

**Citations:** INFO 2021-0009

## SUMMARY BY TAX ANALYSTS

The IRS noted that it does not have the authority to extend the replacement period for a like-kind exchange under section 1031.

## FULL TEXT PUBLISHED BY TAX ANALYSTS

UIL: 1031.00-00

Release Date: 6/25/2021

Date: May 6, 2021

Refer Reply To: CC:ITA:4 - CONEX-108102-21

The Honorable Ken Buck  
Member, U.S. House of Representatives  
900 Castleton Road, Suite 112  
Castle Rock, Colorado 80109

Attention: \* \* \*

Dear Representative Buck:

I am responding to your inquiry, dated March 22, 2021, on behalf of your constituent, \* \* \*. He asked if the IRS will allow an extension of the period in Section 1031(a)(3) of the Internal Revenue Code (the Code) to complete a like-kind exchange.

\* \* \* explained he cannot complete his exchange within the statutorily mandated period because of the COVID-19 pandemic. Although we understand \* \* \* situation, the IRS doesn't have authority to extend the Section 1031 replacement period for his exchange.

A taxpayer meeting the requirements of Section 1031 of the Code does not recognize gain or loss on the exchange of business or investment real property for like-kind business or investment real property. Under Section 1031(a)(3), the exchanging taxpayer must receive replacement property (the Section 1031 replacement period) by the earlier of the following:

- 180 days after the transfer date of the relinquished property, or
- the due date (including any extensions) of the taxpayer's Federal income tax return for the year when the relinquished property was transferred.

Section 7508A of the Code authorizes the IRS to postpone certain deadlines, like the Section 1031 replacement period, when there is a Presidentially declared disaster or a terrorist or military action. On March 13, 2020, President Trump declared a nationwide

emergency under the Stafford Act due to the COVID-19 pandemic. In response, the IRS issued Notice 2020-23, 2020-18 I.R.B. 742. Notice 2020-23 extended the deadline for certain time-sensitive acts, including the Section 1031 replacement period, to July 15, 2020.

Unfortunately, your constituent's Section 1031 replacement period ends after July 15, 2020. Therefore, the Notice 2020-23 extension does not apply to his exchange.

I hope this information is helpful. If you have questions, please contact me or \* \* \* at \* \* \*.

Sincerely,

Angella L. Warren  
Branch Chief, Branch 4  
Office of Associate Chief Counsel  
(Income Tax and Accounting)