



DEPARTMENT OF THE TREASURY
INTERNAL REVENUE SERVICE
WASHINGTON, D.C. 20224

OFFICE OF
CHIEF COUNSEL

February 15, 2007

Number: **INFO 2007-0009**

Release Date: 3/30/2007

CONEX-105364-07

UIL: 1031.05-00

The Honorable Bill Nelson
United States Senator
Landmark Two, 225 East Robinson Street
Suite 410
Orlando, FL 32801

Dear Senator Nelson:

I am responding to your inquiry, dated January 23, 2007, on behalf of . is engaging in a reverse like-kind exchange of real property, an exchange in which a taxpayer acquires replacement property and subsequently disposes of like-kind property ("relinquished property"). She has only a month remaining to sell the relinquished property to complete the exchange. She states that, given current conditions in Florida, she will probably not be able to make a timely sale. She requests relief from capital gains taxes when she sells the property to complete the exchange.

Generally, taxpayers must include in income all gain on the disposition of property. An exception to this general rule provides that taxpayers do not recognize gain or loss when they exchange property held for use in a trade or business or for investment for like-kind property to be held for such uses. (Section 1031(a)(1) of the Internal Revenue Code (the Code)). We have issued guidance which provides a safe-harbor assuring that taxpayers will qualify for nonrecognition of gain under section 1031(a)(1) of the Code if they complete a reverse like-kind exchange within 180 days and meet other requirements. (Revenue Procedure 2000-37, 2000-2 C.B. 308, modified by Rev. Proc. 2004-51, 2004-2 C.B. 294) I am enclosing copies of this guidance. In reverse exchanges, we can postpone the 180-day and other timeliness requirements of the safe-harbor in certain circumstances, such as a transaction affected by a Presidentially declared disaster. (Sections 7508 and 7508A of the Code). exchange does not seem to qualify for a postponement.

However, she may qualify to defer the gain on the disposition of the property she is trying to sell even if she does not complete the reverse exchange in the time set forth in the safe-harbor. She can do this by entering into a deferred like-kind exchange that meets certain requirements, including acquiring different like-kind replacement property by the earlier of 180th day after the date she transfers the relinquished property, or the

due date of her tax return for the tax year that she transfers the relinquished property. I am enclosing a copy of Publication 544, *Sales and Other Dispositions of Assets*, which explains the rules applying to like-kind exchanges, including reverse like-kind exchanges and deferred like-kind exchanges.

I hope this information is helpful. If we can assist you further, please contact me or
at .

Sincerely,

Michael J. Montemurro
Branch Chief
Office of Associate Chief Counsel
(Income Tax & Accounting)

Enclosures (3)