Internal Revenue Service, Treasury

§ 1.860E–2 Tax on transfers of residual interests to certain organizations.

(a) Transfers to disqualified organizations—(1) Payment of tax. Any excise tax due under section 860E(e)(1) must be paid by the later of March 24, 1993, or April 15th of the following calendar year in which the residual interest is transferred to a disqualified organization. The Commissioner may prescribe rules for the manner and method of collecting the tax.

(2) Transitory ownership. For purposes of section 860E(e) and this section, a transfer of a residual interest to a disqualified organization in connection with the formation of a REMIC is disregarded if the disqualified organization has a binding contract to sell the interest and the sale occurs within 7 days of the startup day (as defined in section 860G(a)(9) and §1.860G–2(k)).

(3) Anticipated excess inclusions. The anticipated excess inclusions are the excess inclusions that are expected to accrue in each calendar quarter (or portion thereof) following the transfer of the residual interest. The anticipated excess inclusions must be determined as of the date the residual interest is transferred and must be based on—

(i) Events that have occurred up to the time of the transfer;

(ii) The prepayment and reinvestment assumptions adopted under section 1272(a)(6), or that would have been adopted had the REMIC’s regular interests been issued with original issue discount; and

(iii) Any required or permitted clean up calls, or required qualified liquidation provided for in the REMIC’s organizational documents.

(4) Present value computation. The present value of the anticipated excess inclusions is determined by discounting the anticipated excess inclusions from the end of each remaining calendar quarter in which those excess inclusions are expected to accrue to the date the disqualified organization acquires the residual interest. The discount rate to be used for this present value computation is the applicable Federal rate (as specified in section 1272(d)(1)) that would apply to a debt instrument that was issued on the date the disqualified organization acquired the residual interest and whose term ended on the close of the last quarter in which excess inclusions were expected to accrue with respect to the residual interest.

(5) Obligation of REMIC to furnish information. A REMIC is not obligated to determine if its residual interests have been transferred to a disqualified organization. However, upon request of a person designated in section 860E(e)(2), the REMIC must furnish information sufficient to compute the present value of the anticipated excess inclusions. The information must be furnished to the requesting party and to the Internal Revenue Service within 60 days of the request. A reasonable fee charged to the requestor is not income derived.
§ 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.


§ 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—(1) 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.