



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

OFFICE OF
CHIEF COUNSEL

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The Honorable Mike Johanns
United States Senator
115 Railway Street, Suite C102
Scottsbluff, NE 69361

Attention:

Dear Senator Johanns:

This letter responds to your inquiry dated November 24, 2009, on behalf of your constituent, . He asked if Congress had extended the period for reinvesting proceeds from the sale of livestock on account of drought.

The law generally provides for nonrecognition of gain when property is involuntarily converted and replaced with property that is similar or related in service or use (section 1033(a) of the Internal Revenue Code (the Code)). We treat a sale or exchange of livestock that a taxpayer held for draft, breeding, or dairy purposes as an involuntary conversion if the taxpayer sells or exchanges the livestock solely on account of weather-related conditions to the extent the number sold is in excess of the number that the taxpayer would have sold following the taxpayer's usual business practices (section 1033(e)(1) of the Code).

The nonrecognition treatment applies, in general, if a taxpayer purchases replacement property within 2 years after the close of the first taxable year in which the taxpayer realizes any gain from an involuntary conversion (section 1033(a)(2)(B) of the Code). However, the law extends the 2-year replacement period to a 4-year period, if an involuntary conversion is solely on account of weather-related conditions that result in the federal government designating the area as eligible for assistance (section 1033(e)(2)(A) of the Code). The Secretary of the Treasury may extend this 4-year replacement period on a regional basis if the weather-related conditions that resulted in the federal government designating the area as eligible for assistance continue for more than 3 years (section 1033(e)(2)(B) of the Code).

We issued Notice 2006-82, 2006-2 C.B. 529, which provides that we will extend the

4-year replacement period until the taxpayer's first taxable year ending after the first drought-free year for the applicable region. The first drought-free year ends on the August 31 in or after the last year of the taxpayer's 4-year replacement period and does not include a weekly period of drought conditions. For example, assuming a taxpayer's 4-year replacement period would otherwise expire on December 31, 2009, we would only extend the replacement period if the applicable region experienced drought conditions in the year ending August 31, 2009.

Notice 2006-82 also provides that we will publish an annual list of counties that experienced drought conditions, which taxpayers can use to determine whether we extended the 4-year replacement period. We have issued 4 annual lists: Notice 2006-91, 2006-2 C.B. 688, Notice 2007-80, 2007-2 C.B. 867, Notice 2008-86, 2008-42 I.R.B. 925 and Notice 2009-81, 2009-40 I.R.B. 455. I am enclosing these notices for your information.

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

Sincerely,

John Aramburu
Acting Branch Chief, Branch 5
Office of Associate Chief Counsel
(Income Tax and Accounting)

Enclosures (4)