

INTERNAL REVENUE SERVICE

Number: **INFO 2002-0257**

Release Date: 12/31/2002

UIL: 9999.98-00

CC:ITA:5-GENIN-168936-01

January 15, 2002

Dear

This is in response to your letter dated November 29, 2001, requesting information as to when you are required to reinvest proceeds from a condemnation of property by the State of North Carolina.

According to your facts the State of North Carolina condemned 3 acres of farm land from your family on June 22, 1998, and gave you an amount of money in compensation for the condemnation. You disagreed with the settlement amount and instituted court proceedings which were settled in your favor on October 10, 2001. Your question is when does the three year reinvestment replacement period referred to in § 1033(g)(4) of the Internal Revenue Code start, at condemnation or when the final amount is determined.

Section 1033(a)(2)(B), provides that if there is a condemnation or seizure of property, and the property is converted into money, the gain (if any) shall be recognized in the period within which property must be replaced. The period shall be the period beginning with the date of the disposition of the converted property, or the earliest date of the threat or imminence of requisition or condemnation of the converted property, whichever is the earlier, and ending (i) 2 years after the close of the first taxable year in which any part of the gain upon the conversion is realized, or (ii) subject to such terms and conditions as may be specified by the Secretary, at the close of such later date as the Secretary may designate on application by the taxpayer. Such application shall be made at such time and in such manner as the Secretary may by regulations prescribe.

Section 1033(g)(4), provides that in the case of a compulsory or involuntary conversion described in (1), subsection (a)(2)(B)(i) shall be applied by substituting "3 years" for "2 Years".

Section 1.1033(a)-2(c)(3) of the Income Tax regulations provides that, the three year replacement period may be extended if special permission is obtained from the Internal Revenue Service. Such application shall be made to the director for the Internal Revenue district in which the return is filed for the first taxable year in which any of the gain from the involuntary conversion is realized. The application should explain in detail the reasons for extension. The extension request is to be filed before the

statutory replacement period expires. However, a late request may be considered if it is made within a reasonable period of time after the replacement period expires, and the taxpayer can show reasonable cause for not being able to replace the converted property within the required time. See Rev. Rul. 76-540, 1976-2 C.B. 245, for examples of circumstances in which extensions of time were granted and denied to replace involuntary converted property.

Any further questions on this matter should be directed to the person listed above.

We hope the above information helps you in determining when you are required to reinvest proceeds from the condemnation of your property.

Sincerely,
J. Charles Strickland
Senior Technician Reviewer Branch 5
Office of Associate Chief Counsel
(Income Tax & Accounting)