

► See separate instructions.

## Part I Reporting Issuer

<b>1 Issuer's name</b>  <b>Weingarten Realty Investors by Kimco Realty Corporation, as acquirer</b>		<b>2 Issuer's employer identification number (EIN)</b>  <b>13-2744380</b>	
<b>3 Name of contact for additional information</b>  <b>David Bujnicki</b>		<b>4 Telephone No. of contact</b>  <b>516-869-2087</b>	
<b>6 Number and street (or P.O. box if mail is not delivered to street address) of contact</b>  <b>500 North Broadway, Suite 201</b>		<b>7 City, town, or post office, state, and ZIP code of contact</b>  <b>Jericho, NY 11753</b>	
<b>8 Date of action</b>  <b>August 3, 2021</b>		<b>9 Classification and description</b>  <b>Common Stock of Weingarten Realty Investors and of Kimco Realty Corporation</b>	
<b>10 CUSIP number</b>  <b>149446R711 1048241103</b>	<b>11 Serial number(s)</b>  <b>N/A</b>	<b>12 Ticker symbol</b>  <b>Kimco: KIM Weingarten: WRI</b>	<b>13 Account number(s)</b>  <b>N/A</b>

**Part II** **Organizational Action** Attach additional statements if needed. See back of form for additional questions.

14 Describe the organizational action and, if applicable, the date of the action or the date against which shareholders' ownership is measured for the action ► [See attachment](#)

15 Describe the quantitative effect of the organizational action on the basis of the security in the hands of a U.S. taxpayer as an adjustment per share or as a percentage of old basis ► [See attachment](#)

16 Describe the calculation of the change in basis and the data that supports the calculation, such as the market values of securities and the valuation dates ► [See attachment](#)

**Part II      Organizational Action (continued)**

17 List the applicable Internal Revenue Code section(s) and subsection(s) upon which the tax treatment is based ► See attachment

18 Can any resulting loss be recognized? ► See attachment

19 Provide any other information necessary to implement the adjustment, such as the reportable tax year ► See attachment

Under penalties of perjury, I declare that I have examined this return, including accompanying schedules and statements, and to the best of my knowledge and belief, it is true, correct, and complete. Declaration of preparer (other than officer) is based on all information of which preparer has any knowledge.

**Sign  
Here**

Signature ►

True, correct, and complete. Declaration of preparation.

Date ►

which preparer has any knowl

Print your name ► **Harvey G. Weinreb**

Title ► Vice President/Tax

<b>Paid Preparer Use Only</b>	Print/Type preparer's name	Preparer's signature	Date	Check <input type="checkbox"/> if self-employed	PTIN
	Firm's name ►			Firm's EIN ►	
	Firm's address ►			Phone no.	

**Kimco Realty Corporation**  
**EIN: 13-2744380**  
**Attachment to Form 8937**

**Form 8937, Part II, Box 14**

**Describe the organizational action and, if applicable, the date of the action or the date against which shareholders' ownership is measured for the action.**

On August 3, 2021, pursuant to the Agreement and Plan of Merger, dated as of April 15, 2021 by and between Kimco Realty Corporation ("Kimco") and Weingarten Realty Investors ("WRI"), WRI merged with and into Kimco (the "Merger") with Kimco as the surviving corporation of the Merger and WRI ceasing its separate legal existence.

On the effective date of the Merger, each WRI common shareholder had the right to receive the Merger consideration, consisting of 1.408 of newly issued shares of Kimco common stock plus \$2.89 in cash for each common share of beneficial interest that they owned immediately prior to the effective time of the Merger, with cash paid in lieu of fractional shares.

Immediately after the Merger, Kimco stockholders continued to own their existing shares of Kimco common stock, the form of which was not changed by the Merger.

**Kimco Realty Corporation**  
**EIN: 13-2744380**  
**Attachment to Form 8937**

**Form 8937, Part II, Box 15**

**Describe the quantitative effect of the organizational action on the basis of the security in the hands of a U.S. taxpayer as an adjustment per share or as a percentage of old basis.**

The information contained herein does not constitute tax advice and does not purport to be complete or to describe the consequences that may apply to particular categories of shareholders.

Further discussion of material U.S. federal tax consequences of the Merger can be found in the Form S-4 for Kimco Realty Corporation as filed with the Securities and Exchange Commission on May 28, 2021, under the heading "Material U.S. Federal Income Tax Consequences of the Merger" (available at: [https://www.sec.gov/Archives/edgar/data/0000879101/000114036121019174/nt10025004x1\\_s4.htm](https://www.sec.gov/Archives/edgar/data/0000879101/000114036121019174/nt10025004x1_s4.htm) (the "Form S-4"))

The Merger is intended to qualify as a "reorganization" within the meaning of Section 368(a) of the Internal Revenue Code of 1986, as amended (the "Code"). Kimco and WRI have not sought and will not seek any ruling from the Internal Revenue Service regarding any matters relating to the Merger, and as a result, there can be no assurance that the Internal Revenue Service will not assert, or that a court would not sustain, a position contrary to any of the conclusions set forth below.

Provided the Merger qualifies as a reorganization, upon exchanging WRI common shares for Kimco common stock and cash (other than cash received in lieu of a fractional share), each U.S. taxpayer/holder (as defined in the Form S-4):

- Will recognize gain (but not loss) in an amount equal to the lesser of (1) the amount of gain realized (i.e., the excess of the sum of the amount of cash and the fair market value of the Kimco common stock received pursuant to the Merger over the adjusted tax basis in the WRI common shares surrendered) and (2) the amount of cash received pursuant to the Merger (excluding any cash received in lieu of a fractional share).
- The aggregate tax basis in the shares of Kimco common stock received in the Merger, including any fractional share interests deemed received and redeemed as described below, will equal the holder's aggregate adjusted tax basis in the WRI common shares surrendered, reduced by the amount of cash received (excluding any cash received in lieu of a fractional share) and increased by the amount of gain, if any, recognized (excluding any gain recognized with respect to cash received in lieu of a fractional share) on the exchange.

If blocks of WRI common shares were acquired at different times or different prices, such U.S. holder's basis in its shares of Kimco stock may be determined separately with reference to each block of WRI common stock.

A U.S. holder who receives cash in lieu of a fractional share of Kimco common stock will generally be treated as having received the fractional share of Kimco common stock pursuant to the Merger and then as having exchanged the fractional share for cash in redemption by Kimco. As a result, gain or loss will generally be recognized equal to the difference between the amount of cash received and the basis allocable to the fractional share of Kimco common stock.

**Kimco Realty Corporation  
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Attachment to Form 8937**

**Form 8937, Part II, Box 16**

**Describe the calculation of the change in basis and the data that supports the calculation, such as the market values of securities and the valuation dates.**

As noted above, assuming the Merger qualifies as a reorganization with the meaning of Code section 368(a), the aggregate basis of the Kimco stock received by a U.S. holder in the Merger (including any fractional share of Kimco common stock deemed received and exchanged for cash, as discussed above) will equal the aggregate adjusted tax basis of such U.S. holder's WRI common stock exchanged therefor.

**Form 8937, Part II, Box 17**

**List the applicable Internal Revenue Code section(s) and subsection(s) upon which the tax treatment is based.**

The tax treatment described herein is based (in part) on Sections 368(a), 368(a)(2)(E), 354(a)(1), 358(a) and 1001 of the Code.

**Form 8937, Part II, Box 18**

**Can any resulting loss be recognized?**

Assuming that the Merger qualifies as a reorganization within the meaning of Code section 368(a), a U.S. holder generally will not recognize any loss as a result of the receipt of Kimco common stock in the Merger (except for any loss recognized with respect to cash received in lieu of a fractional share of Kimco common stock). As discussed above in response to box 15, a U.S. holder who receives cash in lieu of a fractional share of Kimco common stock generally will be treated as having sold such fractional share for cash and may recognize loss as a result of such sale.

**Form 8937, Part II, Box 19**

**Provide any other information necessary to implement the adjustment, such as the reportable tax year.**

The Merger was consummated on August 3, 2021. Consequently, the reportable taxable year of the holders of WRI common stock for reporting the tax effect of the Merger is the taxable year that includes August 3, 2021.