

SUMMARY OF DEADLINE EXTENSION RULES

Rev. Proc. 2007-56 permits extensions of the IRC §1031 45-day Identification and 180-day Exchange deadlines to certain taxpayers affected by Federally (formerly called “Presidentially”) declared disasters and terroristic and military actions.

The IRS will issue a Notice or other guidance when this relief is available, and will post it on the IRS website under “Disaster Relief”: <https://www.irs.gov/newsroom/tax-relief-in-disaster-situations>.

You must meet the terms of the specific Notice issued for the disaster relief for which you believe you may qualify AND the terms of Rev. Proc. 2007-56. If you may be affected, it is important to check back to the IRS’ website (above link) for modifications to the Notices after initial publication, such as inclusion of additional affected counties.

1. Rev. Proc. 2007-56 will extend the deadlines by the **later** of:
 - 120 days
 - **OR** the date listed in the IRS Notice
 - **BUT** the extension may not go beyond the due date for filing the tax return for the year of the transfer (§17.02(1))

2. Rev. Proc. 2007-56 applies to an Exchanger:
 - If in a forward exchange, the Exchanger has sold the first Relinquished Property, OR in a reverse exchange, the EAT has taken title to property **on or before** the date of the Federally declared disaster (§17.02(2)(a))

 - **AND** there is a subsequent **Notice or other guidance published by the IRS** (FEMA notices and Presidential Declarations don’t have any effect unless the IRS has also issued guidance) granting extensions pursuant to the Rev. Proc. (§17.01)

 - **AND** the Exchanger is an “affected person” as defined in the IRS Notice (§17.02(2)(b)(i))
 - Usually defined as having the primary residence or principal place of business in the disaster zone

 - **OR** the Exchanger has difficulty meeting the 45-day and 180-day deadlines because of the disaster, for the any of the following or similar reasons:
 - The Relinquished Property or the Replacement Property is located in the disaster zone (§17.02(2)(b)(ii)(A))

 - The principal place of business of any party to the transaction is located in the disaster zone (§17.02(2)(b)(ii)(B))

- A party to the transaction is killed, injured or missing due to the disaster (§17.02(2)(b)(ii)(C))
 - A necessary document relevant to the exchange or relevant land record is destroyed, damaged or lost due to the disaster (§17.02(2)(b)(ii)(D))
 - A lender won't fund because of the disaster (§17.02(2)(b)(ii)(E))
 - Title insurance policy cannot be issued due to the disaster (§17.02(2)(b)(ii)(F))
3. Only the deadlines that fall **on or after** the date of the Federally declared disaster will be extended.
- Generally, if the identification period has not expired by the date of the disaster, then the extensions may apply to both the 45-day identification period AND the 180-day exchange period. (§17.02(1))
 - If the identification period has expired by the date of the disaster, then only the exchange period deadline will be extended. (§17.02(1))
 - **UNLESS** the disaster occurred after the 45th day **AND** the identified property was substantially damaged, **THEN** you may be able to retroactively extend the identification period and also extend the exchange period. (§17.03)

Benefits come with responsibilities. Since there are so many variables to qualifying for Disaster Relief, *you must tell us in writing if you are entitled to Disaster Relief, and you must tell us what your extended deadlines are, based upon the relevant IRS Notice and Rev. Proc. 2007-56. Otherwise, we will presume that your Identification and Exchange Periods will expire on the 45th and 180th days, respectively, following the start of your exchange.*

EXTENDED DEADLINES WILL DELAY YOUR ACCESS TO EXCHANGE FUNDS UNTIL AFTER THESE NEW DEADLINES HAVE PASSED. Your representations of the new dates will not change the Exchange Agreement except as to the time periods for identifying replacement property and the exchange period. You should review Article IV of the Exchange Agreement and Treasury Regulations Section 1.1031(k)-1(g)(6) for the timing conditions under which exchange funds can be returned to you.