



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

OFFICE OF THE CHIEF COUNSEL

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The Honorable Collin C. Peterson
Member, U.S. House of Representatives
2603 Wheat Drive
Red Lake Falls, MN 56750

Attention:

Dear Congressman Peterson:

This letter responds to your inquiry dated September 28, 2010, on behalf of your constituent, . recently sold his livestock held in a drought-affected county. On the advice of an accountant, he recognized the entire gain from the sale on his tax return for the year of sale. With a large income tax liability outstanding for that year, asked whether any relief was available to a taxpayer in his situation.

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)). A sale or exchange of livestock (other than poultry) that a taxpayer holds for draft, breeding, or dairy purposes is treated as an involuntary conversion if the livestock is sold or exchanged solely on account of drought, flood, or other weather-related conditions (section 1033(e)(1) of the Code).

Taxpayers recognize gain from an involuntary conversion only to the extent the amount realized on the conversion exceeds the cost of replacement property purchased during the replacement period (section 1033(a)(2)(A) of the Code). If a sale or exchange of livestock is treated as an involuntary conversion under section 1033(e)(1), the replacement period ends at the close of a four-year period following the taxable year in which the taxpayer realizes any gain from the conversion. The Secretary of the Treasury may extend this four-year replacement period as the Secretary determines appropriate because of certain weather-related conditions.

If his sale of the livestock occurred solely on account of drought, flood, or other weather-related conditions, _____ may be entitled to the nonrecognition treatment of the gain under section 1033(e)(1), provided that he satisfies the requirements of section 1033 and regulations thereunder. If he does, _____ may be able to file an amended return for the year of sale and claim a refund of the income tax paid for the gain eligible for nonrecognition.

I hope this information is helpful. If you have any additional questions, please contact me or _____ at _____ .

Sincerely,

William A. Jackson
Chief, Branch 5
Office of Associate Chief Counsel
(Income Tax & Accounting)