

# Excise Taxes on Excess Inclusions of REMIC Residual Interests

<b>Please Type or Print</b>	Name	Identifying number
	Number, street, and room or suite no. (If a P.O. box, see instructions.)	
	City or town, state, and ZIP code	

**Part I Transfers to Disqualified Organizations**

**Section A—Information on the Transfer**

- 1 Enter the date the residual interest was transferred to a disqualified organization . . . . . ▶        /        /
- 2 Within a reasonable time after discovering this transfer was subject to tax under section 860E(e)(1), were steps taken so that the residual interest you transferred is no longer held by a disqualified organization? ▶  Yes  No
- 3 If you answered "Yes" to question 2, enter the date the disqualified organization disposed of the residual interest . . . . . ▶        /        /         
 If you answered "Yes" to question 2, the tax due under section 860E(e)(1) will be waived if you pay the amount due under Regulations section 1.860E-2(a)(7)(ii). Skip Section B and go to Section C to figure the amount due.  
 If you answered "No" to question 2, use Section B to figure the tax due under section 860E(e)(1). Do not complete Section C.

**Section B—Tax Due Under Section 860E(e)(1).** Complete this section ONLY if you answered "No" to question 2.

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|--|---|--|
| 4 Enter the present value of the excess inclusions allocable to the residual interest you transferred that are expected to accrue in each calendar quarter (or part thereof) following the transfer of that interest to the disqualified organization (see instructions) . . . . . | 4 |  |
| 5 <b>Tax due.</b> Multiply line 4 by 35% (see <b>Caution</b> under Specific Instructions). . . . .   | 5 |  |

**Section C—Amount Due Under Regulations Section 1.860E-2(a)(7)(ii).** Complete this section ONLY if you answered "Yes" to question 2.

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|--|---|--|
| 6 Enter the amount of excess inclusions allocable to the residual interest you transferred that accrued during the period the disqualified organization held that interest . . . . . | 6 |  |
| 7 <b>Amount due.</b> Multiply line 6 by 35% (see <b>Caution</b> under Specific Instructions). . . . .  | 7 |  |

**Part II Tax on Pass-Through Entities With Interests Held by Disqualified Organizations**

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|--|----|--|
| 8 Enter the ending date of the pass-through entity's tax year for which this return is being filed . . . . . ▶ <u>      </u> / <u>      </u> / <u>      </u>   |    |  |
| 9 Enter the amount of excess inclusions allocable to interests in the pass-through entity for which the record holder is a disqualified organization . . . . . | 9  |  |
| 10 <b>Tax due.</b> Multiply line 9 by 35% (see <b>Caution</b> under Specific Instructions) . . . . .   | 10 |  |

**Part III Tax and Payments**

- |   |    |  |
|---|----|--|
| 11 Enter the amount from line 5, 7, or 10, whichever applies . . . . .    | 11 |  |
| 12 Less: Amount paid with Form 2758 . . . . .                             | 12 |  |
| 13 <b>Amount due.</b> Enter the excess of line 11 over line 12 . . . . .  | 13 |  |
| 14 <b>Overpayment.</b> Enter the excess of line 12 over line 11 . . . . . | 14 |  |

Under penalties of perjury, I declare that I have examined this return, including accompanying schedules and statements, and to the best of my knowledge and belief, it is true, correct, and complete.

▶ _____ Signature	▶ _____ Date	▶ _____ Title (if any)
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**General Instructions**

(Section references are to the Internal Revenue Code unless otherwise noted.)

**Privacy Act and Paperwork Reduction Act Notice**

We ask for the information on this form to carry out the Internal Revenue laws of the United States. The Internal Revenue Code requires this information under sections 860E, 6001, 6011, and 6109 and their regulations. We need it to figure and collect the right amount of tax. Routine uses of this information include giving it to the Department of Justice for civil and criminal litigation and to cities, states and the District of Columbia for use in administering their tax

laws. If you fail to provide this information, you may be charged penalties and, in certain cases, you may be subject to criminal prosecution.

The time needed to complete and file this form will vary depending on individual circumstances. The estimated average time is: **Recordkeeping**, 4 hr., 32 min.; **Learning about the law or the form**, 1 hr., 5 min.; **Preparing and sending the form to the IRS**, 1 hr., 13 min.

If you have comments concerning the accuracy of these time estimates or suggestions for making this form more simple, we would be happy to hear from you. You can write to both the **Internal Revenue Service**, Attention: Reports Clearance Officer, PC:FP, Washington, DC 20224; and the

**Office of Management and Budget**, Paperwork Reduction Project (1545-1379), Washington, DC 20503. **DO NOT** send this form to either of these offices. Instead, see **Where To File** on page 2.

**Purpose of Form**

- Use Form 8831 to report and pay:
- The excise tax due under section 860E(e)(1) on any transfer of a residual interest in a REMIC to a disqualified organization;
  - The amount due under Regulations section 1.860E-2(a)(7)(ii) if the tax under section 860E(e)(1) is to be waived; or
  - The excise tax due under section 860E(e)(6) on pass-through entities with interests held by disqualified organizations.

## Definitions

**Disqualified organization.**—A “disqualified organization” is:

1. The United States, any state or subdivision thereof, any foreign government, any international organization, or any of their agencies (except for certain taxable instrumentalities described in section 168(h)(2)(D) and the Federal Home Loan Mortgage Corporation);

2. Any tax-exempt organization (other than a farmers' cooperative described in section 521), unless that organization is subject to the unrelated business income tax; and

3. Any cooperative described in section 1381(a)(2)(C).

**Pass-through entity.**—A “pass-through entity” is a regulated investment company, real estate investment trust, common trust fund, partnership, trust, estate, or a cooperative described in section 1381. A person holding an interest in a pass-through entity as a nominee for another person is also treated as a pass-through entity.

## Who Must File

You must file Form 8831 if you are liable for the excise tax due under section 860E(e)(1) (or the amount due under Regulations section 1.860E-2(a)(7)(ii)) because you transferred a residual interest in a REMIC to a disqualified organization after March 31, 1988 (unless the transfer was made under a binding contract in effect on that date).

You will not be treated as having transferred your interest to a disqualified organization if you obtain an affidavit from the transferee signed under penalties of perjury that either furnishes his or her social security number or states that the transferee is not a disqualified organization, provided you do not have actual knowledge at the time of the transfer that the affidavit is false.

A pass-through entity must file Form 8831 if it is liable for the tax due under section 860E(e)(6). The entity must pay this tax if, at any time during the entity's tax year, excess inclusions from a residual interest in a REMIC are allocable to an interest in the entity for which the record holder is a disqualified organization. The tax applies to excess inclusions for periods after March 31, 1988, but only to the extent the inclusions are allocable either to an interest in the pass-through entity acquired after March 31, 1988, OR to a residual interest acquired by the pass-through entity after March 31, 1988. Any interest acquired under a binding contract in effect on March 31, 1988, is treated as acquired before that date. A real estate investment trust, regulated investment company, common trust fund, or publicly traded partnership is subject to the tax due under section 860E(e)(6) ONLY for tax years beginning after 1988.

A pass-through entity is not subject to the excise tax under section 860E(e)(6) if it obtains an affidavit from the record holder signed under penalties of perjury that either furnishes his or her social security number or states that the record holder is not a disqualified organization, provided the pass-through entity does not have actual knowledge at the time of the transfer that the affidavit is false.

A pass-through entity that owes both the excise tax due under section 860E(e)(1) (or the amount due under Regulations section 1.860E-2(a)(7)(ii)) and the excise tax due under section 860E(e)(6) must file a separate form for each tax.

## When To File

For the excise tax due under section 860E(e)(1), file Form 8831 and pay the tax by April 15 of the year following the calendar year in which the residual interest is transferred to a disqualified organization. A pass-through entity must file Form 8831 and pay the tax due under section 860E(e)(6) by the 15th day of the 4th month following the close of its tax year. If the regular due date falls on a Saturday, Sunday, or legal holiday, file on the next business day. A business day is any day that is not a Saturday, Sunday, or legal holiday.

If more time is needed, use **Form 2758**, Application for Extension of Time To File Certain Excise, Income, Information, and Other Returns, to request an extension of time to file Form 8831. However, Form 2758 does not extend the time for payment of tax.

## Where To File

File Form 8831 with the Internal Revenue Service Center used for filing your income tax return. If you have no legal residence, principal place of business, or office or agency in the United States, file Form 8831 with the Internal Revenue Service Center, Philadelphia, PA 19255.

## Rounding Off to Whole Dollars

Money items may be shown on the return as whole dollars. To do so, drop any amount less than 50 cents and increase any amount from 50 cents through 99 cents to the next higher dollar.

## Amended Return

To amend a previously filed Form 8831, file a corrected Form 8831 marked “Amended” at the top of the form.

## Signature

See the instructions for the “Signature” section of your Federal income tax return.

## Interest and Penalties

**Interest.**—Interest is charged on taxes not paid by the due date at a rate determined under section 6621.

**Late filing of return.**—A penalty of 5% a month or part of a month, up to a maximum of 25%, is imposed on the net amount due if the excise tax return is not filed when due.

**Late payment of tax.**—Generally, the penalty for not paying tax when due is  $\frac{1}{2}$  of 1% of the unpaid amount, up to a maximum of 25%, for each month or part of a month the tax remains unpaid. The penalty is imposed on the net amount due.

## Specific Instructions

**Caution:** *The Revenue Reconciliation Act of 1993 increased the tax rate from 34% to 35% on lines 5 and 7 for transfers in tax years beginning after 1992. This rate increase also applies on line 10 for tax years of pass-through entities beginning after 1992. For tax years ending before 1993, use 34% instead of 35% to figure your tax. For tax years beginning before 1993 that include January 1, 1993, use a weighted average of these rates to figure your tax. See section 15 for details.*

## Name and Address

Enter the name shown on your most recently filed Federal income tax return. Include the suite, room, apartment, or other unit number after the street address. If the Post Office does not deliver mail to the street address

and you have a P.O. box, show the box number instead of the street address.

## Identifying Number

If you are an individual, enter your social security number. Other filers, enter your employer identification number.

## Line 4

The excess inclusions expected to accrue must be determined as of the date the residual interest is transferred and must be based on (a) events that have occurred up to the time of the transfer, (b) the prepayment and reinvestment assumptions adopted under section 1272(a)(6) (or that would have been adopted if the REMIC's regular interests had been issued with original issue discount), and (c) any required or permitted clean-up calls, or required qualified liquidation provided under the REMIC's organizational documents.

The present value of the excess inclusions expected to accrue is determined by discounting all remaining excess inclusions expected to accrue on the residual interest from the end of each calendar quarter in which those inclusions are expected to accrue to the date the disqualified organization acquired the residual interest. The discount rate to be used in this computation is the applicable Federal rate under section 1274(d)(1) that would apply to a debt instrument issued on the date the disqualified organization acquired the residual interest and with a term that ends on the last day of the last quarter in which excess inclusions are expected to accrue for the interest.

The REMIC must furnish the information needed to figure the amount on line 4 upon your request. The information must be furnished within 60 days of the request. The REMIC may charge a fee for this information.

## Line 6

Enter the amounts reported on **Schedule Q (Form 1066)**, Quarterly Notice to Residual Interest Holder of REMIC Taxable Income or Net Loss Allocation, line 2c, to the disqualified organization for the period it held the residual interest.

## Line 9

Enter the amounts reported on Schedule Q (Form 1066), line 2c, for the tax year of the pass-through entity that are allocable to all disqualified organizations that held an interest in the entity.

## Line 10

You may deduct the amount on line 10 in figuring the amount of ordinary income of the pass-through entity. For example, the tax is deductible by a real estate investment trust in figuring its real estate investment trust taxable income under section 857(b)(2).

## Line 12

If you filed Form 2758, enter the amount paid, if any, when you filed that form.

## Line 13

Full payment of the amount due must accompany Form 8831. Make your check or money order payable to the “Internal Revenue Service.” Write your name, address, identifying number, and “Form 8831” on the check or money order.

## Line 14

The IRS will refund the amount on line 14 if you owe no other taxes.