- (ii) The claim must be made on Form 8849 (or such other form as the Commissioner may designate) in accordance with the instructions on the form. The form should be marked *Section 4081(e) Claim* at the top. Section 4081(e) claims must not be included with a claim for a refund under any other provision of the Internal Revenue Code.
- (2) Information to be included in the claim. Each claim for a refund under section 4081(e) must contain the following information with respect to the taxable fuel covered by the claim:
 - (i) Volume and type of taxable fuel.
- (ii) Date on which the claimant incurred the tax liability to which this claim relates (the second tax).
- (iii) Amount of second tax that claimant paid to the government and a statement that claimant has not included the amount of this tax in the sales price of the taxable fuel to which this claim relates and has not collected that amount from the person that bought the taxable fuel from claimant.
- (iv) Name, address, and employer identification number of the person that paid the first tax to the government.
- (v) A copy of the first taxpayer's report that relates to the taxable fuel covered by the claim.
- (vi) If the taxable fuel covered by the claim was bought other than from the first taxpayer, a copy of the statement of subsequent seller that the claimant received with respect to that taxable fuel.
- (g) Effective date. This section is effective in the case of taxable fuel with respect to which the first tax is imposed

after September 30, 1995.

Par. 11. Section 48.4101–3 is added to read as follows:

§ 48.4101–3 Registration.

(a) A refiner that is registered under section 4101 may treat itself with respect to the bulk removal of any batch of gasohol from its refinery as a person that is not registered under section 4101. See § 48.4081–3(b)(1)(iii).

(b) This section is effective October 1,

PART 602—OMB CONTROL NUMBERS UNDER THE PAPERWORK REDUCTION ACT

Par. 12. The authority citation for part 602 continues to read as follows:

Authority: 26 U.S.C. 7805.

§ 602.101 [Amended]

Par. 13. In § 602.101, paragraph (c) is amended by removing the entry for 48.4041–21 from the table and adding

the entry "48.4041–21.....1545–1270" in numerical order to the table.

Margaret Milner Richardson,

Commissioner of Internal Revenue. Approved: July 25, 1995.

Leslie Samuels,

Assistant Secretary of the Treasury. [FR Doc. 95–19284 Filed 8–4–95; 8:45 am] BILLING CODE 4830–01–U

26 CFR Part 301

[TD 8610]

RIN 1545-AP98

Taxable Mortgage Pools

AGENCY: Internal Revenue Service (IRS), Treasury.

ACTION: Final regulations.

SUMMARY: This document contains final regulations relating to taxable mortgage pools. This action is necessary because of changes made to the law by the Tax Reform Act of 1986. The final regulations provide guidance to entities for determining whether they are subject to the taxable mortgage pool rules. EFFECTIVE DATE: These regulations are effective September 6, 1995.

FOR FURTHER INFORMATION CONTACT: Arnold P. Golub or Marshall D. Feiring, (202) 622–3950 (not a toll-free number).

SUPPLEMENTARY INFORMATION:

Background

A notice of proposed rulemaking (FI–55–91) under section 7701(i) of the Internal Revenue Code was published in the **Federal Register** on December 23, 1992 (57 FR 61029). Written comments relating to this notice were received, but no public hearing was requested or held. After consideration of the comments, the proposed regulations under section 7701(i) are adopted as revised by this Treasury decision.

Explanation of Provisions

Section 301.7701(i)–1(c)(1)—Basis Used To Determine the Composition of an Entity's Assets

Among other requirements, to be classified as a taxable mortgage pool, substantially all of an entity's assets must consist of debt obligations, and more than 50 percent of those debt obligations must consist of real estate mortgages (or interests therein). Under the proposed regulations, an entity must apply these tests using the tax bases of its assets. One commentator, however, suggested that the entity should have the choice of using either the tax bases of its assets or the fair market value of its assets. The IRS and Treasury believe

that using fair market value for the asset composition tests creates uncertainty and administrative difficulties. The final regulations, therefore, retain the rule in the proposed regulations.

Section 301.7701(i)-1(c)(5)—Seriously Impaired Real Estate Mortgages Not Treated as Debt Obligations

Under the proposed regulations, real estate mortgages that are seriously impaired are not treated as debt obligations for purposes of the asset composition tests. Whether real estate mortgages are seriously impaired generally depends on all the facts and circumstances. The proposed regulations, however, provide two safe harbors. Under those provisions, whether mortgages are seriously impaired depends only on the number of days the payments on the mortgages are delinquent (more than 89 days for single family residential real estate mortgages and more than 59 days for multi-family residential and commercial real estate mortgages). The safe harbors are not available, however, if an entity is receiving or anticipates receiving certain payments on the mortgages such as payments of principal and interest that are substantial and relatively certain as to amount.

Several commentators have asked for additional safe harbors based on factors other than the number of days a mortgage is delinquent. For example, one suggested a safe harbor for mortgages having excessively high loan to value ratios. Others suggested a safe harbor for mortgages that are purchased at a substantial discount.

The final regulations retain, unchanged, the safe harbors of the proposed regulations. The IRS and Treasury believe that no single factor is as clear an indication that a mortgage is seriously impaired as days delinquent. For example, a mortgage may be purchased at a discount for a variety of reasons, some of which bear no relation to the quality of the mortgage. To provide further guidance, however, the final regulations list some of the facts and circumstances that should be considered in determining whether a mortgage is seriously impaired.

Another commentator has criticized the safe harbors because they are unavailable if an entity anticipates receiving certain payments on a delinquent mortgage. The commentator is concerned that a test based on whether an entity anticipates receiving payments on a mortgage is both subjective and open-ended. To address this concern, the final regulations create a new rule, under which if an entity makes reasonable efforts to resolve a