) for rules regarding extensions of time for making elections. Once made, this election is irrevocable for that taxable year and all succeeding taxable years.

(2) Information required to be reported in the REMIC's first taxable year. For the first taxable year of the REMIC's existence, the qualified entity, as defined in paragraph (c)(3) of this section, must provide either on its return or in a separate statement attached to its return—

(i) The REMIC's employer identification number, which must not be the same as the identification number of any other entity,

(ii) Information concerning the terms and conditions of the regular interests and the residual interest of the REMIC, or a

copy of the offering circular or prospectus containing such information,

(iii) A description of the prepayment and reinvestment assumptions that are made pursuant to section 1272(a)(6) and the regulations thereunder, including a statement supporting the selection of the prepayment assumption,

(iv) The form of the electing qualified entity under State law or, if an election is being made with respect to a segregated pool of assets within an entity, the form of the entity that holds the segregated pool of assets, and

(v) Any other information required by the form.

(3) Requirement to keep sufficient records. A qualified entity, as defined in paragraph (c)(3) of this section, that elects to be a REMIC must keep sufficient records concerning its investments to show that it has complied with the provisions of [sections 860A](#) through [860G](#) and the regulations thereunder during each taxable year.

#### [26 CFR § 1.860F-4](#)

[§ 1.860F-4](#) REMIC reporting requirements and other administrative rules.

(a) In general. Except as provided in paragraph (c) of this section, for purposes of subtitle F of the Internal Revenue Code, a REMIC is treated as a partnership and any holder of a residual interest in the REMIC is treated as a partner. A REMIC is not subject, however, to the rules of subchapter C of chapter 63 of the Internal Revenue Code, relating to the treatment of partnership items, for a taxable year if there is at no time during the taxable year more than one holder of a residual interest in the REMIC.

(b) REMIC tax return—(1) In general. To satisfy the requirement under section 6031 to make a return of income for each taxable year, a REMIC must file the return required by paragraph (b)(2) of this section. The due date and any extensions for filing the REMIC's annual return are determined as if the REMIC were a partnership.

(2) Income tax return. The REMIC must make a return, as required by section 6011(a), for each taxable year on Form 1066, U.S. Real Estate Mortgage Investment Conduit Income Tax Return. The return must include—

(i) The amount of principal outstanding on each class of regular interests as of the close of the taxable year,

(ii) The amount of the daily accruals determined under section 860E(c), and

(iii) The information specified in [§ 1.860D-1\(d\)\(2\)](#) (i), (iv), and (v).

(c) Signing of REMIC return—(1) In general. Although a REMIC is generally treated as a partnership for purposes of subtitle F, for purposes of determining who is authorized to sign a REMIC's income tax return for any taxable year, the REMIC is not treated as a partnership and the holders of residual interests in the REMIC are not treated as partners. Rather, the REMIC return must be signed by a person who could sign the return of the entity absent the REMIC election. Thus, the return of a REMIC that is a corporation or trust under applicable State law must be signed by a corporate officer or a trustee, respectively. The return of a REMIC that consists of a segregated pool of assets must be signed by a person who could sign the return of the entity that owns the assets of the REMIC under applicable State law.

(2) REMIC whose startup day is before November 10, 1988—(i) In general. The income tax return of a REMIC whose startup day is before November 10, 1988, may be signed by any person who held a residual interest during the taxable year to which the return relates, or, as provided in [section 6903](#), by a fiduciary, as defined in section 7701(a)(6), who is

acting for the REMIC and who has furnished adequate notice in the manner prescribed in § 301.6903-1(b) of this chapter.

(ii) Startup day. For purposes of paragraph (c)(2) of this section, startup day means any day selected by a REMIC that is on or before the first day on which interests in such REMIC are issued.

**\*49517** (iii) Exception. A REMIC whose startup day is before November 10, 1988, may elect to have paragraph (c)(1) of this section apply, instead of paragraph (c)(2) of this section, in determining who is authorized to sign the REMIC return. See section 1006(t)(18)(B) of the Technical and Miscellaneous Revenue Act of 1988 (102 Stat. 3426) and § 5h.6(a)(1) of this chapter for the time and manner for making this election.

(d) Designation of tax matters person. A REMIC may designate a tax matters person in the same manner in which a partnership may designate a tax matters partner under § 301.6231(a)(7)-1T of this chapter. For purposes of applying that section, all holders of residual interests in the REMIC are treated as general partners.

(e) Notice to holders of residual interests—(1) Information required. As of the close of each calendar quarter, a REMIC must provide to each person who held a residual interest in the REMIC during that quarter notice on Schedule Q (Form 1066) of information specified in paragraphs (e)(1) (i) and (ii) of this section.

(i) In general. Each REMIC must provide to each of its residual interest holders the following information—

(A) That person's share of the taxable income or net loss of the REMIC for the calendar quarter;

(B) The amount of the excess inclusion (as defined in section 860E and the regulations thereunder), if any, with respect to that person's residual interest for the calendar quarter;

(C) If the holder of a residual interest is also a pass-through interest holder (as defined in § 1.67-3T(a)(2)), the allocable investment expenses (as defined in § 1.67-3T(a)(4)) for the calendar quarter, and

(D) Any other information required by Schedule Q (Form 1066).

(ii) Information with respect to REMIC assets—(A) 95 percent asset test. For calendar quarters after 1988, each REMIC must provide to each of its residual interest holders the following information—

(1) The percentage of REMIC assets that are qualifying real property loans under [section 593](#),

(2) The percentage of REMIC assets that are assets described in section 7701(a)(19), and

(3) The percentage of REMIC assets that are real estate assets defined in section 856(c)(6)(B), computed by reference to the average adjusted basis (as defined in section 1011) of the REMIC assets during the calendar quarter (as described in paragraph (e)(1)(iii) of this section). If the percentage of REMIC assets represented by a category is at least 95 percent, then the REMIC need only specify that the percentage for that category was at least 95 percent.

(B) Additional information required if the 95 percent test not met. If, for any calendar quarter after 1988, less than 95 percent of the assets of the REMIC are real estate assets defined in section 856(c)(6)(B), then, for that calendar quarter, the REMIC must also provide to any real estate investment trust (REIT) that holds a residual interest the following information—

(1) The percentage of REMIC assets described in section 856(c)(5)(A), computed by reference to the average adjusted basis of the REMIC assets during the calendar quarter (as described in paragraph (e)(1)(iii) of this section),

(2) The percentage of REMIC gross income (other than gross income from prohibited transactions defined in [section 860F\(a\)\(2\)](#)) described in section 856(c)(3)(A) through (E), computed as of the close of the calendar quarter, and

(3) The percentage of REMIC gross income (other than gross income from prohibited transactions defined in [section 860F\(a\)\(2\)](#)) described in section 856(c)(3)(F), computed as of the close of the calendar quarter. For purposes of this paragraph (e)(1)(ii)(B)(3), the term “foreclosure property” contained in section 856(c)(3)(F) has the meaning specified in [section 860G\(a\)\(8\)](#).

In determining whether a REIT satisfies the limitations of section 856(c)(2), all REMIC gross income is deemed to be derived from a source specified in section 856(c)(2).

(C) For calendar quarters in 1987. For calendar quarters in 1987, the percentages of assets required in paragraphs (e)(1)(ii) (A) and (B) of this section may be computed by reference to the fair market value of the assets of the REMIC as of the close of the calendar quarter (as described in paragraph (e)(1)(iii) of this section), instead of by reference to the average adjusted basis during the calendar quarter.

(D) For calendar quarters in 1988 and 1989. For calendar quarters in 1988 and 1989, the percentages of assets required in paragraphs (e)(1)(ii) (A) and (B) of this section may be computed by reference to the average fair market value of the assets of the REMIC during the calendar quarter (as described in paragraph (e)(1)(iii) of this section), instead of by reference to the average adjusted basis of the assets of the REMIC during the calendar quarter.

(iii) Special provisions. For purposes of paragraph (e)(1)(ii) of this section, the percentage of REMIC assets represented by a specified category computed by reference to average adjusted basis (or fair market value) of the assets during a calendar quarter is determined by dividing the average adjusted bases (or for calendar quarters before 1990, fair market value) of the assets in the specified category by the average adjusted basis (or, for calendar quarters before 1990, fair market value) of all the assets of the REMIC as of the close of each month, week, or day during that calendar quarter. The monthly, weekly, or daily computation period must be applied uniformly during the calendar quarter to all categories of assets and may not be changed in succeeding calendar quarters without the consent of the Commissioner.

(2) Quarterly notice required—(i) In general. Schedule Q must be mailed (or otherwise delivered) to each holder of a residual interest during a calendar quarter no later than the last day of the month following the close of the calendar quarter.

(ii) Special rule for 1987. Notice to any holder of a REMIC residual interest of the information required in paragraph (e)(1) of this section for any of the four calendar quarters of 1987 must be mailed (or otherwise delivered) to each holder no later than March 28, 1988.

(3) Nominee reporting—(i) In general. If a REMIC is required under paragraphs (e) (1) and (2) of this section to provide notice to an interest holder who is a nominee of another person with respect to an interest in the REMIC, the nominee must furnish that notice to the person for whom it is a nominee.

(ii) Time for furnishing statement. The nominee must furnish the notice required under paragraph (e)(3)(i) of this section to the person for whom it is a nominee no later than 30 days after receiving this information.

(4) Reports to the Internal Revenue Service. For each person who was a residual interest holder at any time during a REMIC's taxable year, the REMIC must attach a copy of Schedule Q to its income tax return for that year for each quarter in which that person was a residual interest holder. Quarterly notice to the Internal Revenue Service is not required.

26 CFR § 1.6049-4

§ 1.6049-4 [Amended]

26 CFR § 1.6049-4

Par. 5. Section 1.6049-4 is amended as follows:

1. The first sentence of paragraph (b)(2) is removed and two new sentences are added in its place.
2. The second sentence in paragraph (b)(2)(iii) is revised.
- \*49518 3. The concluding text of paragraph (b)(2), is revised.
4. The added and revised provisions read as follows:

26 CFR § 1.6049-4

§ 1.6049-4 Returns of information as to interest paid and original issue discount includible in gross income after December 31, 1982.

\* \* \* \* \*(b) \* \* \*

(2) Original issue discount. Except as provided in paragraph (b)(3) of this section, in the case of original issue discount, an information return on Forms 1096 and 1099 shall be made for each calendar year of any holder of an obligation as to which there is original issue discount includible in gross income aggregating \$10 or more. For calendar years before 1992, semiannual record date reporting under § 1.6049-1(a)(1)(ii)(b)(1) may be used, and if it is used, the original issue discount includible in gross income is determined by treating each holder as holding the obligation on every day it was outstanding during the calendar year. \* \* \*

(iii) \* \* \* For calendar years before 1992, semiannual record date reporting under § 1.6049-1(a)(1)(ii)(b)(1) may be used, and if it is used, the original issue discount includible in gross income is determined by treating each holder as holding the obligation on every day it was outstanding during the calendar year. \* \* \*

\* \* \* \* \*Section 1.6049-1(a)(1)(ii)(b)(2) and, for calendar years before 1992, § 1.6049-1(a)(1)(ii) (b)(1), and (c), apply for purposes of this paragraph.

\* \* \* \* \*26 CFR § 1.6049-7T

Par. 6. Section 1.6049-7T is revised to read as follows:

26 CFR § 1.6049-7T

§ 1.6049-7T Market discount fraction reported with other financial information with respect to REMICs and collateralized debt obligations (temporary).

For purposes of § 1.6049-7(f)(2)(i)(G)(1) relating to the market discount fraction to be reported with other financial information with respect to REMICs and other collateralized debt obligations, if the REMIC regular interest or the collateralized debt obligation has de minimis original issue discount (as defined in section 1273(a)(3) and any regulations there-

under), then, at the option of the REMIC or the issuer of the collateralized debt obligation, a fraction computed in the manner specified in paragraph (f)(2)(ii)(K) of this section taking into account the de minimis original issue discount may be reported instead of the fraction specified in § 1.6049-7(f)(2)(i)(G)(1)(i). The REMIC or the issuer of the collateralized debt obligation, however, must be consistent in the method used to compute this fraction.

26 CFR § 1.6049-7

Par. 7. Section 1.6049-7 is added to read as follows:

26 CFR § 1.6049

§ 1.6049 Returns of information with respect to REMIC regular interests and collateralized debt obligations.

(a) Definition of interest—(1) In general. For purposes of section 6049(a), for taxable years beginning after December 31, 1986, the term interest includes:

- (i) Interest actually paid with respect to a collateralized debt obligation (as defined in paragraph (d)(2) of this section),
- (ii) Interest accrued with respect to a REMIC regular interest (as defined in section 860G(a)(1)), or
- (iii) Original issue discount accrued with respect to a REMIC regular interest or a collateralized debt obligation.

(2) Interest deemed paid. For purposes of this section and in determining who must make an information return under section 6049(a), interest as defined in paragraphs (a)(1) (ii) and (iii) of this section is deemed paid when includible in gross income under section 860B (b) or section 1272.

(b) Information required to be reported to the Internal Revenue Service—(1) Requirement of filing Form 8811 by REMICs and other issuers—(i) In general. Except in the case of a REMIC all of whose regular interests are owned by one other REMIC, every REMIC and every issuer of a collateralized debt obligation (as defined in paragraph (d)(2) of this section) must make an information return on Form 8811, Information Return for Real Estate Mortgage Investment Conduits (REMICs) and Issuers of Collateralized Debt Obligations. Form 8811 must be filed in the time and manner prescribed in paragraph (b)(1)(iii) of this section. The submission of Form 8811 to the Internal Revenue Service does not satisfy the election requirement specified in § 1.860D-1T(d) and does not require election of REMIC status.

(ii) Information required to be reported. The following information must be reported to the Internal Revenue Service on Form 8811—

- (A) The name, address, and employer identification number of the REMIC or the issuer of a collateralized debt obligation (as defined in paragraph (d)(2) of this section);
- (B) The name, title, and either the address or the address and telephone number of the official or representative of the REMIC or the issuer of a collateralized debt obligation who will provide to any person specified in paragraph (e)(4) of this section the interest and original issue discount information specified in paragraph (e)(2) of this section;
- (C) The startup day (as defined in section 860G(a)(9)) of the REMIC or the issue date (as defined in section 1275(a)(2)) of the collateralized debt obligation;
- (D) The Committee on Uniform Security Identification Procedure (CUSIP) number, account number, serial number, or other identifying number or information, of each class of REMIC regular interest or collateralized debt obligation;

(E) The name, title, address, and telephone number of the official or representative of the REMIC or the issuer of a collateralized debt obligation whom the Internal Revenue Service may contact, and

(F) Any other information required by Form 8811.

(iii) Time and manner of filing of information return—

(A) Manner of filing. Form 8811 must be filed with the Internal Revenue Service at the address specified on the form. The information specified in paragraph (b)(1)(ii) of this section must be provided on Form 8811 regardless of whether other information returns are filed by use of electronic media.

(B) Time for filing. Form 8811 must be filed by each REMIC or issuer of a collateralized debt obligation on or before the later of July 31, 1989, or the 30th day after—

(1) the startup day (as defined in [section 860G\(a\)\(9\)](#)) in the case of a REMIC, or

(2) the issue date (as defined in [section 1275\(a\)\(2\)](#)) in the case of a collateralized debt obligation.

Further, each REMIC or issuer of a collateralized debt obligation must file a new Form 8811 on or before the 30th day after any change in the information previously provided on Form 8811.

(2) Requirement of reporting by REMICs, issuers, and nominees—(i) In general. Every person described in paragraph (b)(2)(ii) of this section who pays to another person \$10 or more of interest (as defined in paragraph (a) of this section) during any calendar year must file an information return on Form 1099, unless the interest is paid to a person specified in paragraph (c) of this section.

(ii) Person required to make reports. The persons required to make an information return under [section 6049\(a\)](#) and this section are—

**\*49519** (A) REMICs or issuers of collateralized debt obligations (as defined in paragraph (d)(2) of this section), and

(B) Any broker who holds as a nominee or middleman who holds as a nominee any REMIC regular interest or any collateralized debt obligation.

(iii) Information to be reported—(A) REMIC regular interests and collateralized debt obligations not issued with original issue discount. An information return on Form 1099 must be made for each holder of a REMIC regular interest or collateralized debt obligation not issued with original issue discount, but only if the holder has been paid interest (as defined in paragraph (a) of this section) of \$10 or more for the calendar year. The information return must show—

(1) The name, address, and taxpayer identification number of the record holder,

(2) The CUSIP number, account number, serial number, or other identifying number or information, of each REMIC regular interest or collateralized debt obligation, with respect to which a return is being made,

(3) The aggregate amount of interest paid or deemed paid to the record holder for the period during the calendar year for which the return is made,

(4) The name, address, and taxpayer identification number of the person required to file this return, and

(5) Any other information required by the form.

(B) REMIC regular interests and collateralized debt obligations issued with original issue discount. An information return on Form 1099 must be made for each holder of a REMIC regular interest or a collateralized debt obligation issued with original issue discount, but only if the holder has been paid interest (as defined in paragraph (a) of this section) of \$10 or more for the calendar year. The information return must show—

- (1) The name, address, and taxpayer identification number of the record holder,
- (2) The CUSIP number, account number, serial number, or other identifying number or information, of each REMIC regular interest or collateralized debt obligation, with respect to which a return is being made,
- (3) The aggregate amount of original issue discount deemed paid to the record holder for the period during the calendar year for which the return is made,
- (4) The aggregate amount of interest, other than original issue discount, paid or deemed paid to the record holder for the period during the calendar year for which the return is made,
- (5) The name, address, and taxpayer identification number of the person required to file this return, and
- (6) Any other information required by the form.

(C) Cross-reference. See [§ 1.67-3T\(f\)\(3\)\(ii\)](#) for additional information required to be included on an information return on Form 1099 with respect to certain holders of regular interests in REMICs described in [§ 1.67-3T\(a\)\(2\)\(ii\)](#).

(iv) Time and place for filing a return with respect to amounts includible as interest. The returns required under paragraph (b)(2) of this section for any calendar year must be filed after September 30 of that year, but not before the payor's final payment to the payee for the year, and on or before February 28 of the following year. These returns must be filed with the appropriate Internal Revenue Service Center, the address of which is listed in the instructions for Form 1099. For extensions of time for filing returns under this section, see [§ 1.6081-1](#). For magnetic media filing requirements, see [§ 301.6011-2](#) of this chapter.

(c) Information returns not required. An information return is not required under [section 6049\(a\)](#) and this section with respect to payments of interest on a REMIC regular interest or collateralized debt obligation, if the holder of the REMIC regular interest or the collateralized debt obligation is—

- (1) An organization exempt from taxation under section 501(a) or an individual retirement plan;
- (2) The United States or a State, the District of Columbia, a possession of the United States, or a political subdivision or a wholly-owned agency or instrumentality of any one or more of the foregoing;
- (3) A foreign government, a political subdivision thereof, or an international organization;
- (4) A foreign central bank of issue (as defined in [§ 1.895-1\(b\)\(1\)](#)) to be a bank which is by law or government sanction the principal authority, other than the government itself, issuing instruments intended to circulate as currency);
- (5) A trust described in section 4947(a)(1) (relating to certain charitable trusts);
- (6) For calendar quarters and calendar years after 1988, a broker (as defined in section 6045(c) and [§ 1.6045-1\(a\)\(1\)](#));

(7) For calendar quarters and calendar years after 1988, a person who holds the REMIC regular interest or collateralized debt obligation as a middleman (as defined in [§ 1.6049-4\(f\)\(4\)](#));

(8) For calendar quarters and calendar years after 1988, a corporation (as defined in section 7701(a)(3)), whether domestic or foreign;

(9) For calendar quarters and calendar years after 1988, a dealer in securities or commodities required to register as such under the laws of the United States or a State;

(10) For calendar quarters and calendar years after 1988, a real estate investment trust (as defined in [section 856](#));

(11) For calendar quarters and calendar years after 1988, an entity registered at all times during the taxable year under the Investment Company Act of 1940;

(12) For calendar quarters and calendar years after 1988, a common trust fund (as defined in section 584 (a));

(13) For calendar quarters and calendar years after 1988, a financial institution such as a mutual savings bank, savings and loan association, building and loan association, cooperative bank, homestead association, credit union, industrial loan association or bank, or other similar organization;

(14) For calendar quarters and calendar years after 1988, any trust which is exempt from tax under section 664(c) (i.e., a charitable remainder annuity trust or a charitable remainder unitrust); and

(15) For calendar quarters and calendar years after 1988, a REMIC.

(d) Special provisions and definitions—(1) Incorporation of referenced rules. The special rules of [§ 1.6049-4\(d\)](#) are incorporated in this section, as applicable, except that [§ 1.6049-4\(d\)\(2\)](#) does not apply to any REMIC regular interest or any other debt instrument to which section 1272(a)(6) applies. Further, [§ 1.6049-5\(c\)](#) does not apply to any REMIC regular interest or any other debt instrument to which section 1272(a)(6) applies.

(2) Collateralized debt obligation. For purposes of this section, the term “collateralized debt obligation” means any debt instrument (except a tax-exempt obligation) described in section 1272(a)(6)(C)(ii) that is issued after December 31, 1986.

(e) Requirement of furnishing information to certain nominees, corporations, and other specified persons—(1) In general. For calendar quarters and calendar years after 1988, each REMIC or issuer of a collateralized debt obligation (as defined in paragraph (d)(2) of this section) must provide the information specified in paragraph (e)(2) of this section in the time and manner prescribed in paragraph (e)(3) of this **\*49520** section to any persons specified in paragraph (e)(4) of this section who request the information.

(2) Information required to be reported. For each class of REMIC regular interest or collateralized debt obligation and for each calendar quarter specified by the person requesting the information, the REMIC or issuer of a collateralized debt obligation must provide the following information—

(i) The name, address and Employer Identification Number of the REMIC or issuer of a collateralized debt obligation;

(ii) The CUSIP number, account number, serial number, or other identifying number or information, of each specified class of REMIC regular interest or collateralized debt obligation and, for calendar quarters and calendar years after 1991,

whether the information being reported is with respect to a REMIC regular interest or a collateralized debt obligation;

(iii) Interest paid on a collateralized debt obligation in the specified class for each calendar quarter, and the aggregate amount for the calendar year if the request is made for the last quarter of the calendar year;

(iv) Interest accrued on a REMIC regular interest in the specified class for each accrual period any day of which is in the specified calendar quarter, and the aggregate amount for the calendar year if the request is made for the last quarter of the calendar year;

(v) Original issue discount accrued on a collateralized debt obligation or REMIC regular interest in the specified class for each accrual period any day of which is in that calendar quarter, and the aggregate amount for the calendar year if the request is made for the last quarter of the calendar year;

(vi) The daily portion of original issue discount per \$1,000 of original principal amount (or for calendar quarters prior to 1992, per other specified unit) as determined under section 1272(a)(6) and the regulations thereunder for each accrual period any day of which is in the specified calendar quarter;

(vii) The length of the accrual period;

(viii) The adjusted issue price (as defined in [section 1275\(a\)\(4\)\(B\)\(ii\)](#)) of the REMIC regular interest or the collateralized debt obligation at the beginning of each accrual period any day of which is in the specified calendar quarter;

(ix) The information required by paragraph (f)(3) of this section;

(x) Information required to compute the accrual of market discount including, for calendar years after 1989, the information required by paragraphs (f)(2)(i)(G) or (f)(2)(ii)(K) of this section; and

(xi) For calendar quarters and calendar years after 1991, if the REMIC is a single class REMIC (as described in [§ 1.67-3T \(a\)\(2\)\(ii\)\(B\)](#)), the information described in [§ 1.67-3T \(f\)\(1\)](#) and [\(f\)\(3\)\(ii\)](#) (A) and (B).

(3) Time and manner for providing information—(i) Manner of providing information. The information specified in paragraph (e)(2) of this section may be provided as follows—

(A) By telephone;

(B) By written statement sent by first class mail to the address provided by the requesting party;

(C) By causing it to be printed in a publication generally read by and available to persons specified in paragraph (e)(4) and by notifying the requesting persons in writing or by telephone of the publication in which it will appear, the date of its appearance, and, if possible, the page upon which it appears; or

(D) By any other method agreed to by the parties. If the information is published, then the publication should also specify the date and, if possible, the page on which corrections, if any, will be printed.

(ii) Time for furnishing the information. Each REMIC or issuer of a collateralized debt obligation must furnish the information specified in paragraph (e)(2) of this section on or before the later of—

(A) The 30th day after the close of the calendar quarter for which the information was requested, or

(B) The day that is two weeks after the receipt of the request.

(4) Persons entitled to request information. The following persons may request the information specified in paragraph (e)(2) of this section with respect to a specified class of REMIC regular interests or collateralized debt obligations from a REMIC or issuer of a collateralized debt obligation in the manner prescribed in paragraph (e)(5) of this section—

(i) Any broker who holds on its own behalf or as a nominee any REMIC regular interest or collateralized debt obligation in the specified class,

(ii) Any middleman who is required to make an information return under [section 6049 \(a\)](#) and paragraph (b)(2) of this section and who holds as a nominee any REMIC regular interest or collateralized debt obligation in the specified class,

(iii) Any corporation or non-calendar year taxpayer who holds a REMIC regular interest or collateralized debt obligation in the specified class directly, rather than through a nominee,

(iv) Any other person specified in paragraphs (c)(9) through (15) of this section who holds a REMIC regular interest or collateralized debt obligation in the specified class directly, rather than through a nominee, or

(v) A representative or agent for a person specified in paragraphs (e)(4)(i), (ii), (iii) or (iv) of this section.

(5) Manner of requesting information from the REMIC. A requesting person specified in paragraph (e)(4) of this section should obtain Internal Revenue Service Publication 938, Real Estate Mortgage Investment Conduit (REMIC) and Collateralized Debt Obligation Reporting Information (or other guidance published by the Internal Revenue Service). This publication contains a directory of REMICs and issuers of collateralized debt obligations. The requesting person can locate the REMIC or issuer from whom information is needed and request the information from the official or representative of the REMIC or issuer in the manner specified in the publication. The publication will specify either an address or an address and telephone number. If the publication provides only an address, the request must be made in writing and mailed to the specified address. Further, the request must specify the calendar quarters (e.g., all calendar quarters in 1989) and the classes of REMIC regular interests or collateralized debt obligations for which information is needed.

(f) Requirement of furnishing statement to recipient—(1) In general. Every person filing a Form 1099 under [section 6049 \(a\)](#) and this section must furnish to the holder (the person whose identifying number is required to be shown on the form) a written statement showing the information required by paragraph (f)(2) of this section. The written statement provided by a REMIC must also contain the information specified in paragraph (f)(3) of this section.

(2) Form of statement—(i) REMIC regular interests and collateralized debt obligations not issued with original issue discount. For a REMIC regular interest or collateralized debt obligation issued without original issue discount, the written statement must specify for the calendar year the following information—

(A) The aggregate amount shown on Form 1099 to be included in income by that person for the calendar year;

(B) The name, address, and taxpayer identification number of the person required to furnish this statement;

(C) The name, address, and taxpayer identification number of the person who must include the amount of interest in gross income;

**\*49521** (D) A legend, including a statement that the amount is being reported to the Internal Revenue Service, that conforms to the legend on Form 1099, Copy B, For Recipient;

(E) The CUSIP number, account number, serial number, or other identifying number or information, of each REMIC regular interest or collateralized debt obligation, with respect to which a return is being made;

(F) All other items shown on Form 1099 for the calendar year; and

(G) Information necessary to compute accrual of market discount. For calendar years after 1989, this information includes:

(1) For each accrual period in the calendar year—

(i) A fraction, the numerator of which equals the interest, other than original issue discount, allocable to that accrual period, and the denominator of which equals the interest, other than original issue discount, allocable to that accrual period plus the remaining interest, other than original issue discount, as of the end of that accrual period, or

(ii) [Reserved]

(2) [Reserved]

The interest allocable to each accrual period and the remaining interest are calculated by taking into account events which have occurred before the close of the accrual period and the prepayment assumption, if any, determined as of the startup day (as defined in [section 860G \(a\)\(9\)](#)) of the REMIC or the issue date (as defined in [section 1275 \(a\)\(2\)](#)) of the collateralized debt obligation that would be made in computing original issue discount if the debt instrument had been issued with original issue discount.

(ii) REMIC regular interests and collateralized debt obligations issued with original issue discount. For a REMIC regular interest or collateralized debt obligation issued with original issue discount, the written statement must specify for the calendar year the following information—

(A) The aggregate amount of original issue discount includible in the gross income of the holder for the calendar year with respect to the REMIC regular interest or the collateralized debt obligation;

(B) The aggregate amount of interest, other than original issue discount, includible in the gross income of the holder for the calendar year with respect to the REMIC regular interest or the collateralized debt obligation;

(C) The name, address, and taxpayer identification number of the person required to file this form;

(D) The name, address, and taxpayer identification number of the person who must include the amount of interest specified in paragraphs (f)(2)(ii) (A) and (B) of this section in gross income;

(E) For calendar years after 1987, the daily portion of original issue discount per \$1,000 of original principal amount (or for calendar years prior to 1992, per other specified unit) as determined under [section 1272\(a\)\(6\)](#) and the regulations thereunder for each accrual period any day of which is in that calendar year;

(F) For calendar years after 1987, the length of the accrual period;

(G) All other items shown on Form 1099 for the calendar year;

(H) A legend, including a statement that the information required under paragraphs (f)(2)(ii) (A), (B), (C), (D) and (G) of this section is being reported to the Internal Revenue Service, that conforms to the legend on Form 1099, Copy B, For

Recipient;

(I) For calendar years after 1987, the adjusted issue price (as defined in [section 1275\(a\)\(4\)\(B\)\(ii\)](#)) of the REMIC regular interest or the collateralized debt obligation at the beginning of each accrual period with respect to which interest income is required to be reported on Form 1099 for the calendar year;

(J) The CUSIP number, account number, serial number, or other identifying number or information, of each class of REMIC regular interest or collateralized debt obligation, with respect to which a return is being made; and

(K) Information necessary to compute accrual of market discount. For calendar years after 1989, this information includes:

(1) For each accrual period in the calendar year, a fraction, the numerator of which equals the original issue discount allocable to that accrual period, and the denominator of which equals the original issue discount allocable to that accrual period plus the remaining original issue discount as of the end of that accrual period, and

(2) [Reserved]

The original issue discount allocable to each accrual period and the remaining original issue discount are calculated by taking into account events which have occurred before the close of the accrual period and the prepayment assumption determined as of the startup day (as defined in [section 860G \(a\)\(9\)](#)) of the REMIC or the issue date (as defined in [section 1275 \(a\)\(2\)](#)) of the collateralized debt obligation.

(3) Information with respect to REMIC assets—(i) 95 percent asset test. For calendar years after 1988, the written statement provided by a REMIC must also contain the following information for each calendar quarter—

(A) The percentage of REMIC assets that are qualifying real property loans under [section 593](#),

(B) The percentage of REMIC assets that are assets described in [section 7701 \(a\)\(19\)](#), and

(C) The percentage of REMIC assets that are real estate assets defined in [section 856 \(c\)\(6\)\(B\)](#), computed by reference to the average adjusted basis (as defined in [section 1011](#)) of the REMIC assets during the calendar quarter (as described in [§ 1.860F-4 \(e\)\(1\)\(iii\)](#)). If for any calendar quarter the percentage of REMIC assets represented by a category is at least 95 percent, then the statement need only specify that the percentage for that category, for that calendar quarter, was at least 95 percent.

(ii) Additional information required if the 95 percent test not met. If, for any calendar quarter after 1988, less than 95 percent of the assets of the REMIC are real estate assets defined in [section 856 \(c\)\(6\)\(B\)](#), then, for that calendar quarter, the REMIC's written statement must also provide to any real estate investment trust (REIT) that holds a regular interest the following information—

(A) The percentage of REMIC assets described in [section 856 \(c\)\(5\)\(A\)](#), computed by reference to the average adjusted basis of the REMIC assets during the calendar quarter (as described in [§ 1.860F-4 \(e\)\(1\)\(iii\)](#)),

(B) The percentage of REMIC gross income (other than gross income from prohibited transactions defined in [section 860F \(a\)\(2\)](#)) described in [section 856 \(c\)\(3\)\(A\)](#) through (E), computed as of the close of the calendar quarter, and

(C) The percentage of REMIC gross income (other than gross income from prohibited transactions defined in [section](#)

**860F (a)(2)** described in section 856 (c)(3)(F), computed as of the close of the calendar quarter. For purposes of this paragraph (f)(3)(ii)(C), the term “foreclosure property” contained in section 856 (c)(3)(F) shall have the meaning specified in **section 860G (a)(8)**.

In determining whether a REIT satisfies the limitations of section 856 (c)(2), all REMIC gross income is deemed to be derived from a source specified in section 856 (c)(2).

(iii) Calendar years 1988 and 1989. For calendar years 1988 and 1989, the percentage of assets required in paragraphs (f)(3)(i) and (ii) of this section may be computed by reference to the average fair market value of the assets of the REMIC during the calendar quarter (as described in **§ 1.860F-4 (e)(1)(iii)**), instead of by reference to the **\*49522** average adjusted basis of the assets of the REMIC during the calendar quarter.

(4) Cross-reference. See **§ 1.67-3T (f)(2)(ii)** for additional information that may be separately stated on the statement required by this paragraph (f) section with respect to certain holders of regular interests in REMICs described in **§ 1.67-3T (a)(2)(ii)**.

(5) Time for furnishing statements—(i) For calendar quarters and calendar years after 1988. For calendar quarters and calendar years after 1988, each statement required under this paragraph (f) of to be furnished to any person for a calendar year with respect to amounts includible as interest must be furnished to that person after April 30 of that year and on or before March 15 of the following year, but not before the final interest payment (if any) for the calendar year.

(ii) For calendar quarters and calendar years prior to 1989—(A) In general. For calendar quarters and calendar years prior to 1989, each statement required under this paragraph (f) to be furnished to any person for a calendar year with respect to amounts includible as interest must be furnished to that person after April 30 of that year and on or before January 31 of the following year, but not before the final interest payment (if any) for the calendar year.

(B) Nominee reporting. For calendar quarters and calendar years prior to 1989, each statement required under this paragraph (f) to be furnished by a nominee must be furnished to the actual owner of a REMIC regular interest or a collateralized debt obligation to which section 1272 (a)(6) applies on or before the later of—

(1) The 30th day after the nominee receives such information, or

(2) January 31 of the year following the calendar year to which the statement relates.

(6) Special rules—(i) Copy of Form 1099 permissible. The requirements of this paragraph (f) for the furnishing of a statement to any person, including the legend requirement of paragraphs (f)(2)(i)(D) and (f)(2)(ii)(H) of this section, may be met by furnishing to that person—

(A) A copy of the Form 1099 filed pursuant to paragraph (b)(2) of this section in respect of that person, plus a separate statement (mailed with the Form 1099) that contains the information described in paragraphs (f)(2)(i)(E) and (G), (f)(2)(ii)(E), (F), (I), and (K), (f)(3), and (f)(4) of this section, if applicable, of this section, or

(B) A substitute form that contains all the information required under this paragraph (f) and that complies with any current revenue procedure concerning the reproduction of paper substitutes of Forms 1099 and the furnishing of substitute statements to forms recipients. The inclusion on the substitute form of the information specified in this paragraph (f) that is not required by the official Forms 1099 will not cause the substitute form to fail to meet any requirements that limit the information that may be provided with a substitute form.

(ii) Statement furnished by mail. A statement mailed to the last known address of any person shall be considered to be furnished to that person within the meaning of this section.

(7) Requirement that nominees furnish information to corporations and certain other specified persons—(i) In general. For calendar quarters and calendar years after 1988, every broker or middleman must provide in writing or by telephone the information specified in paragraph (e)(2) of this section to—

(A) A corporation,

(B) A non-calendar year taxpayer, or

(C) Any other person specified in paragraphs (c)(9) through (15) of this section

who requests the information and for whom the broker or middleman holds as a nominee a REMIC regular interest or a collateralized debt obligation. A corporation, non-calendar year taxpayer, or any other person specified in paragraphs (c)(9) through (15) of this section may request the information in writing or by telephone for any REMIC regular interest or collateralized debt obligation for calendar quarters any day of which the person held the interest or obligation.

(ii) Time for furnishing information. The statement required in paragraph (f)(7)(i) of this section must be furnished on or before the later of—

(A) The 45th day after receipt of the request,

(B) The 45th day after the close of the calendar quarter for which the information was requested, or

(C) If the request is made for the last calendar quarter in a year, March 15 of the year following the calendar quarter for which the information was requested.

(g) Information required to be set forth on face of debt instrument—(1) In general. In the case of any REMIC regular interest or collateralized debt obligation that is issued after April 8, 1988, and that has original issue discount, the issuer must set forth on the face of the REMIC regular interest or collateralized debt obligation—

(i) The amount of the original issue discount,

(ii) The issue date,

(iii) The rate at which interest is payable (if any) as of the issue date,

(iv) The Yield to maturity, including a statement as to the assumption made under section 1272 (a)(6)(B)(iii),

(v) The method used to determine yield where there is a short accrual period, and

(vi) The amount of the original issue discount allowable to the short accrual period based on the prepayment assumption determined on the startup day (as defined in [section 860G \(a\)\(9\)](#)) or the issue date (as defined in [section 1275 \(a\)\(2\)](#)).

In cases where it is not possible to set forth the information required by this paragraph (g) on the face of the REMIC regular interest or collateralized debt obligation by the issue date, the issuer must deliver to the holder a sticker containing this information within 10 days after the issue date. For rules relating to the penalty imposed for failure to show the information required by this paragraph (g) on the regular interest or collateralized debt obligation, see section 6706 (a) and

the regulations thereunder.

(2) Issuer. For purposes of this paragraph (g), the term “issuer” includes not only domestic issuers but also any foreign issuer who is otherwise subject to United States income tax law, unless the issue is neither listed on an established securities market (as defined in § 1.453-3 (d)(4)) in the United States nor offered for sale or resale in the United States in connection with its original issuance.

PART 5c—TEMPORARY INCOME TAX REGULATIONS UNDER THE ECONOMIC RECOVERY TAX ACT OF 1981Par. 8. The authority citation for part 5c is revised to read as follows:

Authority: [Secs. 168\(f\)\(8\)\(G\) and 7805 of the Internal Revenue Code](#) of 1954 (95 Stat. 216 \* \* \* )

§ 5C.128.1 [Removed]

[26 CFR § 5c.128-1](#)

Par. 9. [Section 5c.128-1](#) is removed.

PART 602—OMB CONTROL NUMBERS UNDER THE PAPERWORK REDUCTION ACTPar. 10. The authority citation for part 602 continues to read as follows:

Authority: [26 U.S.C. 7805](#).

[26 CFR § 602.101](#).

[§ 602.101.\(c\)](#) [Amended]

[26 CFR § 602.101](#)

Par. 11. [Section 602.101](#) (c) is amended by removing in the table—

**\*49523** “§ 1.860D-1T . . . . . 1545-1018”,

“§ 1.860F-4T . . . . . 1545-1018”,

“[§ 1.6049-7T](#) . . . . . 1545-1018”,

“[§ 5c.128-1](#) . . . . . 1545-0012”, and

“[§ 5c.128-1](#) (d) . . . . . 1545-0123”.

Dated: August 22, 1991.

Michael J. Murphy,

Acting Commissioner of Internal Revenue.

Approved:

Kenneth W. Gideon,

Assistant Secretary of the Treasury.

[FR Doc. 91-22848 Filed 9-27-91; 8:45 am]

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