



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

OFFICE OF THE CHIEF COUNSEL

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The Honorable Earl Blumenauer
U.S. House of Representatives
Washington, D.C. 20515

Dear Mr. Blumenauer:

This letter responds to your inquiry dated October 2, 2009. You wrote on behalf of the numerous taxpayers unable to complete their like-kind exchange under section 1031 of the Internal Revenue Code (the Code) due to the bankruptcy of the qualified intermediary (QI) used to facilitate the exchanges. As noted in your letter, because many of these taxpayers must file tax returns by October 15, 2009, they seek guidance on whether they must report gain or loss on the failed section 1031 exchange.

I assure you that the IRS and the Treasury Department are working diligently to provide guidance to affected taxpayers. Our task is complicated because the statute limits the extent of relief we can provide. As discussed in my May 14, 2009, letter to you, the law prescribes the period for replacing property relinquished in a like-kind exchange (section 1031(a)(3)) and we cannot extend it. Consequently, we are considering other reporting options, for example, whether taxpayers may defer reporting gain on the failed section 1031 exchange until the taxpayer eventually receives the proceeds from the disposition.

We appreciate the hardship taxpayers are facing because of QI bankruptcies. We are making every effort to provide appropriate assistance to these victims. If you would like to discuss our efforts in more detail, please contact _____ at _____ or me at _____.

Sincerely,

George J. Blaine
Associate Chief Counsel
(Income Tax & Accounting)