Internal Revenue Service

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Department of the Treasury
Washington, DC 20224

Third Party Communication: None
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Person To Contact:
, ID No.
Telephone Number:

Refer Reply To:
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Date:
July 09, 2010

Legend:

Asset #1	=
Date 1	=
Date 2	=
Exchange Company	=
Purchaser	=
State Revenue Department	=
Taxpayer	=
Year 1	=
$x	=
$y	=

Dear :

This is in reply to your request pursuant to section 453(d)(3) of the Internal Revenue Code and section 15a.453-1(d)(4) of the Temporary Income Tax Regulations for consent to revoke an election out of the installment method.

During Year 1, the Taxpayer entered into an exchange agreement with the Exchange Company and transferred Asset #1 to the Exchange Company with the objective of exchanging it for like-kind property. Asset #1 was used in the Taxpayer's rental business. Each of the properties which the Taxpayer identified as potential replacement property for Asset #1 in an exchange transaction was sold to someone else or otherwise became unavailable.

On Date 1, the Exchange Company sold Asset #1 to Purchaser. The Taxpayer and Purchaser are related parties within the meaning of section 453(f)(1) of the Code but are not treated as related persons for purposes of section 453(g). The terms of sale

provided for consideration which included the Purchaser's assumption of existing mortgage indebtedness of approximately $x and the provision of the Purchaser's $y interest only note with a three year maturity (the "Note"). The Exchange Company was indicated as the obligee on the Note. The Purchaser executed an assignment of rents from Asset #1 to the Exchange Company as additional security for the Note. During Year #1, the Purchaser made payments on the Note to the Exchange Company. The Exchange Company transferred the payments to the State Revenue Department to facilitate withholding of State income tax. The Purchaser's Note and the payments made by the Purchaser were ultimately transferred and assigned to the Taxpayer.

Athough it is evident from the structure and terms of the transactions that the Taxpayer intended the sale of Asset #1 to be reported on the installment method, the Taxpayer's return preparer failed to recognize that the sale qualified for the installment method and reported all of the gain from the sale of Asset #1 on the Taxpayer's Year 1 federal income tax return which was filed on extension on Date 2.

Within a short time of the Purchaser's acquisition of Asset #1, mold problems were discovered. Neither of two inspections conducted by professionals prior to closing disclosed the existence of mold. As a result of the necessity and cost of addressing the mold problem, the Taxpayer and the Purchaser agreed to an indefinite suspension of the Purchaser's obligation to make payments (interest only) on the his Note held by the Taxpayer.

The discovery of mold is not indicative that the Taxpayer's request to revoke her election out of the installment method is based on hindsight: the mold problems were discovered before the Taxpayer's return for Year #1 was filed on Date 2. The Taxpayer had knowledge of the mold problem when her Year 1 return was filed.

LAW and ANALYSIS:

Section 453(a) of the Code provides that, generally, income from an installment sale shall be reported under the installment method. Section 453(b) defines an installment sale as a disposition of property for which at least one payment is to be received after the close of the taxable year of the disposition.

Section 15a.453-1(b)(3)(i) of the Temporary Regulations provides that a taxpayer may elect out of the installment method in the manner prescribed by the regulations. Section 15a.453-1(d)(3) of the Temporary Regulations provides that a taxpayer who reports an amount realized equal to the selling price including the full face amount of an installment obligation on a timely filed tax return for the taxable year in which the installment sale occurs is considered to have elected out of the installment method.

Except as otherwise provided in the Regulations, section 453(d)(2) of the Code requires a taxpayer who desires to elect out of the installment method to do so on or before the

due date (including extensions) of the taxpayer's federal income tax return for the taxable year of the sale. Section 15a.453-1(d)(4) of the Temporary Regulations provides that an election under section 453(d)(1) of the Code is generally irrevocable. An election may be revoked only with the consent of the Internal Revenue Service. Section 15a.453-1(d)(4) provides that revocation of an election out of the installment method is retroactive and will not be permitted when one of its purposes is the avoidance of federal income taxes.

CONCLUSION:

Based on the information submitted and the representations made and subject to the conditions indicated below, the Taxpayer will be allowed to revoke her election out of the installment method with respect to the Year 1 sale of Asset #1.

Permission to revoke the election out of the installment method of reporting the Year 1 sale of Asset #1 is granted for the period that ends 75 days after the date of this letter. In order to revoke the election out of the installment method for the sale at issue, the Taxpayer must file an amended federal income tax return for Year 1 and any other previously filed returns on which a portion of the gain from the sale is, or should be, reported under the installment method. A copy of this letter ruling must be attached to each of the amended return(s).

CAVEATS AND CONDITIONS:

The ruling contained in this letter is subject to the following caveats and conditions:

Except as expressly provided herein, no opinion is expressed or implied concerning the tax consequences of any aspect of any transaction or item discussed or referenced in this letter. Specifically, no opinion is expressed concerning the characterization of the transaction between the Taxpayer and Purchaser as a valid sale, the computation of gain to be reported on the transaction between the Taxpayer and Purchaser, or the application of section 453B(f) in the subject circumstances.

The ruling contained in this letter is based upon information and representations submitted by the taxpayer and accompanied by a penalty of perjury statement executed by an appropriate party. The ruling is conditioned upon the accuracy of that information and those representations. While this office has not verified any of the material submitted in support of the request for a ruling, it is subject to verification on examination.

The ruling contained in this letter is subject to the following additional conditions: the Taxpayer did not incur any significant capital or ordinary losses in any year subsequent to Year 1; the Taxpayer had no unrealized loss(es) that she intends to realize to offset installment gain reported as a result of the revocation of her election out of the

installment method; the Taxpayer made no installment sales prior to or subsequent to Year 1 that were reported on the installment method; that all amounts due under the terms of the installment obligation are paid on or before the unmodified original maturity date of the installment obligation; and there is no current or anticipated arrangement between the Taxpayer and Purchaser for sharing income from Asset #1 or any amounts realized on the Purchaser's disposition or refinancing of Asset #1.

This ruling is directed only to the taxpayer who requested it. Section 6110(k)(3) of the Code provides that it may not be used or cited as precedent.

In accordance with the power of attorney on file with this office, a copy of this letter is being sent to your authorized representative.

A copy of this letter must be attached to any income tax return to which it is relevant. Alternatively, taxpayers filing their returns electronically may satisfy this requirement by attaching a statement to their return that indicates the date and control number of this letter ruling.

Sincerely,

William A. Jackson
Chief, Branch 5
(Income Tax & Accounting)