

Presidentially Declared Disaster Area Time Extensions For Section 1031 Like-Kind Exchanges Associated with Colorado Disaster Areas

The President has declared the counties of Adams, Boulder, Larimer and Weld a federal disaster area for severe storms, flooding, landslides and mudslides that began on September 11, 2013. Additional counties may be added to the list as flooding continues down the South Platte River.

Affected taxpayers who reside, have a business in or are involved in a 1031 Exchange involving properties in these counties may be eligible for 120-day time extensions for -

- Completion of their exchange under the 180-day rule, and
- Submission of their 45-day Letter identifying prospective replacement properties.

Extension of the 180-Day Completion Rule – Affected taxpayers who were in the process of exchanging property under Code Section 1031 as of September 11, 2013 are eligible for an extension of 120-days from the normal 180-day completion requirement.

Extension of the 45-Day Identification Rule – Affected taxpayers who were in the process of exchanging property under Code Section 1031 as of September 11, 2013 but who had not yet submitted their 45-Day Letter by day 45 are eligible for the 120-day extension for submission of their 45-Day Letter.

Extension of 45-Day Identification Letter for taxpayers who had already submitted their 45-Day Letter before September 11, 2013 but before their exchange was complete - Taxpayers who had already submitted their 45-Day Identification Letter may be eligible for reopening of the 45-Day ID period with a 120-day extension from the original due date of the 45-Day Letter if the identified properties suffered substantial damage resulting from the disaster.

Affected Taxpayers include Taxpayers who -

1. Live in or have a business in the disaster area, or
2. Their Relinquished or Replacement Property is located in the disaster area (including non-resident taxpayers), or
3. Who are assisted in the transaction by any party who is located in the disaster area (i.e. QI, Settlement Attorney, Title Company, Lender, etc.) or

4. Have had their financing for the replacement property cancelled due to the disaster.

Reverse Exchanges are also eligible for the 120-day extension for completion of the exchange and 45-day identification of prospective Relinquished Properties.

Authoritative Support for these rules can be found in –

- Revenue Procedure 2007-56, Section 17
 - (Deals specifically with IRC1031Exchanges)
- Internal Revenue Code §7508 (Disaster Areas in General)
- Treasury Regulation §301.7508A-1 (Disaster Areas in General)
- IRS Notice - <http://www.irs.gov/uac/Tax-Relief-in-Disaster-Situations>

Conclusion

Affected Taxpayers may want to consult with their Tax Professionals regarding eligibility for the 120-day time extension based on their circumstances.

Clients of 1031 Corporation who have consulted with their Tax Professionals and believe they are eligible for the 120-day extension of time for completion of their exchange or the resubmission of their 45-Day Letter under the above rules, must do the following:

Inform 1031 Corporation, in writing, in the form of a signed and dated letter stating that they are eligible for the disaster relief extension.

All of us at 1031 Corporation hope that our clients have not suffered any damage or loss as a result of the flood.