

Disaster Relief Deadline Postponement Excerpts From Revenue Procedure 2018-58

The following are excerpts from Revenue Procedure 2018-58, setting forth the requirements for postponement of the deadlines for the Identification Period and the Exchange Period:

SECTION 3. SCOPE

This revenue procedure applies to individuals serving in the Armed Forces of the United States in a combat zone, or serving in support of such Armed Forces, individuals serving with respect to contingency operations, affected taxpayers by reason of federally declared disasters within the meaning of §301.7508A-1(d)(1), or taxpayers whom the IRS determines are affected by a terroristic or military action. Section 17 of this revenue procedure also applies to transferors who are not affected taxpayers but who are involved in a section 1031 Like-Kind Exchange transaction and are entitled to relief under section 17.02(2) of this revenue procedure.

SECTION 4. APPLICATION

.02 Provisions of the internal revenue laws requiring the timely performance of specified acts postponed under sections 7508 and 7508A are listed in the tables below. In addition, section 17 of this revenue procedure expands the categories of taxpayers qualifying for relief to include transferors of certain property and provides additional postponements of deadlines solely with respect to section 1031 Like-Kind Exchange transactions that are affected by a federally declared disaster. If an IRS News Release or other guidance is issued with respect to a specific federally declared disaster and authorizes postponement of acts in this revenue procedure, affected taxpayers may use the postponement rules provided in section 17 of this revenue procedure in lieu of section 6 of this revenue procedure. Transferors who are covered by the like-kind exchange rules of section 17 of this revenue procedure, but who are not "affected taxpayers" as defined by the IRS News Release, other guidance, or § 301.7508A-1(d)(1) are not eligible for relief under section 7508A or other sections of this revenue procedure.

SECTION 6. BUSINESS AND INDIVIDUAL TAX ISSUES

Sec. 1031(a)(3) In a Deferred Exchange, property otherwise qualified as like-kind property under section 1031 is treated as like-kind property if the 45-day identification period and the 180-day exchange period requirements under section 1031(a)(3) and § 1.1031(k)-1(b)(2) are met. See also section 17 of this revenue procedure.

Sec. 1031 Property held in a qualified exchange accommodation arrangement may qualify as "Replacement Property" or "Relinquished Property" under section 1031 if the requirements of section 4 of Rev. Proc. 2000-37, 2000-2 C.B. 308, modified by Rev. Proc. 2004-51, 2004-2 C.B. 294, are met, including the 5-business day period to enter into a qualified exchange accommodation agreement (QEAA), the 45-day identification period, the 180-day exchange period, and the 180-day combined time period. See also section 17 of this revenue procedure.

SECTION 17. SPECIAL RULES FOR SECTION 1031 LIKE-KIND EXCHANGE TRANSACTIONS

.01 Taxpayers are provided the relief described in this section if an IRS News Release or other guidance provides relief for acts listed in this revenue procedure (unless the news release or other guidance specifies otherwise).

.02 (1) The last day of a 45-day identification period set forth in § 1.1031(k)-1(b)(2)(i) of the Income Tax Regulations, the last day of a 180-day exchange period set forth in § 1.1031(k)-1(b)(2)(ii), and the last day of a period set forth in section 4.02(3) through (6) of Rev. Proc. 2000-37, 2000-2 C.B. 308, modified by Rev. Proc. 2004-51, 2004-2 C.B. 294, that fall on or after the date of a federally declared disaster, are postponed by 120 days or to the last day of the general disaster extension period authorized by an IRS News Release or other guidance announcing tax relief for victims of the specific federally declared disaster, whichever is later. However, in no event may a postponement period extend beyond: (a) the due date (including extensions) of the taxpayer's tax return for the year of the transfer (See § 1.1031(k)-1(b)(2) (ii)); or (b) one year (See section 7508A(a)).

(2) A taxpayer who is a transferor qualifies for a postponement under this section only if-

- (a) The Relinquished Property was transferred on or before the date of the federally declared disaster, or in a transaction governed by Rev. Proc. 2000-37, modified by Rev. Proc. 2004-51, qualified indicia of ownership were transferred to the exchange accommodation title-holder on or before that date; and
- (b) The taxpayer (transferor) –
 - (i) Is an "affected taxpayer" as defined in the IRS News Release or other guidance announcing tax relief for the victims of the specific federally declared disaster; or
 - (ii) Has difficulty meeting the 45-day identification period or 180-day exchange period deadline set forth in § 1.1031(k)-1(b)(2), or a deadline set forth in section 4.02(3) through (6) of Rev. Proc. 2000-37, modified by Rev. Proc. 2004-51, due to the federally declared disaster for the following or similar reasons:
 - (A) The Relinquished Property or the Replacement Property is located in a covered disaster area (as defined in § 301.7508A-1(d)(2)) as provided in the IRS News Release or other guidance (the covered disaster area);
 - (B) The principal place of business of any party to the transaction (for example, a Qualified Intermediary, Exchange Accommodation Titleholder, transferee, settlement attorney, lender, financial institution, or a title insurance company) is located in the covered disaster area;
 - (C) Any party to the transaction (or an employee of such a party who is involved in the section 1031 transaction) is killed, injured, or missing as a result of the federally declared disaster;
 - (D) A document prepared in connection with the exchange (for example, the agreement between the transferor and the Qualified Intermediary or the deed to the Relinquished Property or Replacement Property) or a relevant land record is destroyed, damaged, or lost as a result of the federally declared disaster;
 - (E) A lender decides not to fund either permanently or temporarily a real estate closing due to the federally declared disaster or refuses to fund a loan to the taxpayer because flood, disaster, or other hazard insurance is not available due to the federally declared disaster; or
 - (F) A title insurance company is not able to provide the required title insurance policy necessary to settle or close a real estate transaction due to the federally declared disaster.

.03 The postponement described in this section also applies to the last day of a 45-day identification period described in § 1.1031(k)-1(b)(2)(i) and the last day of a 45-day identification period described in section 4.05(4) of Rev. Proc. 2000-37, modified by Rev. Proc. 2004-51, that fall prior to the date of a federally declared disaster if an identified Replacement Property (in the case of an exchange described in § 1.1031(k)-1), or an identified Relinquished Property (in the case of an exchange described in Rev. Proc. 2000-37, modified by Rev. Proc. 2004-51) is substantially damaged by the federally declared disaster.

.04 If the taxpayer (transferor) qualifies for relief under this section for any reason other than section 17.02(2)(b)(i) of this revenue procedure, then such taxpayer is not considered an affected taxpayer for purposes of any other act listed in this revenue procedure or for any acts listed in an IRS News Release or other published guidance related to the specific federally declared disaster.

