

which the transfer described in section 860E(e)(1) occurs and the amount of excess inclusions that accrued and were allocable to the residual interest during the period that the disqualified organization held the interest.

(b) *Tax on pass-thru entities*—(1) *Tax on excess inclusions.* Any tax due under section 860E(e)(6) must be paid by the later of March 24, 1993, or by the fifteenth day of the fourth month following the close of the taxable year of the pass-thru entity in which the disqualified person is a record holder. The Commissioner may prescribe rules for the manner and method of collecting the tax.

(2) *Record holder furnishes information under penalties of perjury.* For purposes of section 860E(e)(6)(D), a record holder is treated as having furnished an affidavit if the record holder furnishes—

(i) A social security number and states, under penalties of perjury, that the social security number is that of the record holder; or

(ii) A statement under penalties of perjury that it is not a disqualified organization.

(3) *Deductibility of tax.* Any tax imposed on a pass-thru entity pursuant to section 860E(e)(6)(A) is deductible against the gross amount of ordinary income of the pass-thru entity. For example, in the case of a REIT, the tax is deductible in determining real estate investment trust taxable income under section 857(b)(2).

(4) *Allocation of tax.* Dividends paid by a RIC or by a REIT are not preferential dividends within the meaning of section 562(c) solely because the tax expense incurred by the RIC or REIT under section 860E(e)(6) is allocated solely to the shares held by disqualified organizations.

[T.D. 8458, 57 FR 61304, Dec. 24, 1992]

**§ 1.860F-1 Qualified liquidations.**

A plan of liquidation need not be in any special form. If a REMIC specifies the first day in the 90-day liquidation period in a statement attached to its final return, then the REMIC will be considered to have adopted a plan of liquidation on the specified date.

[T.D. 8458, 57 FR 61304, Dec. 24, 1992]

**§ 1.860F-2 Transfers to a REMIC.**

(a) *Formation of a REMIC*—(1) *In general.* For Federal income tax purposes, a REMIC formation is characterized as the contribution of assets by a sponsor (as defined in paragraph (b)(1) of this section) to a REMIC in exchange for REMIC regular and residual interests. If, instead of exchanging its interest in mortgages and related assets for regular and residual interests, the sponsor arranges to have the REMIC issue some or all of the regular and residual interests for cash, after which the sponsor sells its interests in mortgages and related assets to the REMIC, the transaction is, nevertheless, viewed for Federal income tax purposes as the sponsor's exchange of mortgages and related assets for regular and residual interests, followed by a sale of some or all of those interests. The purpose of this rule is to ensure that the tax consequences associated with the formation of a REMIC are not affected by the actual sequence of steps taken by the sponsor.

(2) *Tiered arrangements*—(i) *Two or more REMICs formed pursuant to a single set of organizational documents.* Two or more REMICs can be created pursuant to a single set of organizational documents even if for state law purposes or for Federal securities law purposes those documents create only one organization. The organizational documents must, however, clearly and expressly identify the assets of, and the interests in, each REMIC, and each REMIC must satisfy all of the requirements of section 860D and the related regulations.

(ii) *A REMIC and one or more investment trusts formed pursuant to a single set of documents.* A REMIC (or two or more REMICs) and one or more investment trusts can be created pursuant to a single set of organizational documents and the separate existence of the REMIC(s) and the investment trust(s) will be respected for Federal income tax purposes even if for state law purposes or for Federal securities law purposes those documents create only one organization. The organizational documents for the REMIC(s) and the investment trust(s) must, however, require both the REMIC(s) and the investment trust(s) to account for items of income