

DISASTER RELIEF FOR 1031 EXCHANGES

SHORT DESCRIPTION

Taxpayers who started a deferred or reverse exchange that is affected by a Presidentially declared disaster may now automatically qualify for an automatic extension of the 45-day and 180-day deadlines under a recent IRS Notice.

FULL TEXT

Extension for Disaster Relief. Notice 2005-3 now allows certain taxpayers an extension of certain §1031 deadlines for exchange transactions affected by a Presidentially declared disaster, terrorist or military action or service in a combat zone (“Disaster”). If the IRS publishes a News Release or other guidance authorizing postponement of deadlines for a disaster, then certain taxpayers will automatically become eligible for this extension of the 45-day and 180-day deadlines under §1031.

Circumstances Allowing an Extension. The taxpayer must have started a deferred exchange or a reverse exchange before the date of the disaster. In addition, the taxpayer in the exchange must have difficulty meeting the 45-day or 180-day deadlines for one of the following reasons:

- The relinquished property or the replacement property (as the case may be) is located in a Disaster area described in the IRS Notice;
- The principal place of business of any party to the transaction (including the QI, EAT or lender) is located in the Disaster area described in the IRS Notice;
- A party to the transaction is killed or missing as a result of the Disaster;
- A document prepared in connection with the exchange or a land record is destroyed or damaged as a result of a Disaster;
- The lender decides to permanently or temporarily not fund a purchase money loan due to the Disaster;
- Hazard or title insurance is not available as a result of the Disaster; or
- An identified property is substantially damaged by the Disaster (however, this event will only extend the 45-day deadline).

Length of Extension. The last day of the 45-day or 180-day deadlines that fall on or after the date of a Disaster are extended by 120 days or the end of the Disaster extension period provided in the IRS News Release, whichever is later.