

Disaster Relief Extensions for Exchange Deadlines

Revenue Procedure 2007-56 provides for the extension of tax deferred exchange deadlines when the IRS issues a Notice or other form of guidance permitting relief to taxpayers in those regions that are declared disaster areas by the President. The deadlines for the 45-day identification period, the 180-day exchange period, and other deadlines relating to “reverse” exchanges will be extended by 120 days, or to the last day of the general disaster extension period authorized by the IRS guidance, whichever is later.

A 120-day postponement (or the ending date announced in the Presidential disaster declaration, if later) is allowed if (a) the relinquished property was transferred to a buyer, or the qualified indicia of ownership was transferred to the Exchange Accommodation Titleholder, on or before the date of the Presidentially declared disaster and (b) the Exchanger is either an “affected taxpayer” or has “difficulty meeting the time deadlines due to the disaster.”

“Affected Taxpayers” will be described in the published IRS guidance specific to those regions that are declared disaster areas by the President. Reasons the taxpayer may have “difficulty meeting the time deadlines” due to the disaster include (a) the relinquished or replacement property or the principal place of business of one of the parties involved in the exchange (including the Qualified Intermediary, Exchange Accommodation Titleholder, settlement agent, attorney, lender, or title insurer) is located in the disaster area, (b) any party to the transaction is killed, injured, or missing, (c) a relevant land record document or an exchange-related document is destroyed, damaged, or lost, (d) a lender refuses to fund because the property is located in the disaster area or because flood, disaster, or other hazard insurance is unavailable for property due to the disaster, and (e) title insurance is unavailable due to the disaster.

The 120-day postponement also applies to the last day of the 45-day identification period that falls prior to the date of the Presidential declaration for the disaster area if an identified replacement property in a delayed exchange, or identified relinquished property in a reverse exchange, is substantially damaged by the disaster.

Brief Exchanges

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