

SUPPORTING STATEMENT  
Internal Revenue Service (IRS)  
Treasury Decision (TD) 8458, Real Estate Mortgage Investment Conduits  
OMB Control Number 1545-1276

1. CIRCUMSTANCES NECESSITATING COLLECTION OF INFORMATION

Internal Revenue Code (IRC) section 860E(e) imposes an excise tax on any transfer of a residual interest in a Real Estate Mortgage Investment Conduits (REMIC) to a disqualified organization. IRC sections 860E(e)(4) and 860E(e)(6)(D) provide relief of the excise tax when the transferee or record holder of the residual interest furnishes an affidavit to the transferor or pass-thru entity stating that they are not a disqualified organization. TD 8458 contains final regulations and guidance relating to the IRC requirements for a REMIC.

Treasury Regulations (TR) Section 1.860E-2(a)(5) requires the REMIC, upon request of the party responsible for the tax liability, to furnish information sufficient to compute the present value of the anticipated excess inclusions.

TR Sections 1.860E-2(a)(7) and 1.860E-2(b)(2) provide requirements for the affidavits provided by the transferee or record holder of a residual interest in a REMIC as required by IRC Sections 860E(e)(4) and 860E(e)(6)(D).

2. USE OF DATA

The transferor of the residual interest in a REMIC will use the data provided by the REMIC to calculate their excise tax liability when the transferee is a disqualified organization. The affidavits will be used as evidence that the excise tax shall not be imposed when the party receiving or holding the residual interest is not a disqualified organization.

3. USE OF IMPROVED INFORMATION TECHNOLOGY TO REDUCE BURDEN

Electronic filing is not possible because there are no reporting requirements associated with these regulations. Improved information technology may be used as agreed upon by the parties involved in the transaction.

4. EFFORTS TO IDENTIFY DUPLICATION

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

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

There is no burden on small businesses or entities by this collection due to the inapplicability of IRC Section 860E.

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

Consequences of less frequent collection on federal programs or policy activities would consist of decreased amount of taxes collected by the IRS, inaccurate and untimely filing of tax returns, and an increase in tax violations.

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

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

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

The IRS received no comments during the public comment period in response to the Federal Register notice (90 FR 46304), dated September 25, 2025.

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

No payment or gift has been provided to any respondents.

10. ASSURANCE OF CONFIDENTIALITY OF RESPONSES

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

11. JUSTIFICATION OF SENSITIVE QUESTIONS

There is no sensitive Personally Identifiable Information (PII) collected by the agency. Information is being shared by the parties involved in the transfer of residual interest in a REMIC and only provided to the IRS during an inquiry or audit.

12. ESTIMATED BURDEN OF INFORMATION COLLECTION

Section 1.860E-2(a)(5) requires the REMIC to furnish, on request of the party responsible for the tax, information sufficient to compute the present value of the anticipated excess inclusions. It is estimated that 100 respondents will spend 1.5 hours each to prepare and furnish the information. The third-party disclosure burden for this requirement is 150 hours.

Sections 1.860E-2(a)(7) and 1.860E-2(b)(2) provide that the tax will not be imposed if the record holder furnishes to the pass-thru or transferor an affidavit stating that the record holder or transferee is not a disqualified party. It is estimated that 1,500 respondents will spend .25 hours each to prepare and furnish the information. The third-party disclosure burden for this requirement is 375 hours.

Authority	Description	# of Respondents	# Responses per Respondent	Annual Responses	Hours per Response	Total Burden Hours
IRC § 860E	Information sufficient to compute the present value of the anticipated excess inclusions	100	1	100	1.5	150
IRC § 860E	Affidavit stating that the record holder is not a disqualified party	1,500	1	1,500	.25	375
<b>Totals</b>		<b>1,600</b>		<b>1,600</b>	<b>.32</b>	<b>525</b>

13. ESTIMATED TOTAL ANNUAL COST BURDEN TO RESPONDENTS

There are no annualized costs to the respondents beyond providing information and keeping records as part of customary and usual business or private practices.

14. ESTIMATED ANNUALIZED COST TO THE FEDERAL GOVERNMENT

There are no annualized costs to the Federal government outside of regular agency activities such as taxpayer assistance and enforcement.

15. REASONS FOR CHANGE IN BURDEN

There is no change in the paperwork burden previously approved by OMB. The agency is making this submission to renew the OMB approval.

16. PLANS FOR TABULATION, STATISTICAL ANALYSIS AND PUBLICATION

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

17. REASONS WHY DISPLAYING THE OMB EXPIRATION DATE IS INAPPROPRIATE

The IRS believes that displaying the OMB expiration date is inappropriate because it could cause confusion by leading taxpayers to believe that the regulations expire as of the expiration date. Taxpayers are not likely to be aware that the IRS intends to request renewal of the OMB approval and obtain a new expiration date before the old one expires.

18. EXCEPTIONS TO THE CERTIFICATION STATEMENT

There are no exceptions to the certification statement.