1997

Department of the Treasury
Internal Revenue Service

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.

Changes To Note

The Taxpayer Relief Act of 1997 ("The Act") made changes to the tax law for REITs, effective for tax years beginning after August 5, 1997. These changes are discussed below.

Qualification requirements.—

- If a REIT fails to comply with Regulations section 1.857-8 to ascertain actual ownership, it will be subject to a monetary penalty, rather than disqualification as a REIT. See section 857(f) and **Other Penalties** on page 5.
- If a REIT meets the requirements for ascertaining actual ownership, and did not know (after exercising reasonable diligence), or have reason to know, that it was so closely held, it will be treated as meeting the requirement that it is not a personal holding company. See section 856(k).
- The 30% gross income test under section 856(c) has been repealed.

Gross income requirements.—

- A REIT can now receive a de minimus amount of income from furnishing "impermissible tenant services" (1% of gross income from the property), without causing all income received with respect to the property to fail to qualify as rent. See section 856(d)(7).
- The Act modified the application of the rule attributing ownership for purposes of determining whether rental payments received by a REIT qualify as rents from real property. Under the Act, attribution occurs only when a partner owns (directly or indirectly) a 25% or greater interest in the partnership. The 25% attribution rule also applies for purposes of determining whether rents are paid to a REIT for services performed by an independent contractor. See section 856(d)(5)(B) and Act section 1253.
- The grace period for treating certain property as foreclosure property has been extended from 2 years to 3 years. The REIT is limited to one extension. In addition, a REIT can now revoke an election to treat certain property as foreclosure property by filing a revocation on or before the due date (including extensions) for filing its return. See section 856(e) and Act section 1257.
- For purposes of the 95% and 75% gross income test, the definition of a shared appreciation mortgage has been clarified.
- For purposes of the 95% gross income test, all hedges that reduce the interest rate risk for REIT liabilities is qualifying income. See section 856(c)(5)(G).

Distribution rules.—

- A REIT may elect to retain, rather than distribute, its net long-term capital gains. If the election is made, the REIT must file **Form 2438,** Undistributed Capital Gains Tax Return, and pay a tax on the undistributed gains. In addition, the REIT must furnish a copy of **Form 2439,** Notice to Shareholder of Undistributed Long-Term Capital Gains, to its shareholders. See section 857(b)(3)(D) and Forms 2438 and 2439.
- For purposes of the requirement that newly electing REITs distribute earnings and profits (E&P) that were accumulated in "non-REIT years," the ordering rule has changed. Distributions are treated as from the REIT's earliest accumulated E&P (rather than from the most recent E&P under prior law). See section 857(d)(3).
- The Act expanded the items of income that are excess noncash items not subject to the distribution requirement. See section 857(e).

Prohibited transaction rules.—

- Interest received on a shared appreciation mortgage is not subject to the tax on prohibited transactions if certain conditions are met. See section 856(j).
- The Act excludes involuntarily converted property from the prohibited sales rules. See section 857(b)(6).

Qualified REIT subsidiary.— The definition of a "qualified REIT subsidiary" has been modified. The REIT no longer has to hold the qualified REIT subsidiary's stock at all times during the period the subsidiary was in existence. See section 856(i).

The Act also made the following changes.

- The carryforward period for net operating losses (NOLs) has changed. Generally, NOLs that occur in tax years beginning after August 5, 1997, are carried forward to each of the 20 taxable years following the year of the loss. For more information, see Act section 1082.
- The Act imposed additional limitations on the deduction of premiums and interest on debt with respect to life insurance, annuity, or endowment contracts. The Act also reduces interest deductions that are allocable, under proration rules described in new section 264(f), to the unborrowed policy cash value of certain life insurance, endowment, or annuity contracts issued or deemed issued after June 8, 1997. For more information, see section 264 and **Line 15–Interest** on page 7.
- The penalty for failure to make electronic deposits of depository taxes using the Electronic Federal Tax Payment System (EFTPS), has been temporarily waived for filers who were first required to use EFTPS on or after July 1, 1997. For more information, see **Electronic deposit requirement** on page 4.
- Employers that paid wages to qualified long-term family assistance (AFDC or its successor program) recipients who began work after December 31, 1997, may qualify to claim the welfare-to-work credit under new section 51A. The credit is figured on **Form 8861,** Welfare-to-Work Credit.
- The research credit has been extended for amounts paid or incurred through June 30, 1998. For details, get **Form 6765,** Credit for Increasing Research Activities.
- The orphan drug credit has been permanently extended. For details, get **Form 8820,** Orphan Drug Credit.
- The work opportunity credit has been extended for wages paid to qualified individuals who begin work for the employer before July 1, 1998. For details, get **Form 5884,** Work Opportunity Credit.

Unresolved Tax Problems

The Problem Resolution Program is for REITs that have been unable to resolve their problems with the IRS. If the REIT has a tax problem it cannot clear up through normal channels, write to the REIT's local IRS District Director or call the REIT's local IRS office and ask for Problem Resolution assistance. Persons who have access to TTY/TDD equipment may call 1-800-829-4059 to ask for help from Problem Resolution. This office cannot change the tax law or technical decisions. But it can help the REIT clear

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up problems that resulted from previous contacts.

How To Get Forms and Publications

Personal computer.— Visit the IRS's Intenet Web Site at **www.irs.ustreas.gov** to get:

- Forms and instructions
- Publications
- IRS press releases and fact sheets.

You can also reach us using:

- Telnet at **iris.irs.ustreas.gov**
- File Transfer Protocol at **ftp.irs.ustreas.gov**
- Direct Dial (by modem) — Dial direct to the Internal Revenue Information Services (IRIS) by calling **703-321-8020** using your modem. IRIS is an on-line information service on FedWorld.

CD-ROM.— A CD-ROM containing over 2,000 tax products (including many prior-year forms) can be purchased from the Government Printing Office (GPO). To order the CD-ROM, call the Superintendent of Documents at **202-512-1800**, or go through GPO's Internet Web Site **(www.access.gpo.gov/su_docs).**

By phone and in person.— To order forms and publications, call **1-800-TAX-FORM (1-800-829-3676)** between 7:30 a.m. and 5:30 p.m. on weekdays. You can also get most forms and publications at your local IRS office.

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, and to figure the income tax liability of a REIT. Also, see **Pub. 542,** Corporations, for more information.

Who Must File

A corporation, trust, or association that meet 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.

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. (However, 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). (However, the REIT does not have to meet this requirement until its 2nd tax year.)*

Other requirements.—

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

1. Have been treated as a REIT for all tax years beginning after February 28, 1986; or

2. Had, at the end of the tax year, no accumulated earnings and profits from any tax year that it was not a REIT.

- The organization must maintain the actual ownership records required by Regulations section 1.857-8.*
- 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. 95% of the REIT's taxable income (excluding the deduction for dividends paid and any net capital gain); plus

2. 95% 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, 857, and the related regulations for details and exceptions.

Note: *For items marked with an asterisk (*), see* **Changes to Note** *on page 1 for changes effective for tax years beginning after August 5, 1997.*

Termination of Election

The election to be treated as a REIT remains in effect until terminated or revoked. 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 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.

When To File

Generally, a REIT must file its income tax return by the 15th day of the 3rd month after the end of the tax year. A new REIT filing a short period return must generally file by the 15th day of the 3rd month after the short period ends. A REIT that has dissolved must generally file by the 15th day of the 3rd month after the date it dissolved.

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

Private delivery services.— You can use certain private delivery services designated by the IRS to meet the “timely mailing as timely filing/paying” rule for tax returns and payments. The IRS publishes a list of the designated private delivery services in September of each year. The list published in September, 1997 includes only the following:

- Airborne Express (Airborne): Overnight Air Express Service, Next Afternoon Service, Second Day Service.
- DHL Worldwide Express (DHL): “Same Day” Service, DHL USA Overnight.
- Federal Express (FedEx): FedEx, Priority Overnight, FedEx Standard Overnight, FedEx 2 Day.
- United Parcel Service (UPS): UPS Next Day Air, UPS Next Day Air Saver, UPS 2nd Day Air, UPS 2nd Day Air A.M.

The private delivery service can tell you how to get written proof of the mailing date.

Extension.— File **Form 7004,** Application for Automatic Extension of Time To File Corporation Income Tax Return, to request a 6-month extension of time to file.

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 tax officer) authorized to sign. Receivers, trustees, or assignees must also sign and date any return filed on behalf of a REIT.

If a corporate officer 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 sign the return. Generally, anyone who is paid to prepare the return must sign it and fill in the Paid Preparer's Use Only area.

The paid preparer must complete the required preparer information; sign the return, by hand, in the space provided for the preparer's signature (signature stamps and labels are not acceptable); and give a copy of the return to the taxpayer.

Where To File

File the tax return at the applicable addresses listed below.

If the REIT's principal business, office, or agency is located in	Use the following Internal Revenue Service Center address
New Jersey, New York (New York City and counties of Nassau, Rockland, Suffolk, and Westchester)	Holtsville, NY 00501
New York (all other counties), Connecticut, Maine, Massachusetts, New Hampshire, Rhode Island, Vermont	Andover, MA 05501
Florida, Georgia, South Carolina	Atlanta, GA 39901
Indiana, Kentucky, Michigan, Ohio, West Virginia	Cincinnati, OH 45999
Kansas, New Mexico, Oklahoma, Texas	Austin, TX 73301
Alaska, Arizona, California (counties of Alpine, Amador, Butte, Calaveras, Colusa, Contra Costa, Del Norte, El Dorado, Glenn, Humboldt, Lake, Lassen, Marin, Mendocino, Modoc, Napa, Nevada, Placer, Plumas, Sacramento, San Joaquin, Shasta, Sierra, Siskiyou, Solano, Sonoma, Sutter, Tehama, Trinity, Yolo, and Yuba), Colorado, Idaho, Montana, Nebraska, Nevada, North Dakota, Oregon, South Dakota, Utah, Washington, Wyoming	Ogden, UT 84201
California (all other counties), Hawaii	Fresno, CA 93888
Illinois, Iowa, Minnesota, Missouri, Wisconsin	Kansas City, MO 64999
Alabama, Arkansas, Louisiana, Mississippi, North Carolina, Tennessee	Memphis, TN 37501
Delaware, District of Columbia, Maryland, Pennsylvania, Virginia	Philadelphia, PA 19255

REITs with their principal place of business outside the United States must file with the Internal Revenue Service Center, Philadelphia, PA 19255.

A group of corporations located in several service center regions will often keep all the books and records at the principal office of the managing corporation. In this case, the income tax returns of the corporations may be filed with the service center for the region in which the principal office is located.

Ownership Interest in a FASIT

If a REIT holds an ownership interest in a financial asset securitization investment trust (FASIT), it must report all items of income, gain, deductions, losses, and credits on the REIT's income tax return (except as provided in section 860H). Show a breakdown of the items on an attached schedule. For more information, see section 860H and 860L.

Other Forms, Returns, Schedules, and Statements That May Be Required

The REIT may have to file some of the following. See the form for more information.

Information Returns

Form 1098, Mortgage Interest Statement, is used to report the receipt from any individual of $600 or more of mortgage interest and points in the course of the REIT's trade or business for any calendar year.

Forms 1099-A, B, C, DIV, INT, LTC, MISC, MSA, OID, PATR, R, and S, are used to report acquisitions and abandonments of secured property through foreclosure; proceeds from broker and barter exchange transactions; cancellation of a debt; certain dividends and distributions; interest income; certain payments under a long-term care insurance contract and certain accelerated death benefits; miscellaneous income; distributions from a medical savings account (MSA); original issue discount; distributions from cooperatives to their patrons; distributions from retirement or profit-sharing plans, IRAs, SEPs, SIMPLEs, and insurance contracts; and proceeds from real estate transactions.

Form W-2, Wage and Tax Statement, and **Form W-3,** Transmittal of Income and Tax Statements, are used to report withheld income, social security, and Medicare taxes for an employee.

Form 5498, IRA, SEP, or SIMPLE Retirement Plan Information, is used to report contributions (including rollover contributions) to an IRA, SEP, or SIMPLE, and the value of an IRA, SEP, or SIMPLE account.

Form 8281, Information Return for Publicly Offered Original Issue Discount Instruments, is used to report the issuance of public offerings of debt instruments.

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

Note: *To transmit Forms 1098, 1099, and 5498, get* **Form 1096,** *Annual Summary and Transmittal of U.S. Information Returns.*

Employment Tax Returns

Form 940 or **Form 940–EZ,** Employer's Annual Federal Unemployment (FUTA) Tax Return, is filed to report annual Federal unemployment (FUTA) tax if the REIT either **(1)** paid wages of $1,500 or more in any calendar quarter in 1996 or 1997, or **(2)** had at least one employee who worked for the REIT for some part of a day in any 20 or more different weeks in 1996 or 20 or more different weeks in 1997.

Form 941, Employer's Quarterly Federal Tax Return, or, for agricultural emloyers, **Form 943,** Employer's Annual Tax Return for Agricultural Employees, is filed to report payroll income tax withheld and employer and employee social security and Medicare taxes. Also, see **Trust fund recovery penalty** on page 5.

Form 945, Annual Return of Withheld Federal Income Tax, is filed to report income tax withholding from nonpayroll distributions or payments. Also, see **Trust fund recovery penalty** on page 5.

Other Forms

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 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)(D).

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)(D).

Form 5452, Corporate Report of Nondividend Distributions, is used to report nondividend distributions.

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

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 8810, Corporate Passive Activity Loss and Credit Limitations, is filed to figure allowable passive activity loss and credit for closely held corporations.

Form 8842, Election to Use Different Annualization Periods for Corporate Estimated Tax, is filed to elect one of the annualization periods in section 6655(e)(2)(C) to figure estimated tax payments under the annualized income installment method.

International Forms

Form 926, Return by a U.S. Transferor of Property to a Foreign Corporation, Foreign Estate or Trust, or Foreign Partnerships. See the instructions for Question 8 on page 12.

Form 1042, Annual Withholding Tax Return for U.S. Source Income of Foreign Persons, and **Form 1042-S,** Foreign Person's U.S. Source Income Subject to Withholding, are used to report and send withheld tax on payments or distributions made to nonresident alien individuals, foreign partnerships, or foreign corporations. Also, see sections 1441 and 1442, and **Pub. 515,** Withholding of Tax on Nonresident Aliens and Foreign Corporations.

Form 3520, Annual Return To Report Transactions with Foreign Trusts and Receipt of Certain Foreign Gifts. See the instructions for Question 8, on page 12.

Form 5471, Information Return of U.S. Persons With Respect to Certain Foreign Corporations. The REIT may have to file Form 5471 if it controls a foreign corporation; acquires, disposes of, or owns 5% or more in value of the outstanding stock of a foreign corporation; or had control of a foreign corporation for an uninterrupted period of at least 30 days during the annual accounting period of the foreign corporation.

Form 5472, Information Return of a 25% Foreign-Owned U.S. Corporation or a Foreign Corporation Engaged in a U.S. Trade or Business, is filed if the REIT is 25% or more foreign-owned. See the instructions for Question 5 on page 11.

Form 5713, International Boycott Report, must be filed if the REIT had operations in or related to a "boycotting" country, company, or national of a country.

Form 8621, Return by a Shareholder of a Passive Foreign Investment Company or Qualified Electing Fund, is filed if the REIT was a shareholder in a passive foreign investment company (under section 1296) at any time during the tax year.

Statements

Stock ownership in foreign corporations.— Attach the statement required by section 551(c) if **(a)** the REIT owned 5% or more in value of the outstanding stock of a foreign personal holding company; and **(b)** the REIT was required to include in its gross income any undistributed foreign personal holding company income from a foreign personal holding company.

Transfers to a corporation controlled by the transferor.— If a person receives stock of a corporation in exchange for property, and no gain or loss is recognized under section 351, the person (transferor) and the transferee must each attach to their tax returns the information required by Regulations section 1.351-3.

Attachments

Attach **Form 4136,** Credit for Federal Tax Paid on Fuels, after page 4, Form 1120-REIT. Attach schedules in alphabetical order and other forms in numerical order after Form 4136.

Complete every applicable entry space on Form 1120-REIT. Do not write "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 on the printed forms. Show the totals on the printed forms. Attach these separate sheets after all the schedules and forms. Be sure to put the REIT's name and EIN on each sheet.

Accounting Methods

An accounting method is a set of rules used to determine when and how income and expenses are reported.

Figure taxable income using the method of accounting regularly used in keeping the REIT's books and records. Generally, permissible methods include cash, accrual, or any other method authorized by the Internal Revenue Code. In all cases, the method used must clearly show taxable income.

Generally, a REIT must use the accrual method of accounting if its average annual gross receipts exceed $5 million. See section 448(c).

Generally, an accrual basis taxpayer can deduct accrued expenses in the tax year when all events that determine the liability have occurred, the amount of the liability can be figured with reasonable accuracy, and economic performance takes place with respect to the expense.

There are exceptions to the economic performance rule for certain items, including recurring expenses. See section 461(h) and the related regulations for the rules for determining when economic performance takes place.

Change in accounting method.— Generally, the REIT may change the method of accounting used to report taxable income (for income as a whole or for any material item) only by getting consent on **Form 3115,** Application for Change in Accounting Method. For more information, get **Pub. 538,** Accounting Periods and Methods.

Accounting Periods

A REIT must figure its taxable income on the basis of a tax year. The tax year is the annual accounting period the 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 first income tax return.

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 get the consent of 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 getting the consent. See Regulations section 1.442-1 and Pub. 538.

Rounding Off to Whole Dollars

The REIT may show amounts on the return and accompanying schedules as whole dollars. To do so, drop amounts less than 50 cents and increase amounts from 50 cents through 99 cents to the next higher dollar.

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 returns and amended returns.

Depository Method of Tax Payment

A REIT must pay the tax due in full no later than the 15th day of the 3rd month after the end of the tax year. Some REITs (described below) are required to electronically deposit all depository taxes, including income tax payments.

Electronic deposit requirement.— The REIT must make electronic deposits of all depository tax liabilities that occur after 1997 if it was required to electronically deposit taxes in prior years; it deposited more than $50,000 in social security, Medicare, or withheld income taxes in 1996; or it **did not** deposit social security, Medicare, and withheld income taxes in 1995 or 1996, but deposited more than $50,000 in other taxes under section 6302 (such as the corporate income tax) in either year. For details, see Regulations section 31.6302–1(h).

The Electronic Federal Tax Payment System (EFTPS) must be used to make electronic deposits. If the corporation is required to make electronic deposits and fails to do so, it may be subject to a 10% penalty.

Note: *A penalty will not be imposed prior to July 1, 1998, if the REIT was first required to use EFTPS on or after July 1, 1997.*

REITs that are not required to make electronic deposits may voluntarily participate in EFTPS. To enroll in EFTPS, call 1-800-945-8400 or 1-800-555-4477. For general information about EFTPS, call 1-800-829-1040.

Deposits with Form 8109— If the REIT does not use EFTPS, deposit REIT income tax payments (and estimated tax payments) with Form 8109. Do not send deposits directly to an IRS office. Mail or deliver the completed Form 8109 with the payment to a qualified depositary for

Federal taxes or to the Federal Reserve bank (FRB) servicing the REIT's geographic area. Make checks or money orders payable to that depositary or FRB. To help ensure proper crediting, write the REIT's employer identification number (EIN), the tax period to which the deposit applies, and “Form 1120-REIT” on the check or money order. Be sure to darken the “1120” box on the coupon. These records of deposits will be sent to the IRS.

A penalty may be imposed if the deposits are mailed or delivered to an IRS office rather than to an authorized depositary or FRB. For more information on deposits, see the instructions in the coupon booklet (Form 8109) and **Pub. 583,** Starting a Business and Keeping Records.

Caution: *If the REIT owes tax when it files Form 1120-REIT, do not include the payment with the tax return. Instead, mail or deliver the payment with Form 8109 to a qualified depositary or FRB or use EFTPS, if applicable.*

Estimated Tax Payments

Generally, the REIT must make installment payments of estimated tax if it expects its estimated tax (alternative minimum tax minus the credit for Federal tax paid on fuels) to be $500 or more. 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. If the REIT does not use EFTPS, use the deposit coupons (Forms 8109) to make deposits of estimated tax.

For more information, including penalties that apply if the REIT fails to make required payments, see the instructions for line 25 on page 8.

Overpaid estimated tax.— If the REIT overpaid 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. File Form 4466 before the 16th day of the 3rd month after the end of the tax year, but before the REIT files its income tax return. Do not file Form 4466 before the end of the REIT's tax year.

Interest and Penalties

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, gross valuation overstatements, 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.

Penalty for 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 $100. The penalty will not be imposed if the REIT can show that the failure to file on time was due to reasonable cause. Attach a statement explaining the reasonable cause.

Penalty for late payment of tax.— A REIT that does not pay the tax when due may be penalized ½ 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.

Trust fund recovery penalty.— This penalty may apply if certain income, social security, and Medicare taxes that must be collected or withheld are not collected or withheld, or these taxes are not paid to the IRS. These taxes are generally reported on Forms 941, 943, or 945. See **Other Forms, Returns, Schedules, and Statements That May Be Required** on page 3. The trust fund recovery penalty may be imposed on all persons who are determined by the IRS to have been responsible for collecting, accounting for, and paying over these taxes, and who acted willfully in not doing so. The penalty is equal to the unpaid trust fund tax. See **Pub. 15** (Circular E), Employer's Tax Guide, or **Pub. 51** (Circular A), Agricultural Employer's Tax Guide, for details, including the definition of responsible persons.

Other penalties.— Other penalties can be imposed for negligence, substantial understatement of tax, and fraud. See sections 6662 and 6663.

For tax years beginning after August 5, 1997, if a 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 penalty of $25,000 ($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 will not be imposed. See section 857(f).

Specific Instructions

Period Covered

File the 1997 return for calendar year 1997 and fiscal years that begin in 1997 and end in 1998. For a fiscal year, fill in the tax year space at the top of the form.

Note: *The 1997 Form 1120-REIT may also be used if **(1)** the REIT has a tax year of less than 12 months that begins and ends in 1998, and **(2)** the 1998 Form 1120-REIT is not available at the time the REIT is required to file its return. However, the REIT must show its 1998 tax year on the 1997 Form 1120-REIT and incorporate any tax law changes that are effective for tax years beginning after December 31, 1997.*

Name and Address

Type or print the REIT's true name (as set forth in the charter or other legal document creating it), and address on the appropriate lines. Include the suite, room, or other unit number after the street address. 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 of the street address.

Note: *If a change in address occurs after the return is filed, use **Form 8822,** Change of Address, to notify the IRS of the new address.*

Items B Through F

Item B1.— 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.

Item C. Employer identification number (EIN).— Enter the correct EIN. If the REIT does not have an EIN, it should apply for one on **Form SS-4,** Application for Employer Identification Number. Form SS-4 can be obtained at Social Security Administration (SSA) offices or by calling 1-800-TAX-FORM. If the REIT has not received its EIN by the time the return is due, write “Applied for” in the space for the EIN. See Pub. 583 for details.

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 it's books and records) at the end of the tax year. If there are no assets at the end of the tax year, enter the total assets as of the beginning of the tax year.

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).

Do not include the following in Part I:

- 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 more information.

Line 3—Gross Rents

Include charges for services customarily furnished or rendered in connection with renting real property and rent from personal property leased under or with a lease of real property (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). 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 in detail on **Schedule D (Form 1120),** Capital Gains and Losses, even though no gain or (loss) is indicated.

Line 7—Other Income

Enter any other taxable income not reported on lines 1 through 6, except amounts that must be reported in Parts II or IV. 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:

- Any adjustment under section 481(a) required to be included in income during the current tax year due to a change in a method of accounting.
- 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.
- The credit for alcohol used as fuel (determined without regard to the limitation based on tax) that was entered on **Form 6478,** Credit for Alcohol Used as Fuel.
- 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.

Deductions

Limitations on Deductions

Direct and indirect costs (including taxes) allocable to real or tangible personal property constructed or improved by the taxpayer.— These costs must be capitalized according to section 263A.

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), 163(j), and 267 for limitations on deductions for unpaid interest and expenses.

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.

Business startup expenses.— These expenses must be capitalized unless an election is made to amortize them over a period of 60 months. See section 195.

Passive activity limitations.— Limitations on passive activity losses and credits under section 469 apply to REITs that are closely held (as defined in section 856(h)). REITs subject to the passive activity limitations must complete Form 8810 to compute their allowable passive activity loss and credit. 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:

- Work opportunity credit.
- Research credit.
- Enhanced oil recovery credit.
- Disabled access credit.
- Empowerment zone employment credit.
- Indian employment credit.
- Employer credit for social security and Medicare taxes paid on certain employee tips.
- Orphan drug credit.
- Welfare-to-work credit.

If the REIT has any of these credits, be sure to figure each current year credit before figuring the deduction for expenses on which the credit is based.

Line 9—Compensation of Officers

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 retirement plan.

Disallowance of deduction for employee compensation in excess of $1 million.— Publicly held corporations may not deduct compensation to a “covered employee” to the extent that the compensation exceeds $1 million. Generally, a covered employee is the chief executive officer of the corporation (or an individual acting in that capacity) as of the end of the tax year, or an employee whose total compensation must be reported to shareholders under the Securities Exchange Act of 1934 because the employee is among the four highest compensated officers for that tax year (other than the chief executive officer).

For this purpose, compensation does not include income from certain employee trusts, annuity plans, or pensions, and any benefit paid to an employee that is excluded from the employee's income.

The deduction limit does not apply to commissions based on individual performance; qualified performance-based compensation; and income payable under a written, binding contract in effect on February 17, 1993.

The $1 million limit is reduced by amounts disallowed as excess parachute payments under section 280G.

For details, see section 62(m) and Regulations section 1.162-27.

Line 10—Salaries and Wages

Enter total salaries and wages paid or incurred for the tax year reduced by any work opportunity credits from Form 5884, any empowerment zone credit from Form 8844, any Indian employment credit from Form 8845, and any welfare-to-work credit from Form 8861. See the instructions for these forms for more information. Do not include salaries and wages 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 retirement plan.

Caution: *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.*

Line 11—Repairs and Maintenance

Enter the cost of incidental repairs and maintenance, such as labor and supplies, that do not add to the value of the property or appreciably prolong its life. New buildings, machinery, or permanent improvements that increase the value of the property are not deductible. They must be depreciated or amortized.

Line 12—Bad Debts

Enter the total debts that became worthless in whole or in part during the tax year.

Caution: *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 fair market value on the first day of the lease exceeded:
After 12/31/96	$15,800
After 12/31/94 but before 1/1/97	$15,500
After 12/31/93 but before 1/1/95	$14,600
After 12/31/92 but before 1/1/94	$14,300

If the lease term began before January 1, 1993, get **Pub. 463,** Travel, Entertainment, Gift and Car Expenses, to find out if the REIT has an inclusion amount. Also see Pub. 463 for instructions on figuring the inclusion amount.

Line 14—Taxes and Licenses

Enter taxes paid or incurred during the tax year, but do not include the following:

- Federal income taxes.
- Foreign income taxes if a tax credit is claimed.
- 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 apportionment of taxes on real property between seller and purchaser.

Line 15—Interest

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

Do not include the following interest:

- Interest on indebtedness incurred or continued to purchase or carry obligations if the interest is wholly exempt from income tax. For exceptions, see section 265(b).
- For cash basis taxpayers, prepaid interest allocable to years following the current tax year.
- Interest and carrying charges on straddles. Generally, these amounts must be capitalized. See section 263(g).

Special rules apply to interest on which no tax is imposed (see section 163(j); forgone interest on certain below-market-rate loans (see section 7872); and original issue discount on certain high-yield discount obligations. (See section 163(e) to figure the disqualified portion.)

Note: *The Taxpayer Relief Act of 1997 imposed additional limitations on interest deductions 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 Act section 1084 and section 264(f). Attach a statement showing the computation of the deduction disallowed under section 264(f).*

Line 16—Depreciation

Besides depreciation, include on line 16 the part of the cost that the REIT elected to expense under section 179 for certain tangible property placed in service during tax year 1997 or carried over from 1996. See Form 4562 and its instructions.

Line 18—Other Deductions

Note: *Do not deduct fines or penalties paid to a government for violating any law.*

Attach a schedule, 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.

Charitable contributions.— Include 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. The total amount claimed may not be more than 10% of taxable income. See section 170(b)(2) for more information.

Generally, no deduction is allowed for any contributions of $250 or more unless the REIT gets a written acknowledgment from the donee organization that shows the amount of cash contributed, describes any property contributed, and gives an estimate of the value of any goods or services 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. These rules apply in addition to the filing requirements for Form 8283 described below. For more information on substantiation and recordkeeping requirements, see the regulations under section 170 and **Pub. 526,** Charitable Contributions.

Contributions made to an organization that conducts lobbying activities are not deductible if the lobbying activities relate to matters of direct financial interest to the donor's trade or business, and the principal purpose of the contribution was to avoid Federal income tax by obtaining a deduction for activities that would have been nondeductible under the lobbying expense rules if conducted directly by the donor.

If a REIT (other than a closely held corporation) contributes property other than cash and claims over a $500 deduction for the property, it must attach a schedule to the return describing the kind of property contributed and the method used to determine its fair market value. A closely held REIT must complete **Form 8283,** Noncash Charitable Contributions, and attach it to its return. All other REITs generally must complete and attach Form 8283 to their returns for contributions of property other than money if the total claimed deduction for all property contributed was more than $5,000.

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 generally must file one of the forms listed below, 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).

Form 5500.— File this form for each plan with 100 or more participants.

Form 5500-C/R.— File this form for each plan with fewer than 100 participants.

Form 5500-EZ.— File this form for a "one-participant plan." This also means a plan that covers the owner and his or her spouse or a plan that covers partners in a business partnership (or the partners and their spouses).

Travel, meals, and entertainment.— Subject to limitations and restrictions discussed below, a REIT can deduct ordinary and necessary travel, meals, and entertainment expenses paid or incurred in its trade or business. Also, special rules apply to deductions for gifts, skybox rentals, luxury water travel, convention expenses, and entertainment tickets. See section 274 and Pub. 463 for details.

Travel.— The 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 corporation, and his or her travel is for a bona fide business purpose and would otherwise be deductible by that individual.

Meals and entertainment.— Generally, the REIT can deduct only 50% of the amount otherwise allowable for meals and entertainment expenses paid or incurred in its trade or business. In addition (subject to exceptions under section 274(k)(2)), meals must not be lavish or extravagant; a bona fide business discussion must occur during, immediately before, or immediately after the meal; and an employee of the REIT must be present at the meal.

Membership dues.— The REIT may 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 for, members or their guests. In addition, REITs may not deduct membership dues in 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.— The REIT cannot deduct an expense paid or incurred for a facility (such as a yacht or hunting lodge) used for an activity that is usually considered entertainment, amusement, or recreation.

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

Deduction for clean-fuel vehicles and certain refueling property.— Section 179A allows a deduction for part of the cost of qualified clean-fuel vehicle property and qualified clean-fuel vehicle refueling property placed in service during the year. For more information, see Pub. 535.

Lobbying expenses.— Generally, lobbying expenses are not deductible. These expenses include amounts paid or incurred in connection with influencing Federal or state legislation (but not 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. See section 162(e)(3). If certain in-house lobbying expenditures do not exceed $2,000, they are deductible. For information on contributions to charitable organizations that conduct lobbying activities, see **Charitable contributions** on page 7. For more information on lobbying expenses, see section 162(e).

Line 20—Taxable Income Before NOL Deduction, Total Deduction for Dividends Paid, and Section 857(b)(2)(E) Deduction

At-risk rules.— 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. These REITs that are closely held may have to adjust the amount on line 20.

But 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 corporation under section 465(c)(7).

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

For more information, see section 465 and **Form 6198,** At-Risk Limitations.

Line 21a—Net Operating Loss Deduction

A REIT may use the net operating loss (NOL) incurred in one tax year to reduce its taxable income in another year. Generally, a REIT may carry an NOL over to each of the 15 years (20 years fo tax years beginning after August 5, 1997) following the year of loss. REITs are **not** permitted to carry back an NOL to any year preceding the year of the loss. In addition, an NOL from a year that is not a REIT year may not be carried back to any year that is a REIT year.

Enter on line 21a the total NOL carryovers from prior tax years, but do not enter more than the REIT's taxable income. An NOL deduction cannot be taken in a year in which the REIT has negative taxable income. Attach a schedule showing the computation of the NOL deduction. Also complete question 12 on Schedule K.

For details on the NOL deduction, get **Pub. 536,** Net Operating Losses.

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.— After the REIT applies the NOL to the first tax year to which it may be carried, the taxable income of that year is modified (as described in section 172(b)) to determine how much of the remaining loss may be carried to other years. See section 172(b) and the related regulations for details.

Special rules apply when an ownership change occurs (i.e., the amount of the taxable income of a loss corporation that can be offset by pre-change NOL carryovers is limited). See section 382 and the related regulations. Also see Temporary Regulations section 1.382-2T(a)(2)(ii), which requires that a loss corporation file an information statement with its income tax return for each tax year that it is a loss corporation and certain shifts in ownership occurred. Also, see Regulations section 1.382-6(b) for details on how to make the closing-of-the-books election.

See section 384 for the limitation on the use of preacquisition losses of one corporation to offset recognized built-in gains of another corporation.

Note: *See section 383 and the related regulations for limits that apply to net capital losses and credits when an ownership change occurs.*

Tax and Payments

Line 24b—Estimated Tax Payments

Enter any estimated tax payments the REIT made for the tax year.

Line 24f

Enter the credit (from Form 2439) for the REIT's share of the tax paid by a 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 24h

Add the amounts on lines 24d through 24g and enter the total on line 24h.

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 24h. This type of withholding is called backup withholding. Show the amount withheld in the blank space in the right-hand column between lines 23 and 24h, and write “backup withholding.”

Line 25—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 **(a)** 100% of its alternative minimum tax minus the credit for Federal tax paid on fuels for 1997 as shown on the return, or **(b)** 100% of its prior year's tax (computed in the same manner). See section 6655 for details and exceptions, including special rules for large corporations.

Use **Form 2220,** Underpayment of Estimated Tax by Corporations, to see if 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 Form 2220 instructions for the definition of a large corporation.

If you attach Form 2220, check the box on line 25, page 1, Form 1120-REIT, and enter the amount of any penalty on this line.

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 so treat the property in the year the property was acquired. This election must be made by the due date for filing Form 1120-REIT (including extensions).

Generally, the election is irrevocable. However, for tax years beginning after August 5, 1997, a 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.

To make the election, attach a statement that indicates that the election under section 856(e) is being made, and identifies the property to which the election applies. Include 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 a description of the lease or debt with respect to which default occurred or was imminent).

Line 2—Gross Income From Foreclosure Property

Do not include income that qualifies under the REIT's 75% gross income test under sections 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.

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

All REITs must complete lines 1a through 8 of Part III. If line 8 is zero, **do not** complete the rest of Part III. The tax imposed under section 857(b)(5) does not apply. If line 8 is greater than zero, complete the rest of Part III. Enter the tax from line 16 on Schedule J, line 3c.

If line 8 is greater than zero, the REIT MUST **(1)** attach a schedule listing the nature and amount of each item of its gross income described in sections 856(c)(2) and (3); **(2)** not have fraudulently included any incorrect information in the attached schedule; and**(3)** have reasonable cause for not meeting the requirements of sections 856(c)(2) and (3).

Important: *Failure to meet the three conditions above will terminate the election to be treated as a REIT effective for this tax year and all succeeding tax years.*

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(1) that is not foreclosure property and that does not qualify as an exception under section 857(b)(6)(C).

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.

Schedule A—Deduction for Dividends Paid

Lines 1 through 5.— Section 561 (taking into account sections 857(b)(8) 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 6.— 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 line 21b, page 1) is determined by multiplying the amount on line 5 by the following fraction:

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

Schedule J—Tax Computation

Note: *Members of a controlled group must attach a statement showing the computation of the tax entered on line 3.*

Lines 1 and 2

Members of a controlled group.— A member of a controlled group, as defined in section 1563, must check the box on line 1 and complete lines 2a and 2b of Schedule J.

Line 2a.— Members of a controlled group are entitled to one $50,000, one $25,000, and one $9,925,000 taxable income bracket amount (in that order) on line 2a.

When a controlled group adopts or later amends an apportionment plan, each member must attach to its tax return a copy of its consent to this plan. The copy (or an attached statement) must show the part of the amount in each taxable income bracket apportioned to that member. See Regulations section 1.1561-3(b) for other requirements and for the time and manner of making the consent.

Unequal apportionment plan.— Members of a controlled group may elect an unequal apportionment plan and divide the taxable income brackets as they want. There is no need for consistency between taxable income brackets. Any member may be entitled to all, some, or none of the taxable income brackets. However, the total amount for all members cannot be more than the total amount in each taxable income bracket.

Equal apportionment plan.— If no apportionment plan is adopted, the members of the controlled group must divide the amount in each taxable income bracket equally among themselves. For example, Controlled Group AB consists of Corporation A and Corporation B. They do not elect an apportionment plan. Therefore, each corporation is entitled to:

- $25,000 (one-half of $50,000) on line 2a(1);
- $12,500 (one-half of $25,000) on line 2a(2); and
- $4,962,500 (one-half of $9,925,000) on line 2a(3).

Line 2b.— Members of a controlled group are treated as one corporation to figure the applicability of the additional 5% tax and the additional 3% tax. If an additional tax applies, each member will pay that tax based on the part of the amount used in each taxable income bracket to reduce that member's tax. See section 1561(a). If an additional tax applies, attach a schedule showing the taxable income of the entire group and how the corporation figured its share of the additional tax.

Line 2b(1).— Enter the corporation's share of the additional 5% tax on line 2b(1).

Line 2b(2).— Enter the corporation's share of the additional 3% tax on line 2b(2).

Tax Computation Worksheet for Members of a Controlled Group
(keep for your records)

Note: *Each member of a controlled group must compute the tax using this worksheet.*

1.	Enter REIT taxable income (line 22, page 1)	
2.	Enter line 1 or the REIT's share of the $50,000 taxable income bracket, whichever is less	
3.	Subtract line 2 from line 1	
4.	Enter line 3 or the REIT's share of the $25,000 taxable income bracket, whichever is less	
5.	Subtract line 4 from line 3	
6.	Enter line 5 or the REIT's share of the $9,925,000 taxable income bracket, whichever is less	
7.	Subtract line 6 from line 5	
8.	Multiply line 2 by 15%	
9.	Multiply line 4 by 25%	
10.	Multiply line 6 by 34%	
11.	Multiply line 7 by 35%	
12.	If the taxable income of the controlled group exceeds $100,000, enter this member's share of the smaller of: 5% of the taxable income in excess of $100,000, or $11,750. (See the instructions for line 2b above.)	
13.	If the taxable income of the controlled group exceeds $15 million, enter this member's share of the smaller of 3% of the taxable income in excess of $15 million, or $100,000. (See the instructions for line 2b above.)	
14.	Add lines 8 through 13. Enter here and on line 3a, Schedule J	

Line 3a

Most REITs figure their tax by using the Tax Rate Schedule below. An exception applies to members of a controlled group (see worksheet above).

Tax Rate Schedule

If taxable income (line 22, page 1) is:

Over—	*But not over—*	*Tax is:*	*Of the amount over—*
$0	$50,000	**15%**	$0
50,000	75,000	**$ 7,500 + 25%**	50,000
75,000	100,000	**13,750 + 34%**	75,000
100,000	335,000	**22,250 + 39%**	100,000
335,000	10,000,000	**113,900 + 34%**	335,000
10,000,000	15,000,000	**3,400,000 + 35%**	10,000,000
15,000,000	18,333,333	**5,150,000 + 38%**	15,000,000
18,333,333	- - - - -	**35%**	0

Line 3e

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 3e. On the dotted line to the left of line 3e, write “Section 1291” and the amount.

Do not include on line 3e any interest due under section 1291(c)(3). Instead, show the amount of interest owed in the bottom margin of page 1, Form 1120-REIT, and write “Section 1291 interest.” For details, see Form 8621.

Additional tax under section 197(f).— A corporation that elects to pay tax on the gain from the sale of an intangible under the related person exception to the anti-churning rules should include any additional tax due under section 197(f)(9)(B) in the total for line 3e. On the dotted line next to line 3e, write “Section 197” and the amount. For more information, see **Pub. 535,** Business Expenses.

Line 4a–Foreign Tax Credit

To find out when a REIT can take 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 4b

Complete this line if the REIT can take either of the following credits. Be sure to check the appropriate box.

Nonconventional source fuel credit.— A credit is allowed for the sale of qualified fuels produced from a nonconventional source. Section 29 contains a definition of qualified fuels, provisions for figuring the credit, and other special rules. Attach a separate schedule showing the computation of the credit.

Qualified electric vehicle credit.— Include on line 4b any credit from **Form 8834,** Qualified Electric Vehicle Credit. Vehicles that qualify for this credit are not eligible for the deduction for clean-fuel vehicles under section 179A.

Line 4c–General Business Credit

Complete this line if the REIT can take any of the following credits. Complete **Form 3800,** General Business Credit, if the REIT has two or more of these credits, a credit carryforward or carryback (including an ESOP credit), or a passive activity credit. Enter the amount of the general business credit on line 4c, and check the box for Form 3800. If the REIT has only one credit, enter on line 4c the amount of the credit from the form. Also be sure to check the appropriate box for that form.

Form 3468, Investment Credit.

Form 5884, Work Opportunity Credit.

Form 6478, Credit for Alcohol Used as Fuel.

Form 6765, Credit for Increasing Research Activities.

Form 8586, Low-Income Housing Credit.

Form 8820, Orphan Drug Credit.

Form 8826, Disabled Access Credit.

Form 8830, Enhanced Oil Recovery Credit.

Form 8835, Renewable Electricity Production Credit.

Form 8844, Empowerment Zone Employment Credit.

Note: *The empowerment zone employment credit is a component of the general business credit, but is figured separately and is not carried to Form 3800.*

Form 8845, Indian Employment Credit.

Form 8846, Credit for Employer Social Security and Medicare Taxes Paid on Certain Employee Tips.

Form 8847, Credit for Contributions to Selected Community Development Corporations.

Form 8861, Welfare-to-Work Credit.

Line 4d–Credit for Prior Year Minimum Tax

To figure the minimum tax credit and any carryforward of that credit, use **Form 8827,** Credit for Prior Year Minimum Tax— Corporations. Also see Form 8827 if any of the 1996 nonconventional source fuel credit or qualified electric vehicle credit was disallowed solely because of the tentative minimum tax limitation. Also see section 53(d).

Line 6–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 Tax for definitions and details on how to figure the tax.

Line 7–Recapture Taxes

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.

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, it may owe a tax. See **Form 8611,** Recapture of Low-Income Housing Credit.

Recapture of qualified electric vehicle (QEV) credit. The REIT must recapture part of the QEV credit it claimed in a prior year, if, within 3 years of the date the vehicle was placed in service, it ceases to qualify for the credit. See Regulations section 1.30-1 for details on how to figure the recapture. Include the amount of the recapture in the total for line 7. On the dotted line next to the entry space, write "QEV recapture" and the amount.

Recapture of Indian employment credit. Generally, if an employer terminates a qualified employee less than 1 year after the date of initial employment, any Indian employment credit allowed for a prior year because of wages paid or incurred to that employee must be recaptured. For details, see Form 8845 and section 45A. Include the amount of the recapture in the total for Schedule J, line 7. On the dotted line next to the entry space, write "45" and the amount.

Line 8–Alternative Minimum Tax

The REIT may owe the alternative minimum tax if it has any of the adjustments and tax preference items listed on **Form 4626,** Alternative Minimum Tax—Corporations. The REIT must file Form 4626 if its taxable income (loss) combined with these adjustments and tax preference items is more than the smaller of $40,000, or the REIT's allowable exemption amount (from Form 4626).

For this purpose, taxable income does not include the NOL deduction. Get Form 4626 for details.

Reduce the alternative minimum tax by any amounts from Form 3800, Schedule A, line 36 and Form 8844, line 23. On the dotted line next to Schedule J, line 8, write "Section 38(c)(2)" ("EZE" if from Form 8844) and the amounts.

Line 9–Other Tax and Interest Amounts

Other tax and interest amounts may be included in or subtracted from the total tax reported on line 9.

Include in the total for line 9 interest on deferred tax attributable to installment sales of certain timeshares and residential lots (section 453(l)(3)), and certain nondealer installment obligations (section 453A(c). For shareholders in quallified electing funds, include deferred tax due upon the termination of a section 1294 election (see Form 8621, Part IV).

Subtract from the total for line 9 the deferred tax on the REIT's share of the undistributed earnings of a qualified electing fund (see Form 8621, Part II).

How to report.— Attach a schedule showing the computation of each item included in or subtracted from the total for line 9. On the dotted line next to line 9, enter the amount of tax or interest, identify it as tax or interest, and specify the Code section that applies.

Example. To show $50 of interest due on deferred tax from the installment sale of a timeshare, enter "Sec. 453(l)(3) interest - $50."

If you figured the tax or interest using another form (e.g. Form 8621), see the instructions for that form to find out how to report the amount and what to write on Schedule J, line 9.

Schedule K—Other Information

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

Question 3

Check the "Yes" box if the REIT is a subsidiary in a parent-subsidiary controlled group, 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.*

The term "parent-subsidiary 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. 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 each corporation in the group (except the parent) must be owned by one or more of the other corporations in the group.

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 at least one 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 corporation entitled to vote or **(b)** the total value of all classes of stock of the corporation.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 in question 5. On line 5b, write 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 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" to question 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.

Question 7

Foreign financial accounts.— Check the "Yes" box if either **1** or **2** below, applies to the REIT. Otherwise, check the "No" box:

1. At any time during the 1997 calendar year the REIT had an interest in or signature or other authority over a bank, securities, or other financial account in a foreign country; and

- The combined value of the accounts was more than $10,000 at any time during the year; and
- The account was NOT with a U.S. military banking facility operated by a U.S. financial institution.

2. The REIT owns more than 50% of the stock in any corporation that would answer "Yes" to item **1** above.

Get **Form TD F 90-22.1,** Report of Foreign Bank and Financial Accounts, to see if the REIT is considered to have an interest in or signature or other authority over a financial account in a foreign country. You can get Form TD F 90-22.1 from an IRS Distribution Center or by calling 1-800-TAX-FORM (1-800-829-3676).

If "Yes" is checked for this question, file Form TD F 90-22.1 by June 30, 1998, with the Department of the Treasury at the address shown on the form. Because Form TD F 90-22.1 is not a tax return, do not file it with Form 1120-REIT.

Also, if "Yes" is checked for this question, write the name of the foreign country or countries. Attach a separate sheet if more space is needed.

Question 8

The corporation may be required to file **Form 3520,** Annual Return To Report Transactions with Foreign Trusts and Receipt of Certain Foreign Gifts if:

- It directly or indirectly transferred money or property to a foreign trust. For this purpose any U.S. person who created a foreign trust is considered a transferor;
- It is treated as the owner of any part of the assets of a foreign trust under the grantor trust rules; or
- It received a distribution from a foreign trust.

For more information, see the instructions for Form 3520.

Note: *An owner of a foreign trust must ensure that the trust files an annual information return on Form 3520-A, as well as U.S. owner and U.S. beneficiary statements. For details, see Notice 97-34, 1997-25 I.R.B. 22.*

The corporation may be required to file **Form 926,** Return by a U.S. Transferor of Property to a Foreign Corporation, Foreign Estate or Trust, or Foreign Partnership to:

- Pay any excise tax due under section 1491;
- Report information required under section 6038B;
- Report transfers of property to a foreign corporation, estate, trust, or partnership; and
- Make elections under section 1492 with respect to those transfers.

For more information, see the instructions for Form 926.

Question 11

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 regulated investment company.

Question 12

Enter the amount of the net operating loss (NOL) carryover 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 1997. Do not reduce the amount by any NOL deduction reported on line 21a, page 1, Form 1120-REIT.

Pub. 536 has a worksheet for figuring a corporation's NOL carryover.

Schedule L—Balance Sheets per Books

The balance sheet should agree with the REIT's books and records. 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 regulated investment company that distributed exempt-interest dividends during the tax year of the REIT.

Line 24. Adjustments to Shareholder's 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 on line 5c any of the following:

- The 50% of the meals and entertainment not allowed 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, which are allocable to conventions on cruise ships.
- Employee achievement awards over $400.
- The cost of entertainment tickets over face value (also subject to 50% disallowance under section 274(n)).
- The cost of skyboxes over the face value of nonluxury box seat tickets.
- The part of luxury water travel not allowed under section 274(m).
- Expenses for travel as a form of education.
- Other travel and entertainment expenses not allowed as a deduction.

For more information, see Pub. 542.

Line 7. Tax-exempt interest.— Include as interest on line 7 any exempt-interest dividends received by the REIT as a shareholder in a mutual fund or other regulated investment company.

Paperwork Reduction Act Notice.— We ask for the information on this form 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.

The time needed to complete and file this form will vary depending on individual circumstances. The estimated average time is:

Recordkeeping	60 hr., 2 min.
Learning about the law or the form	21 hr., 42 min.
Preparing the form	41 hr., 19 min.
Copying, assembling, and sending the form to the IRS	5 hr., 5 min.

If you have comments concerning the accuracy of these time estimates or suggestions for making this form simpler, we would be happy to hear from you. You can write to the Tax Forms Committee, Western Area Distribution Center, Rancho Cordova, CA 95743-0001. **DO NOT** send the tax form to this office. Instead, see the instructions for **Where To File** on page 3.