



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

OFFICE OF
CHIEF COUNSEL

January 09, 2009

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CC:ITA:B04
CONEX-152170-08

UIL: 1031.05-00

Dear _____ :

I am responding to your letter to President George W. Bush, dated November 11, 2008, which was referred to this office by the White House and the Commissioner of Internal Revenue. Your letter pertains to the time available to complete deferred like-kind exchanges under § 1031 of the Internal Revenue Code.

Section 1031(a) provides that no gain or loss is recognized on the exchange of property held for productive use in a trade or business or for investment if the property is exchanged solely for property of like kind that is to be held either for productive use in a trade or business or for investment.

Section 1031(a)(3) allows taxpayers to structure deferred like-kind exchanges. Under § 1031(a)(3), property may be treated as like-kind property if it is (A) identified as property to be received in the exchange (replacement property) on or before the day that is 45 days after the date on which the taxpayer transfers the property relinquished in the exchange (relinquished property), and (B) received before the earlier of the date that is 180 days after the date on which the taxpayer transfers the relinquished property, or the due date (determined with regard to extensions) for the transferor's federal income tax return for the taxable year in which the transfer of the relinquished property occurs.

In your letter you suggest that the time period to complete a § 1031 exchange be changed to permit a taxpayer to obtain a 1-time automatic extension of an additional 185 days to complete the exchange. You request this change be made either by the Internal Revenue Service or by Congress, and provide suggested statutory language that would amend § 1031(a)(3).

In a recent telephone conversation, you and _____ of this office both concluded that the change you suggest to § 1031 would require Congressional rather than administrative action. Accordingly, pursuant to that conversation, we will refer your letter to the Office of Tax Legislative Counsel (TLC) of the United States Department of

the Treasury for that office's consideration. As you requested, we will inform TLC that you would be happy to discuss your suggestion further with them, either by letter or by TLC calling you at () .

Thank you for your interest in this matter. If we can assist you further please call or me at .

Sincerely,

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