2004

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.

Contents **Page**

What's New

- Corporations with total assets of $10 million or more on the last day of the tax year must complete new Schedule M-3, Net Income (Loss) Reconciliation for Corporations With Total Assets of $10 Million or More, instead of Schedule M-1 in 2004. However, REITs that file Form 1120-REIT are not required to complete this new schedule in 2004. Instead, they should continue to complete Schedule M-1 of Form 1120-REIT, as required.
- The American Jobs Creation Act of 2004 (AJCA) made several changes that affect REITs and their shareholders for tax years beginning after October 22, 2004. These changes include the following provisions that may affect your 2004 return. See Pub. 553, Highlights of 2004 Tax Changes, for more information.
- The AJCA revised the "straight debt " safe harbor to exempt certain debt instruments that are non-abusive from the 10% asset test. See section 856(m) for details.
- The AJCA expanded the limited rent exception for rents received from a taxable REIT subsidiary (TRS) to include testing the comparability of rents: (1) at the beginning of a lease term, (2) upon a lease extension, and (3) upon a lease renegotiation. This change is retroactive to tax years beginning after 2000. See section 856(d)(8) for details.
- The AJCA eliminated the "safe harbor" that allowed rent received by a REIT to be exempt from the 100% excise tax if rents are from customary services performed by a TRS. See section 857(b)(7) for details.
- The AJCA increased the percentage used to compute the tax for failure to meet certain source-of-income requirements from 90% to 95%. See section 857(b)(5)(a) for details.
- The AJCA modified rules for sales of timber by REITs for tax years beginning after October 22, 2004. Certain sales of timber will no longer trigger the 100% prohibited transactions tax. See new section 857(b)(6)(D) for details.
- REITs can elect to deduct up to $10,000 of reforestation expenditures paid or incurred after October 22, 2004. See section 194(b) for details.
- The reforestation credit (see Form 3468) was repealed for expenses paid or incurred after October 22, 2004.
- REITs can elect to deduct up to $5,000 of business start-up and organizational costs paid or incurred after October 22, 2004. See section 195(b) for details.
- For charitable contributions of certain property made after June 3, 2004, a corporation must file Form 8283 and obtain a qualified appraisal if claiming a deduction of more than $5,000. See new section 170(f)(11) for details.
- For charitable contributions of patents and certain other intellectual property made after June 3, 2004, REITs will receive a reduced deduction but can deduct certain qualified donee income. See section 170(m) for details.

Photographs of Missing Children

The Internal Revenue Service is a proud partner with the National Center for Missing and Exploited Children. Photographs of missing children selected by the Center may appear in instructions on pages that would otherwise be blank. You can help bring these children home by looking at the photographs and calling 1-800-THE-LOST (1-800-843-5678) if you recognize a child.

Unresolved Tax Issues

If the REIT has attempted to deal with an IRS problem unsuccessfully, it should contact the Taxpayer Advocate. The Taxpayer Advocate independently represents the REIT's interests and concerns within the IRS by protecting its rights and resolving problems that have not been fixed through normal channels.

While Taxpayer Advocates cannot change the tax law or make a technical tax decision, they can clear up problems that resulted from previous contacts and ensure that the REIT's case is given a complete and impartial review.

The REIT's assigned personal advocate will listen to its point of view and will work with the REIT to address its concerns. The REIT can expect the advocate to provide:

- A "fresh look" at a new or ongoing problem.
- Timely acknowledgement.
- The name and phone number of the individual assigned to its case.
- Updates on progress.
- Timeframes for action.
- Speedy resolution.
- Courteous service.

When contacting the Taxpayer Advocate, the REIT should be prepared to provide the following information.

- The REIT's name, address, and employer identification number (EIN).
- The name and telephone number of an authorized contact person and the hours he or she can be reached.
- The type of tax return and year(s) involved.
- A detailed description of the problem.
- Previous attempts to solve the problem and the office that was contacted.
- A description of the hardship the REIT is facing (if applicable).

The REIT may contact a Taxpayer Advocate by calling 1-877-777-4778 (toll free). Persons who have access to TTY/TDD equipment can call 1-800-829-4059 and ask for Taxpayer Advocate assistance. If the REIT prefers, it may call, write, or fax the Taxpayer Advocate office in its area. See Pub. 1546, The Taxpayer Advocate Service — How to Get Help With Unresolved Tax Problems, for a list of addresses and fax numbers.

How To Get Forms and Publications

Personal computer

You can access the IRS website 24 hours a day, 7 days a week, at *www.irs.gov* to:

- Order IRS products online.
- Download forms, instructions, and publications.
- See answers to frequently asked questions.
- Search publications online by topic or keyword.
- Send us comments or request help by email.

- Sign up to receive local and national tax news by email.

You can also reach us using file transfer protocol at *ftp.irs.gov*.

CD-ROM

You can order Pub. 1796, Federal Tax Products on CD-ROM, and get:

- Current year forms, instructions, and publications.
- Prior year forms, instructions, and publications.
- Frequently requested tax forms that can be filled in electronically, printed out for submission, and saved for recordkeeping.
- The Internal Revenue Bulletin.

You can purchase the CD-ROM on the Internet at *www.irs.gov/cdorders* from the National Technical Information Service (NTIS) for $22 (no handling fee) or call 1-877-CDFORMS (1-877-233-6767) toll free to buy the CD-ROM for $22 (plus a $5 handling fee).

By phone and in person

You can order forms and publications by calling 1-800-TAX-FORM (1-800-829-3676). You can also get most forms and publications at your local IRS office.

How To Access the Internal Revenue Bulletin (I.R.B.)

You can access the I.R.B. on the Internet at *www.irs.gov* (post-1995 Bulletins only). Under information for Tax Professionals, select More Topics. Finally, select IRS Resources to locate Internal Revenue Bulletins.

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.

Who Must File

A corporation, trust, or association that meets 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. (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). (The REIT does not have to meet this requirement until its 2nd tax year).

If a REIT meets the requirement for ascertaining actual ownership (see Regulations section 1.857-8 for details), and did not know (after exercising reasonable diligence), or have reason to know, that it was closely held, it will be treated as meeting the requirement that it is not closely held.

Where To File

File the REIT's return at the applicable IRS address listed below.

If the REIT's principal business, office, or agency is located in:	And the total assets at the end of the tax year (Form 1120-REIT, page 1, item E) are:	Use the following Internal Revenue Service Center address:
Connecticut, Delaware, District of Columbia, Illinois, Indiana, Kentucky, Maine, Maryland, Massachusetts, Michigan, New Hampshire, New Jersey, New York, North Carolina, Ohio, Pennsylvania, Rhode Island, South Carolina, Vermont, Virginia, West Virginia, Wisconsin	Less than $10 million	Cincinnati, OH 45999-0012
	$10 million or more	Ogden, UT 84201-0012
Alabama, Alaska, Arizona, Arkansas, California, Colorado, Florida, Georgia, Hawaii, Idaho, Iowa, Kansas, Louisiana, Minnesota, Mississippi, Missouri, Montana, Nebraska, Nevada, New Mexico, North Dakota, Oklahoma, Oregon, South Dakota, Tennessee, Texas, Utah, Washington, Wyoming	Any amount	Ogden, UT 84201-0012
A foreign country or U.S. possession	Any amount	Philadelphia, PA 19255-0012

A group of corporations with members located in more than one service center area will often keep all the books and records at the principal office of the managing corporation. In this case, the tax returns of the corporations may be filed with the service center for the area in which the principal office of the managing corporation is located.

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.

For this purpose, distributions are treated as made from the earliest earnings and profits accumulated in any non-REIT tax year. See section 857(d)(3).

- 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. 90% of the REIT's taxable income (excluding the deduction for dividends paid and any net capital gain); plus
2. 90% 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 and 857, as amended by the *American Jobs Creation Act of 2004,* and the related regulations for details and exceptions.

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 four years following the 1st year for which the termination or revocation is effective. See section 856(g)(4) for exceptions.

Taxable REIT Subsidiaries

A REIT may own up to 100% of the stock in one or more taxable REIT subsidiaries (TRS). A TRS must be a corporation (other than a REIT) and may provide services to the REIT's tenants without disqualifying the rent received by the REIT. See section 856(l) for details, including certain restrictions on the type of business activities a TRS may perform. Also, not more than 20% of the fair market value of a REIT's total assets may be securities of one or more TRS (see section 856(c)(4) for details).

Transactions between a TRS and its associated REIT must be at arm's length. A

REIT may be subject to a 100% excise tax to the extent it improperly allocates income and deductions between the REIT and the TRS (see section 857(b)(7), as amended by the *American Jobs Creation Act of 2004,* for details). Additional limitations on transactions between a TRS and its associated REIT include:

- Limitations on income from a TRS that may be treated as rents from real property by the REIT (see section 856(d)(8)).
- Limitations on a TRS's deduction for interest paid to its associated REIT (see section 163(j)).

To elect to have an eligible corporation treated as a TRS, the corporation and the REIT must jointly file Form 8875, Taxable REIT Subsidiary Election.

When To File

Generally, a REIT must file its income tax return by the 15th day of the 3rd month after the end of its 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 can file on the next business day.

Private delivery services

REITs 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.

These private delivery services include only the following.

- DHL Express (DHL): DHL Same Day Service, DHL Next Day 10:30 am, DHL Next Day 12:00 pm, DHL Next Day 3:00 pm, and DHL 2nd Day Service.
- Federal Express (FedEx): FedEx Priority Overnight, FedEx Standard Overnight, FedEx 2Day, FedEx International Priority, and FedEx International First.
- United Parcel Service (UPS): UPS Next Day Air, UPS Next Day Air Saver, UPS 2nd Day Air, UPS 2nd Day Air A.M., UPS Worldwide Express Plus, and UPS Worldwide Express.

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

CAUTION Private delivery services cannot deliver items to P.O. boxes. You must use the U.S. Postal Service to mail any item to an IRS P.O. box address.

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.

If a return is filed on behalf of a REIT by a receiver, trustee, or assignee, the fiduciary must sign the return, instead of the corporate officer. Returns and forms signed by a receiver or trustee in bankruptcy on behalf of a REIT must be accompanied by a copy of the order or instructions of the court authorizing signing of the return or form.

If an employee of the REIT 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 complete that section. 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 and–

- Sign the return in the space provided for the preparer's signature.
- Give a copy of the return to the taxpayer.

Note. A paid preparer may sign original returns, amended returns, or requests for filing extensions by rubber stamp, mechanical device, or computer software program.

Paid Preparer Authorization

If the REIT wants to allow the IRS to discuss its 2004 tax return with the paid preparer who signed it, check the "Yes" box in the signature area of the return. This authorization applies only to the individual whose signature appears in the "Paid Preparer's Use Only" section of the REIT's return. It does not apply to the firm, if any, shown in that section.

If the "Yes" box is checked, the REIT is authorizing the IRS to call the paid preparer to answer any questions that may arise during the processing of its return. The REIT is also authorizing the paid preparer to:

- Give the IRS any information that is missing from the return,
- Call the IRS for information about the processing of the REIT's return or the status of any related refund or payment(s), and
- Respond to certain IRS notices that the REIT has shared with the preparer about math errors, offsets, and return preparation. The notices will not be sent to the preparer.

The REIT is not authorizing the paid preparer to receive any refund check, bind the REIT to anything (including any additional tax liability), or otherwise represent the corporation before the IRS. If the REIT wants to expand the paid preparer's authorization, see Pub. 947, Practice Before the IRS and Power of Attorney.

The authorization cannot be revoked. However, the authorization will automatically end no later than the due date (without regard to extensions) for filing the REIT's 2005 tax return.

Other Forms That May Be Required

The REIT may have to file other forms. See the Instructions for Form 1120, U.S. Corporation Income Tax Return, for more information.

Form 926, Return by a U.S. Transferor of Property to a Foreign Corporation, is filed to report certain transfers to foreign corporations under section 6038B.

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.

Forms 1042,1042-S, and 1042-T, Annual Withholding Tax Return for U.S. Source Income of Foreign Persons, Form 1042-S, Foreign Person's U.S. Source Income Subject to Withholding, and Form 1042-T, Annual Summary and Transmittal of Forms 1042-S. Use these forms to report and send withheld tax on payments or distributions made to nonresident alien individuals, foreign partnerships, or foreign corporations to the extent these payments constitute gross income from sources within the United States (see sections 861 through 865).

Also, see sections 1441 and 1442, and Pub. 515, Withholding of Tax on Nonresident Aliens and Foreign Entities.

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 3520, Annual Return To Report Transactions With Foreign Trusts and Receipt of Certain Foreign Gifts, is required either if the REIT received a distribution from a foreign trust or if the REIT was a grantor of, transferor of, or transferor to, a foreign trust that existed during the tax year. See Question 5 of Schedule N (Form 1120).

Form 5471, Information Return of U.S. Persons With Respect to Certain Foreign Corporations, is required if the REIT controls a foreign corporation; acquires, disposes of, or owns 10% or more in value or vote 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. See Question 4 of Schedule N (Form 1120).

Form 5472, Information Return of a 25% Foreign-Owned U.S. Corporation or a Foreign Corporation Engaged in a U.S. Trade or Business. This form is filed if the REIT is 25% or more foreign owned. See the instructions for Question 5, Schedule K, on page 13.

Form 5713, International Boycott Report, must be filed if the REIT had operations in, or related to, certain "boycotting" countries.

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

Form 8281, Information Return for Publicly Offered Original Issue Discount Instruments. Use this form to report the issuance of public offerings of debt instruments (obligations).

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

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 8621, Return by a Shareholder of a Passive Foreign Investment Company or Qualified Electing Fund. Use this form to make certain elections by shareholders in a passive foreign investment company and to figure certain deferred taxes.

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.

Form 8865, Return of U.S. Persons With Respect To Certain Foreign Partnerships. A REIT may have to file Form 8865 if it:

1. Controlled a foreign partnership (i.e., owned more than a 50% direct or indirect interest in the partnership).
2. Owned at least a 10% direct or indirect interest in a foreign partnership while U.S. persons controlled that partnership.
3. Had an acquisition, disposition, or change in proportional interest in a foreign partnership that:

- Increased its direct interest to at least 10% or reduced its direct interest of at least 10% to less than 10%.

- Changed its direct interest by at least a 10% interest.

4. Contributed property to a foreign partnership in exchange for a partnership interest if:

- Immediately after the contribution, the REIT owned, directly or indirectly, at least a 10% interest in the foreign partnership; or
- The fair market value of the property the REIT contributed to the foreign partnership in exchange for a partnership interest, when added to other contributions of property made to the foreign partnership during the preceding 12-month period, exceeds $100,000.

Also, the REIT may have to file Form 8865 to report certain dispositions by a foreign partnership of property it previously contributed to that foreign partnership if it was a partner at the time of the disposition. For more details, including penalties for failing to file Form 8865, see Form 8865 and its separate instructions.

Form 8875, Taxable REIT Subsidiary Election, is filed jointly by a corporation and a REIT to have the corporation treated as a taxable REIT subsidiary.

Form 8886, Reportable Transaction Disclosure Statement. Use this form to disclose information for each reportable transaction in which the REIT participated. Form 8886 must be filed for each tax year that the federal income tax liability of the REIT is affected by its participation in the transaction. The REIT may have to pay a penalty if it is required to file Form 8886 and does not do so. The following are reportable transactions:

- Any listed transaction that is the same as or substantially similar to tax avoidance transactions identified by the IRS.
- Any transaction offered under conditions of confidentiality for which the REIT paid the paid an advisor a fee of at least $250,000.
- Certain transactions for which the REIT has contractual protection against disallowance of the tax benefits.
- Certain transactions resulting in a loss of at least $10 million in any single year or $20 million in any combination of years.
- Certain transactions resulting in a book-tax difference of more than $10 million on a gross basis.
- Certain transactions resulting in a tax credit of more than $250,000, if the REIT held the asset generating the credit for 45 days or less.

Statements

Stock ownership in foreign personal holding companies (FPHC)

Attach the statement required by section 551(c) if:

- The REIT owned 5% or more in value of the outstanding stock of a FPHC and
- The REIT was required to include in its gross income any undistributed FPHC income from a FPHC.

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.

Assembling the Return

To ensure that the REIT's tax return is correctly processed, attach all schedules and other forms after page 4, Form 1120-REIT, and in the following order.

1. Schedule N (Form 1120).
2. Form 4136.
3. Form 4626.
4. Additional schedules in alphabetical order.
5. Additional forms in numerical order.

Complete every applicable entry space on Form 1120-REIT. Do not enter "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 the printed forms. If there are supporting statements and attachments, arrange them in the same order as the schedules or forms they support and attach them last. Show the totals on the printed forms. Also, be sure to enter the REIT's name and EIN on each supporting statement or attachment.

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. In all cases, the method used must clearly show taxable income.

Generally, permissible methods include:

- Cash,
- Accrual, or
- Any other method authorized by the Internal Revenue Code.

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Accrual method

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

Under the accrual method, an amount is includible in income when:

1. All the events have occurred that fix the right to receive the income, which is the earliest of the date:

   a. the required performance takes place,
   b. payment is due, or
   c. payment is received, and

2. The amount can be determined with reasonable accuracy.

See Regulations section 1.451-1(a) for details.

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

To change its method of accounting used to report taxable income (for income as a whole or for the treatment of any material item), the REIT must file Form 3115, Application for Change in Accounting Method. For more information, see Form 3115 and Pub. 538, Accounting Periods and Methods.

Section 481(a) adjustment. The REIT may have to make an adjustment under section 481(a) to prevent amounts of income or expenses from being duplicated or omitted. This is called a section 481(a) adjustment. The section 481(a) adjustment period is generally 1 year for a net negative adjustment and 4 years for a net positive adjustment. However, a REIT may elect to use a 1-year adjustment period if the net section 481(a) adjustment for the change is less than $25,000. The REIT must complete the appropriate lines of Form 3115 to make the election.

Include any net positive section 481(a) adjustment on page 1, line 7. If the net section 481(a) adjustment is negative, report it on page 1, line 18.

Accounting Periods

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

Calendar year. 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.

For more information on change of tax year, see Form 1128, Regulations section 1.442-1, and Pub. 538.

Rounding Off to Whole Dollars

The REIT may round off cents to whole dollars on its returns and schedules. If the REIT does round to whole dollars, it must round all amounts. To round, drop amounts under 50 cents and increase amounts from 50 to 99 cents to the next dollar (for example, $1.39 becomes $1 and $2.50 becomes $3).

If two or more amounts must be added to figure the amount to enter on a line, include cents when adding the amounts and round off only the total.

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 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. The two methods of depositing REIT income taxes, including the capital gains tax, are discussed below.

Electronic Deposit Requirement

The REIT must make electronic deposits of all depository taxes (such as employment tax, excise tax, and REIT income tax) using the Electronic Federal Tax Payment System (EFTPS) in 2005 if:

- The total deposits of such taxes in 2003 were more than $200,000 or
- The REIT was required to use EFTPS in 2004.

If the REIT is required to use EFTPS and fails to do so, it may be subject to a 10% penalty. If the REIT is not required to use EFTPS, it may participate voluntarily. To enroll in or get more information about EFTPS, call 1-800-555-4477 or 1-800-945-8400. To enroll online, visit *www.eftps.gov*

Depositing on time. For EFTPS deposits to be made timely, the REIT must initiate the transaction at least 1 business day before the date the deposit is due.

Deposits With Form 8109

If the REIT does not use EFTPS, deposit REIT income tax payments (and estimated tax payments) with Form 8109, Federal Tax Deposit Coupon. If you do not have a preprinted Form 8109, use Form 8109-B to make deposits. You can get this form by calling 1-800-829-4933. Be sure to have your EIN ready when you call.

Do not send deposits directly to an IRS office; otherwise, the REIT may have to pay a penalty. Mail or deliver the completed Form 8109 with the payment to an authorized depositary (i.e., a commercial bank or other financial institution authorized to accept federal tax deposits). Make checks or money orders payable to the depositary.

If the REIT prefers, it can mail the coupon and payment to Financial Agent, Federal Tax Deposit Processing, P.O. Box 970030, St. Louis, MO 63197. Make the check or money order payable to "Financial Agent."

To help ensure proper crediting, enter the REIT's 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 under "Type of Tax" and the appropriate "Quarter" box under "Tax Period" on the coupon. Records of these deposits will be sent to the IRS.

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 an authorized depositary or use EFTPS, if applicable.*

Estimated Tax Payments

Generally, the following rules apply to the REIT's payments of estimated tax.

- The REIT must make installment payments of estimated tax if it expects its total tax for the year (less applicable credits) 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 *Line 25. Estimated Tax Penalty* instructions.

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 after the end of the REIT's tax year, and no later than the 15th day of the third month after the end of the tax year. Form 4466 must be filed before the REIT files its tax return.

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, substantial valuation misstatements, 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. REITs that file late must attach a statement explaining the reasonable cause.

Penalty for late payment of tax

A REIT that does not pay the tax when due generally may be penalized $^1/_2$ 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 excise, income, social security, and Medicare taxes that must be collected or withheld are not collected or withheld, or these taxes are not paid. These taxes are generally reported on Forms 720, Quarterly Federal Excise Tax Return, 941, Employer's Quarterly Federal Tax Return, 943, Employers Annual Federal Tax Return for Agricultural Employees, or 945, Annual Return of Withheld Federal Income Tax . 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 the Instructions for Form 720, 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.

Penalty for failure to ascertain ownership

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 $25,000 penalty ($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 may not be imposed. For more information, see section 857(f).

Other penalties

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

Specific Instructions

Period Covered

File the 2004 return for calendar year 2004 and fiscal years that begin in 2004 and end in 2005. For a fiscal year return, fill in the tax year space at the top of the form.

Note. The 2004 Form 1120-REIT can also be used if:

- The REIT has a tax year of less than 12 months that begins and ends in 2005 and
- The 2005 Form 1120-REIT is not available at the time the REIT is required to file its return.

The REIT must show its 2005 tax year on the 2004 Form 1120-REIT and take into account any tax law changes that are effective for tax years beginning after December 31, 2004.

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.

If the REIT receives its mail in care of a third party (such as an accountant or an attorney), enter on the street address line "C/O" followed by the third party's name and street address or P.O. box.

Item B. 100%-owned Subsidiaries and Personal Holding Companies

REITs with 100%-owned Subsidiaries

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.

Do not check this box for a taxable REIT subsidiary. See *Taxable REIT Subsidiaries* on page 2.

Personal Holding Companies

Personal holding companies must attach to Form 1120-REIT a Schedule PH (Form 1120), U.S. Personal Holding Company (PHC) Tax. See the instructions for that form for details.

Item C. Employer Identification Number (EIN)

Enter the REIT's EIN. If the REIT does not have an EIN, it must apply for one. An EIN may be applied for:

- Online — Click on the EIN link at *www.irs.gov/businesses/small*. The EIN is issued immediately once the application information is validated.
- By telephone at 1-800-829-4933 from 7:00 a.m. to 10:00 p.m. in the REIT's local time zone.
- By mailing or faxing Form SS-4, Application for Employer Identification Number.

If the REIT has not received its EIN by the time the return is due, enter "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 its books and records) at the end of the tax year. If there are no assets at the end of the tax year, enter -0-.

Item F. Final Return, Name Change, Address Change, or Amended Return

- If the REIT ceases to exist, file Form 1120-REIT and check the "Final return" box. See *Termination of Election* on page 2.
- If the REIT has changed its name since it last filed a return, check the box for "Name change." Generally, a REIT also must have amended its articles of incorporation and filed the amendment with the state in which it was incorporated.
- If the REIT has changed its address since it last filed a return (including a change to an "in care of" address), check the box for "Address change."

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.

- If the REIT is amending its return, check the box for "Amended Return," complete the entire return, correct the appropriate lines with the new information, and refigure the REIT's tax liability. Attach a statement that explains the reason for the amendments and identifies the lines being changed on the amended return.

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 details.

Note. Report tax-exempt interest income on Form 1120-REIT, Schedule K, item 8. Also, if required, include the same amount on Schedule M-1, line 7.

Line 3. Gross rents. Include the following:

- Charges for customary services that may qualify as rents from real property are described in Regulations section 1.856-4(b)(1). For tax years beginning after October 22, 2004, the customary services exception under section 857(b)(7)(B)(ii) was eliminated and replaced with an existing "safe harbor." Services customarily furnished to tenants of a REIT include parking facilities. See Rev. Rul. 2004-24, which is on page 550 of I.R.B. 2004-10, for guidance to determine whether amounts received by a REIT that provides parking facilities at its rental real properties qualify as rents from real property.
- Rent from personal property leased under or with a lease of real property (but only 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). Figure the percentage of rents from personal property by comparing the fair market value of the personal rental property to the fair market value of the total rental property. See section 856(d)(1) for details.
- Rent from a taxable REIT subsidiary (TRS) either (a) where at least 90% of the space at issue is leased to third parties at rents comparable to the rent paid by the other tenants of the REIT for comparable space or (b) for certain lodging facilities operated by an eligible independent contractor. For more information, including definitions and additional requirements, see sections 856(d)(8) and 856(d)(9). Also, see Rev. Proc. 2003-66 for the special rules on rents paid to a REIT by certain joint ventures that include a TRS.

Note. Act section 243(b) of the *"American Jobs Creation Act (AJCA)"* clarifies the limited rental exception for taxable REIT subsidiaries by testing the comparability of rents at certain times during the lease term. For additional information see section 856(d)(8) as amended by the AJCA.

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 if there is no gain or loss.

Line 7. Other income. Enter any other taxable income not reported on lines 1 through 6, except amounts that must be reported in Part 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:

- 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 amount of 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.
- The amount included in income from Form 8864, Biodiesel Fuels Credit.
- 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 and Regulations section 1.280G-1.

Business startup expenses. Business start-up and organizational costs must be capitalized unless an election is made to deduct or amortize them. For costs paid or incurred before October 23, 2004, the REIT must capitalize them unless it elects to amortize these costs over a period of 60 months or more. For costs paid or incurred after October 22, 2004, the following rules apply separately to each category of costs.

- The REIT can elect to deduct up to $5,000 of such costs for the year the REIT begins business operations.
- The $5,000 deduction is reduced (but not below zero) by the amount the total costs exceed $50,000. If the total costs are $55,000 or more, the deduction is reduced to zero.
- If the election is made, any costs that are not deductible must be amortized ratably over a 180-month period beginning with the month the REIT begins business operations.

For more details on the election for business start-up costs, see section 195 and attach the statement required by Regulations section 1.195-1(b). For more details on the election for organizational costs, see section 248 and attach the statement required by Regulations section 1.248-1(c). Report the deductible amount of these costs and any amortization on line 18. For amortization that begins during the 2004 tax year, complete and attach Form 4562.

Passive activity limitations. Limitations on passive activity losses and credits (for the first tax year as a REIT) 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.
- Orphan drug credit.
- Disabled access credit.
- Enhanced oil recovery credit.
- Empowerment zone and renewal community employment credit.
- Indian employment credit.
- Employer credit for social security and Medicare taxes paid on certain employee tips.
- Welfare-to-work credit.
- Credit for small employer pension plan startup costs.
- Credit for employer-provided childcare facilities and services.
- New York Liberty Zone business employee credit.
- Low sulfur diesel fuel production credit.

If the REIT has any of these credits, 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 IRA plan.

Disallowance of deduction for employee compensation in excess of $1 million. Publicly held REITs 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 REIT (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 the following:

- 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 162(m) and Regulations section 1.162-27.

Line 10. Salaries and wages. Enter the total salaries and wages paid for the tax year, reduced by the amount claimed on:

- Form 5884, Work Opportunity Credit, line 2,
- Form 8844, Empowerment Zone and Renewal Community Employment Credit, line 2,
- Form 8845, Indian Employment Credit, line 4,
- Form 8861, Welfare-to-Work Credit, line 2, and
- Form 8884, New York Liberty Zone Business Employee Credit, line 2.

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 IRA 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. 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 FMV on the first day of the lease exceeded:
After 12/31/03 but before 1/1/05	$17,500
After 12/31/02 but before 1/1/04	$18,000
After 12/31/98 but before 1/1/03	$15,500

If the lease term began before January 1, 1999, see Pub. 463, Travel, Entertainment, Gift, and Car Expenses, to find out if the REIT has an inclusion amount. The inclusion amount for lease terms beginning in 2005 will be published in the Internal Revenue Bulletin in early 2005.

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 (except for the tax imposed on net recognized built-in gain allocable to ordinary income).
- Foreign or U.S. possession income taxes if a tax credit is claimed (however, see the Instructions for Form 5735 for special rules for possession income taxes).
- 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.

CAUTION *Interest expense cannot be used to offset interest income.*

The deduction for interest is limited 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 section 264(f). Attach a statement showing the computation of the deduction.

The REIT must make an interest allocation if the proceeds of a loan were used for more than one purpose (for example, 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.

The following interest is not deductible:

- 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 (for example, a cash basis calendar year taxpayer who in 2004 prepaid interest allocable to any period after 2004 can deduct only the amount allocable to 2004).
- Interest and carrying charges on straddles. Generally, these amounts must be capitalized. See section 263(g).
- Interest paid or incurred on any portion of an underpayment of tax that is attributable to an understatement arising from an undisclosed listed transaction or an undisclosed reportable avoidance transaction (other than a listed transaction) entered into in tax years beginning after October 22, 2004.

Special rules apply to:

- Interest on which no tax is imposed (see section 163(j));
- Foregone 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.)

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 property placed in service during tax year 2004 or carried over from 2003. See Form 4562 and its instructions.

Line 18. Other deductions.

CAUTION *Penalties or fines paid to any government agency or instrumentality because of a violation of a law are not deductible. See Publication 535, Business Expenses, for additional information.*

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.

Examples of other deductions include:

- Amortization (see Form 4562).
- Certain business start-up and organizational costs that the REIT elects to deduct.
- Reforestation costs. The REIT can elect to deduct up to $10,000 of qualified reforestation expenses paid or incurred after October 22, 2004, for each qualifying timber property. The REIT can elect to amortize over 84 months any amount not deducted.
- Insurance premiums.
- Legal and professional fees.
- Supplies used and consumed in the business.
- Utilities.
- Ordinary losses from trade or business activities of a partnership (from Schedule K-1 (Form 1065 or 1065-B)). Do not offset ordinary income against ordinary losses. Instead, include the income on line 7. Show the partnership's name, address, and EIN on a separate statement attached to this return. If the amount is from more than one partnership, identify the amount from each partnership.
- Deduction for clean-fuel vehicle and certain refueling property (see Pub. 535).

Charitable contributions. Enter 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.

REITs reporting taxable income on the accrual method may elect to treat as paid during the tax year any deductible contributions paid by the 15th day of the 3rd month after the end of the tax year if the contributions were authorized by the board of directors during the tax year.Attach a declaration to the return stating that the resolution authorizing the contributions was adopted by the board of directors during the tax year. The declaration must include the date the resolution was adopted.

TIP *A REIT may treat cash contributions made to a qualified charitable organization in January 2005 for the relief of victims in areas affected by the December 26, 2004, Indian Ocean tsunami as if it had made them on December 31, 2004.*

Limitation on deduction. The total amount claimed may not be more than 10% of taxable income computed without regard to the following:

- Any deduction for contributions.
- The special deductions on line 21b, relating to dividends paid.
- The deduction allowed under section 249, relating to any premium paid or incurred upon the repurchase of a convertible bond.
- Any net operating loss (NOL) carryback to the tax year under section 172.
- Any capital loss carryback to the tax year under section 1212(a)(1).

Carryover. Charitable contributions over the 10% limitation cannot be deducted for the tax year but may be carried over to the next 5 tax years.

Special rules apply if the REIT has an NOL carryover to the tax year. In figuring the charitable contributions deduction for the tax year, the 10% limit is applied using the taxable income after taking into account any deduction for the NOL.

To figure the amount of any remaining NOL carryover to later years, taxable income must be modified (see section 172(b)). To the extent that contributions are used to reduce taxable income for this purpose and increase an NOL carryover, a contributions carryover is not allowed. See section 170(d)(2)(B).

Substantiation requirements. 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 a description and a good faith estimate of the value of any goods or services provided in return for the contribution or states that no goods or services were 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, Noncash Charitable Contributions, described below.

For more information on substantiation and recordkeeping requirements, see section 170 and the related regulations and Pub. 526, Charitable Contributions.

Contributions of property other than cash. If a REIT (other than a closely held REIT, see below) 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 (FMV). A closely held REIT must complete Form 8283 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.

If the REIT made a "qualified conservation contribution" under section 170(h), also include the FMV of the underlying property before and after the donation, as well as the type of legal interest contributed, and describe the conservation purpose benefited by the donation. If a contribution carryover is included, show the amount and how it was determined.

Contributions after June 3, 2004. For contributions of certain property made after June 3, 2004, a REIT must file Form 8283 and get a qualified appraisal if claiming a deduction of more than $5,000. Do not attach the appraisal to the tax return unless claiming a deduction of more than $500,000 or, for art, a deduction of $20,000 or more. See Form 8283.

Contributions of used vehicles. Special rules apply to contributions after 2004 of used motor vehicles, boats, or airplanes with a claimed value of more than $500. See section 170(f)(12).

Reduced deduction for contributions of certain property. For a charitable contribution of property, the REIT must reduce the contribution by the sum of:

- The ordinary income and short-term capital gain that would have resulted if the property were sold at its FMV and
- For certain contributions, the long-term capital gain that would have resulted if the property were sold at its FMV.

The reduction for the long-term capital gain applies to:

- Contributions of tangible personal property for use by an exempt organization for a purpose or function unrelated to the basis for its exemption and
- Contributions of any property to or for the use of certain private foundations except for stock for which market quotations are readily available (section 170(e)(5)).

Larger deduction. A larger deduction is allowed for certain contributions of:

- Inventory and other property to certain organizations for use in the care of the ill, needy, or infants (see section 170(e)(3) and Regulations section 1.170A-4A);
- Scientific equipment used for research to institutions of higher learning or to certain scientific research organizations (other than by personal holding companies and service organizations) (see section 170(e)(4)); and
- Computer technology and equipment for educational purposes.

Contributions of computer technology and equipment for educational purposes. A REIT may take an increased deduction under section 170(e)(6) for qualified contributions of computer technology or equipment for educational purposes. The term "Computer technology or equipment" means computer software, computer or peripheral equipment, and fiber optic cable related to computer use.

A contribution is a qualified contribution if:

- It is made to an eligible donee (see below);
- Substantially all of the donee property's use is:
  1. Related to the purpose or function of the donee,
  2. For use within the United States, and
  3. For educational purposes.
- The contribution is made not later than 3 years after the date the taxpayer acquired or substantially completed the construction of the property;
- The original use of the property is by the donor or the donee;
- The property is not transferred by the donee for money, service, or other property, except for shipping, transfer, and installation costs;
- The property fits productively into the donee's education plan; and
- The property meets standards, if any, that may be prescribed by future regulations to assure it meets minimum functionality and suitability for educational purposes.

Eligible donee. The term "eligible donee" means:

- An educational organization that normally maintains a regular faculty and curriculum and has a regularly enrolled body of pupils in attendance at the place where its educational activities are regularly conducted,
- A section 501(c)(3) entity organized primarily for purposes of supporting elementary and secondary education, or
- A public library (as described in section 170(e)(6)(B)(i)(III)).

Exceptions. The following exceptions apply to the above rules for computer technology and equipment:

- Contributions to private foundations may qualify if the foundation contributes the property to an eligible donee within 30 days after the contribution and notifies the donor of the contribution. For more details, see section 170(e)(6)(C).
- For contributions of property reacquired by the manufacturer of the property, the 3-year period begins on the date that the original construction of the property was substantially completed. Also, the original use of the property may be by someone other than the donor or the donee.

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, Annual Return/Report of Employee Benefit Plan. File this form for a plan that is not a one-participant plan (see below).

Form 5500-EZ, Annual Return of One-Participant (Owners and Their Spouses) Retirement Plan. File this form for a plan that only covers the owner (or the owner and his or her spouse) but only if the owner (or the owner and his or her spouse) owns the entire business.

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 more details.

Travel. A 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 REIT, 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.

See section 274(n)(3) for a special rule that applies to expenses for meals consumed by individuals subject to the hours of service limits of the Department of Transportation.

Membership dues. The REIT can 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, a REIT cannot 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 usually considered entertainment, amusement, or recreation.

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

However, if the recipient is an officer, director, or beneficial owner (directly or indirectly) of more than 10% of any class of stock, the deduction for otherwise nondeductible meals, travel, and entertainment expenses incurred after October 22, 2004, is limited to the amount treated as compensation. See section 274(e)(2).

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, Business Expenses.

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 section 170(f)(9).

For more information on other deductions that may apply to corporations, see Pub. 535.

Line 20. Taxable income before NOL deduction, total deduction for dividends paid, and section 857(b)(2)(E) deduction. 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.

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 REIT under section 465(c)(7).

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

If the at-risk rules apply, adjust the amount on this line for any section 465(d) losses. These losses are limited to the amount for which the REIT is at risk for each separate activity at the close of the tax year. If the REIT is involved in one or more activities, any of which incurs a loss for the year, report the losses for each activity separately. Attach Form 6198, At-Risk Limitations, showing the amount at risk and gross income and deductions for the activities with the losses.

If the REIT sells or otherwise disposes of an asset or its interest (either total or partial) in an activity to which the at-risk rules apply, determine the net profit or loss from the activity by combining the gain or loss on the sale or disposition with the profit or loss from the activity. If the REIT has a net loss, it may be limited because of the at-risk rules.

Treat any loss from an activity not allowed for the tax year as a deduction allocable to the activity in the next tax year.

Line 21a. Net operating loss deduction. A REIT can use the net operating loss (NOL) incurred in one tax year to reduce its taxable income in another tax year.

Generally, a REIT may carry an NOL over to each of the 20 years (15 years for NOLs incurred in tax years beginning before August 6, 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 other tax years, but do not enter more than the REIT's taxable income. The REIT's taxable income for purposes of the NOL deduction is taxable income (line 20) reduced by the dividends paid deduction (line 21b) and the section 857(b)(2)(E) deduction (line 21c). If this amount is less than zero, an NOL deduction cannot be taken for the tax year. Attach a schedule showing the computation of the NOL deduction. Also complete item 9 on Schedule K.

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. The NOL for the current year is computed using the REIT's taxable income before it is reduced by the dividends paid deduction. After the REIT applies the NOL to the first tax year to which it may be carried, the taxable income of that year must be modified (as described by section 172(b) and the modified rules for REITs in section 172(d)(6)) to determine how much of the remaining loss may be carried to other years. Although the current year NOL is computed without regard to the dividends paid deduction, an NOL carryover from a prior year is applied to the current year using taxable income after it is reduced by the dividends paid deduction. The NOL amounts carried forward by the REIT are not reduced by subsequent year dividends paid deductions. See Example 1 in Regulations section 1.172-5(a)(4).

Special NOL rules apply when:

- An ownership change occurs, the amount of the taxable income of a loss REIT that may be offset by the pre-change NOL carryovers is limited (see section 382 and the related regulations). A loss REIT must file an information statement with its income tax return for each tax year that certain ownership shifts occur (see Temporary Regulations section 1.382-2T(a)(2)(ii) for details). See Regulations section 1.382-6(b) for details on how to make the closing-of-the-books election.
- A REIT acquires control of another REIT (or acquires its assets in a reorganization), the amount of pre-acquisition losses that may offset recognized built-in gains is limited (see section 384).

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 24g. Enter the credit from Form 4136, Credit for Federal Tax Paid on Fuels, if the REIT qualifies to claim this credit. Attach Form 4136 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 enter "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:

- Its alternative minimum tax minus the credit for Federal tax paid on fuels for 2004 as shown on the return or
- 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 Instructions for Form 2220 for the definition of a large corporation.

If Form 2220 is attached, 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 treat the property as foreclosure property in the year it was acquired. The property continues to be foreclosure property until the close of the 3rd tax year following the tax year in which the REIT acquired it. For more information, see section 856(e). However, if the foreclosure property is qualified health care property, it will cease to be foreclosure property as of the close of the 2nd year following the tax year the REIT acquired it (although the REIT may request one or more extensions to this two-year grace period not to extend beyond the 6th year). See section 856(e)(6) for details.

This election must be made by the due date for filing Form 1120-REIT (including extensions). To make the election, attach a statement that:

- Indicates that the election under section 856(e) is being made;
- Identifies the property to which the election applies;

• Includes 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
• Gives a description of the lease or debt with respect to which default occurred or was imminent.

The 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.

Line 2. Gross income from foreclosure property. Do not include income that qualifies under the REIT's 75% gross income test under section 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. In certain cases, the amounts shown on lines 1a and 12a of Part III might differ from the total income entered on line 8 of Part I. For example, the income items are different for a REIT that is a partner in a partnership due to the application of section 704 and Regulations section 1.856-3(g).

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. Also, the REIT must:
• Attach a schedule listing the nature and amount of each item of its gross income described in section 856(c)(2) and (3);
• Not have fraudulently included any incorrect information in the attached schedule; and
• Have reasonable cause for not meeting the requirements of section 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(a)(1) that is not foreclosure property and that does not qualify as an exception. See section 857(b)(6)(C) for information on certain sales that do not qualify as prohibited transactions. See section 856(j) for a special rule regarding a shared appreciation mortgage. For tax years beginning after October 22, 2004, certain sales of timber property by a timber REIT qualify as an exception. See new section 857(b)(6)(D).

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), 857(d)(3)(B), 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:

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

Schedule J—Tax Computation

Note. Members of a controlled group must attach to Form 1120-REIT a statement showing the computation of the tax entered on line 3a. You may use the *"Tax Computation Worksheet for Members of a Controlled Group"* below for this purpose.

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 REIT's share of the additional 5% tax on line 2b(1).

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

Line 3a–Tax on REIT Taxable Income

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

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

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

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.	**Total.** Add lines 8 through 13. Enter here and on line 3a, Schedule J	

Line 3e

Enter the amount of the 100% excise tax imposed on the following:

- Income of a taxable REIT subsidiary (TRS) for services provided to the REIT's tenants that is improperly included in rents from real property reported by the REIT instead of being reported by the TRS.
- Deductions that are improperly allocated between the REIT to its TRS.
- Interest deductions of a TRS to the extent that interest payments to its REIT are in excess of a rate that is commercially reasonable.

See section 857(b)(7) for details and exceptions.

Line 3f – Alternative Minimum Tax (AMT)

Unless the REIT is treated as a small corporation exempt from the AMT, it may owe the AMT 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. See Form 4626 for details.

Exemption for small corporations. A REIT is treated as a small corporation exempt from the AMT for its tax year beginning in 2004 if that year is the REIT's first tax year in existence (regardless of its gross receipts) or:

1. It was treated as a small corporation exempt from the AMT for all prior tax years beginning after 1997 and
2. Its average annual gross receipts for the 3-tax-year period (or portion thereof during which the REIT was in existence) ending before its tax year beginning in 2004 did not exceed $7.5 million ($5 million if the REIT had only 1 prior tax year).

For more details, see the Instructions for Form 4626.

Line 3g – Income Tax

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 3g. On the dotted line to the left of line 3g, enter "Section 1291" and the amount.

Do not include on line 3g 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 enter "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 3g. On the dotted line next to line 3g, enter "Section 197" and the amount. For more information, see Pub. 535.

Line 4a – Foreign Tax Credit

To find out when a REIT can claim 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

If the REIT can claim either of the following credits, check the appropriate box(es) and include the amount of the credits in the total for line 4b.

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 to the return showing the computation of the credit.

Qualified electric vehicle (QEV) credit. Use Form 8834, Qualified Electric Vehicle Credit, if the REIT can claim a credit for the purchase of a new qualified electric vehicle. Vehicles that qualify for this credit are not eligible for the deduction for clean-fuel vehicles under section 179A.

Line 4c – General Business Credit

Enter on line 4c the REIT's total general business credit.

If the REIT is filing Form 8844, Empowerment Zone and Renewal Community Employment Credit, or Form 8884, New York Liberty Zone Business Employee Credit, check the "Form(s)" box, enter the form number in the space provided, and include the allowable credit on line 4c.

If the REIT is required to file Form 3800, General Business Credit, check the "Form 3800" box and include the allowable credit on line 4c. If the REIT is not required to file Form 3800, check the "Form(s)" box, enter the form number in the space provided, and include on line 4c the allowable credit from the applicable form listed below.

- Investment Credit (Form 3468).
- Work Opportunity Credit (Form 5884).
- Welfare-to-Work Credit (Form 8861).
- Credit for Alcohol Used as Fuel (Form 6478).
- Credit for Increasing Research Activities (Form 6765).
- Low-Income Housing Credit (Form 8586).
- Enhanced Oil Recovery Credit (Form 8830).
- Disabled Access Credit (Form 8826).
- Renewable Electricity and Refined Coal Production Credit (Form 8835, Section A only).
- Indian Employment Credit (Form 8845).
- Credit for Employer Social Security and Medicare Taxes Paid on Certain Employee Tips (Form 8846).
- Orphan Drug Credit (Form 8820).
- New Markets Credit (Form 8874).
- Credit for Small Employer Pension Plan Startup Costs (Form 8881).
- Credit for Employer-Provided Child Care Facilities and Services (Form 8882).
- Biodiesel Fuels Credit (Form 8864).
- Low Sulfur Diesel Fuel Production Credit (Form 8896).
- Credit for Contributions to Selected Community Development Corporations (Form 8847).
- Trans-Alaska pipeline liability fund credit (see instructions)
- General credits from an electing large partnership (Schedule K-1 (Form 1065-B))

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 REIT's 2003 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 (PHC) Tax, for definitions and details on how to figure the tax.

Line 7 – Other Taxes

Include any of the following taxes and interest in the total on line 7. Check the appropriate box(es) for the form, if any, used to compute the total.

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, for details.

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.

Other. Additional taxes and interest amounts can be included in the total entered on line 7. Check the box for "Other" if the REIT includes any of the taxes and interest discussed below. See *How to report* , below for details on reporting these amounts on an attached schedule.

1. 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.
2. Recapture of Indian employment credit. Generally, if an employer terminates the employment of a qualified employee less than 1 year after the date of initial employment, any Indian employment credit allowed for a prior tax year because of wages paid or incurred to that employee must be recaptured. For details, see Form 8845 and section 45A.
3. Recapture of new markets credit (see Form 8874).
4. Recapture of employer-provided childcare facilities and services credit (see Form 8882).
5. Interest due on deferred tax attributable to (a) installment sales of certain timeshares and residential lots (section 453(l)(3)) and (b) certain nondealer installment obligations (section 453A(c))
6. Interest due on deferred gain (section 1260(b)).

Built-in Gains Tax

If, on or after January 2, 2002, property of a C corporation becomes property of a REIT by either (a) the qualification of the C corporation as a REIT or (b) the transfer of such property to a REIT, then the REIT will be subject to the built-in gain tax under section 1374 unless the C corporation elects deemed sale treatment on the transferred property. If the C corporation does not make this election, the REIT must pay tax on the net recognized built-in gain during the 10-year period beginning on its first day as a REIT or the day it acquired the property. Recognized built-in gains and losses generally retain their character (for example, ordinary income or capital gain) and are treated the same as other gains or losses of the REIT. The REIT's tax on net recognized built-in gain is treated as a loss incurred by the REIT during the same tax year (see the instructions for line i of the *Built-in Gains Tax Worksheet* on this page. See Regulations section 1.337(d)-7 for details.

Different rules apply to elections to be a REIT and transfers of property in a carryover basis transaction that occurred prior to January 2, 2002. For REIT elections and property transfers before this date, the C corporation is subject to deemed sale treatment on the transferred property unless the REIT elects section 1374 treatment. See Regulations section 1.337(d)-6 for information on how to make the election and figure the tax for REIT elections and property transfers before this date. The REIT may also rely on Regulations section 1.337(d)-5 for REIT elections and property transfers that occurred before January 2, 2002.

Built-in Gains Tax Worksheet instructions

Complete the worksheet on this page to figure the built-in gains tax under Regulations section 1.337(d)-7 or 1.337(d)-6.

Line a. Enter the amount that would be the taxable income of the REIT for the tax year if only recognized built-in gain, recognized built-in loss, and recognized built-in gain carryover were taken into account, reduced by any portion of the REIT's recognized built-in gain from:

- Net income from foreclosure property,
- Amounts subject to tax for failure to meet certain source-of-income requirements under section 857(b)(5) computed in accordance with Regulations section 1.337(d)-6(c)(2),
- Net income from prohibited transactions under section 857(b)(6), and
- Amounts subject to tax under section 857(b)(7).

Line b. Add the amounts shown on Form 1120-REIT, page 1, line 20; Form 1120-REIT, Part II, line 5; and Form 2438, line 11. Subtract from the total the amount on Form 1120-REIT, line 21c. Enter the result on line b of the worksheet on this page.

Line c. The REIT's net unrealized built-in gain is the amount, if any, by which the fair market value of the assets of the REIT at the beginning of its first REIT year (or as of the date the assets were acquired, for any asset with a basis determined by reference to its basis (or the basis of any other property) in the hands of a C corporation) exceeds the aggregate adjusted basis of such assets at that time.

Enter on line c the REIT's net unrealized built-in gain reduced by the net recognized built-in gain for prior years. See sections 1374(c)(2) and (d)(1).

Line d. If the amount on line b exceeds the amount on line a, the excess is treated as a recognized built-in gain in the succeeding tax year.

Line e. Enter the section 1374(b)(2) deduction. Generally, this is any net operating loss carryforward or capital loss carryforward (to the extent of net capital gain included in recognized built-in gain for the tax year) arising in tax years for which the REIT was a C corporation. These loss carryforwards must be used to reduce recognized built-in gain for the tax year to the greatest extent possible before they can be used to reduce real estate investment trust taxable income.

Line h. Credit carryforwards arising in tax years for which the REIT was a C corporation must be used to reduce the tax on net built-in gain for the tax year to the greatest extent possible before the credit carryforwards can be used to reduce the tax on real estate investment trust taxable income.

Line i. The REIT's tax on net recognized built-in gain is treated as a loss sustained by the REIT during the same tax year. Deduct the tax attributable to:

- Ordinary gain as a deduction for taxes on Form 1120-REIT, line 14.
- Short-term capital gain as a short-term capital loss on Schedule D (Form 1120), line 1.
- Long-term capital gain as a long-term capital loss on Schedule D (Form 1120), line 6.

How to report. If the REIT checked the "Other" box, attach a schedule showing the computation of each item included in the total for line 7, Schedule J. In addition, identify (a) the applicable Code section, (b) the type of taxes or interest, and (c) enter the amount of tax or interest.

Line 8 – Total Tax

Include any deferred tax on the termination of a section 1294 election applicable to shareholders in a qualified electing fund in the amount entered on line 8. See Form 8621, Part V, and *How to report,* below.

Subtract from the total for line 8 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 8. On the dotted line next to line 8, enter the amount of tax or interest, identify it as tax or interest, and specify the Code section that applies.

Schedule K—Other Information

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

Question 3

Check the "Yes" box for question 3 if the REIT is a subsidiary in a parent-subsidiary controlled group (defined below), 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.

Parent-subsidiary controlled group. 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. At least 80% of the total combined voting power of all classes of voting 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 and
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 one or more 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 REIT entitled to vote, or (b) the total value of all classes of stock of the REIT.

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 line 5. On line 5b, enter 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.

Built-in Gains Tax Worksheet (keep for your records)

a.	Excess of recognized built-in gains over recognized built-in losses	**a.**	
b.	Taxable income	**b.**	
c.	Enter the net unrealized built-in gain reduced by any net recognized built-in gain for all prior years	**c.**	
d.	Net recognized built-in gain (enter the **smallest** of lines a, b, or c)	**d.**	
e.	Section 1374(b)(2) deduction	**e.**	
f.	Subtract line e from line d. If zero, enter -0- here and on line i	**f.**	
g.	Enter 35% of line f	**g.**	
h.	Business credit and minimum tax credit carryforwards under section 1374(b)(3) from C corporation years	**h.**	
i.	**Tax.** Subtract line h from line g (if zero or less, enter -0-). Enter here and include on line 7 of Schedule J (see instructions)	**i.**	

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 line 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.

Item 8

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 RIC.

Item 9

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 2004. Do not reduce the amount by any NOL deduction reported on line 21a.

Schedule L – Balance Sheets per Books

The balance sheet should agree with the REIT's books and records.

Line 1. Cash. 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 RIC that distributed exempt-interest dividends during the tax year of the REIT.

Line 24. Adjustments to shareholders' 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:

- Meals and entertainment not deductible 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% limit under section 274(n)).
- The cost of skyboxes over the face value of nonluxury box seat tickets.
- The part of luxury water travel not deductible under section 274(m).
- Expenses for travel as a form of education.
- Other nondeductible travel and entertainment expenses.

For more information, see Pub. 542, Corporations.

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 RIC.

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. 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. Section 6109 requires return preparers to provide their identifying numbers on the return.

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	58 hr., 35 min.
Learning about the law or the form	24 hr., 7 min.
Preparing the form	42 hr., 51 min.
Copying, assembling, and sending the form to the IRS	4 hr., 49 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 Internal Revenue Service; Tax Products Coordinating Committee; SE:W:CAR:MP:T:T:SP; 1111 Constitution Ave., NW; IR-6406; Washington, DC 20224. Do not send the tax form to this office. Instead, see the *Where To File* instructions on page 2.