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Tax writing committees, bi-partisan letter: Regulatory recognition period for REIT, RIC conversions

The chairmen and ranking members of the House Ways and Means Committee and the Senate Finance Committee sent a letter regarding the recognition period for real estate investment trust (REIT) and regulated investment company (RIC) conversions in temporary and proposed section 337(d) regulations issued in June 2016.

The bi-partisan [letter](#) [PDF 758 KB] (October 18, 2016) asks that the regulations be modified to provide that REITs and RICs would be subject to the same five-year built-in gain recognition period that applies to S corporations.

In the letter, Rep. Brady (R-TX), Rep. Levin (D-MI), Sen. Hatch (R-UT), and Sen. Wyden (D-OR) indicated that long-standing regulations under section 337(d) have referenced the S corporation built-in gain period for conversions to REIT and RIC status. The letter also notes that, when legislation shortened the recognition period for conversions to S corporation status on a temporary basis, the IRS applied the shortened recognition period to REITs and RICs. The letter then states:

“The PATH Act enacted in December 2015 made the built-in gain recognition period for S corporations five years on a permanent basis. Considering the long-standing link between S corporations, REITs, and RICs on this issue for nearly three decades, the Joint Committee on Taxation’s technical explanation of the PATH Act indicates that the permanent five-year recognition period would apply to REITs and REICs with equal force.”

The letter concludes that the new regulations are “...inconsistent with congressional intent and longstanding practice that REITS, RICs, and S corporations be subject to the same five-year built-in gain recognition period.”

Read an initial report about the regulations in [TaxNewsFlash-United States](#)

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