



## Tax Reduction Letter

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### Private Letter Ruling 8429039

This is in reply to a letter dated February 14, 1984, submitted on your behalf by your authorized representative, requesting a ruling with respect to the applicability of section 1031 of the Internal Revenue Code to an exchange of rental property held by the Trust for a personal residence that the Trust intends to rent for a period not less than two years after the exchange.

The pertinent facts are understood to be as set forth below:

The Trust owns a beach house that it has been renting since January 1982. T is an individual who owns a personal residence. T wants to exchange the residence for the beach house held by the Trust. T vacated the residence on November 1, 1981. Since early 1983 the residence has been rented to an unrelated third party. On December 1, 1982, this office issued an adverse private letter ruling to the Trust under section 1031 of the Code because the Trust intended to sell the residence soon after its acquisition. The Trust now represents that it will hold the residence for productive use in a trade or business or for investment for a period not less than two years from and after the exchange.

Section 1031(a) of the Code provides that no gain or loss shall be recognized if property held for productive use in trade or business or for investment (excluding certain enumerated property) is exchanged solely for property of like kind to be held either for productive use in trade or business or for investment.

In order to qualify for section 1031 nonrecognition, three elements must be present: (1) the property transferred by the taxpayer must have been held by him either for productive use in a trade or business or for investment, (2) the property received by the taxpayer must be held by him either for productive use in a trade or business or for investment, and (3) the properties transferred and received must be of like kind.

In this case the Trust will exchange rental real property for other real property which it will hold as rental property for a minimum of two years. This is a sufficient period to ensure that the residence to be acquired will meet the holding period test prescribed by section 1031 of the Code, which requires that the property received by a taxpayer be held either for productive use in a trade or business or for investment.

Accordingly, based on the information submitted, we conclude that the exchange by the Trust of the beach house for the residence will qualify as a nontaxable exchange under section 1031 of the Code.

This ruling is addressed only to the taxpayer who requested it. Section 6110(j) of the Code provides that it may not be cited or used as precedent.

Pursuant to the power of attorney on file with this office, we are sending a copy of this letter to your authorized representative.

Richard H. Manfreda

Chief, Individual Income Tax Branch