



520-465-8690 or 866-383-1031

## Presidentially Declared Disasters

Each year human-caused and natural disasters affect millions of people. The disasters vary from earthquakes, floods, hurricanes and tornadoes as well as fires. In those disasters, you may face the danger of death or physical injury to you or a loved ones as well as your property. If a disaster is one that becomes Presidentially Declared, by way of a Notice issued by the IRS, then a taxpayer may have some relief. This article attempts to help you navigate just what that relief will be as it relates to the 1031 Exchange.

IRS Code sections 7508 and 7508(A) provide a list of time sensitive acts and is most commonly utilized by those serving in the military but can also be utilized by taxpayers in the midst of a 1031 Tax Deferred Exchange whenever the taxpayer is affected by a Presidentially declared disaster (e.g. Hurricanes, earthquakes). The codes (7508 & 7508A) allow time sensitive acts to be postponed for certain taxpayers. **Revenue Procedure 2007-56** was issued by the IRS to clarify and expand the taxpayers and acts eligible for postponement and **add extensions to time deadlines** specifically as they relate to those participating in a 1031 exchange.

**Revenue Procedure 2007-56:** (I) provides a time extension of either 120 days or to the last day of the authorized general extension period, whichever is later; (II) provides extensions to the reverse exchange deadlines; and (III) clarifies who would qualify for the extensions. The applicable 45-day identification period or 180-day exchange period for both forward and reverse exchanges is thereby extended by 120 days. The 120-day extension is also applicable to the 5-day timeframe taxpayers have to enter into a qualified exchange accommodation agreement when undertaking a reverse exchange. The time extension applies if the last day of the relevant time period falls on or after the date of the declared disaster. For example, if the IRS issues a Notice specifying that a Presidentially declared disaster began on August 21st, then any applicable time frames that began prior to this date but expired on or after the 21st would be extended by 120 calendar days.

*To ensure compliance with requirements imposed by the IRS, we inform you that any U.S. Federal tax advice contained in this communication (including any attachments) is not intended or written to be used, and cannot be used, for the purpose of (i) avoiding penalties under the Internal Revenue Code or (ii) promoting, marketing or recommending to another party any transaction or matter addressed herein. Taxpayers should seek professional advice based on their particular circumstances.*

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The criteria is very specific and must be met in order for the taxpayer to be afforded the benefit from the time extension. An affected taxpayer qualifies for a postponement of the applicable deadlines only if:

1. the **relinquished property was transferred on or before** the date of the Presidentially declared disaster, or, in the case of a reverse exchange, the transfer to the exchange accommodation titleholder was completed before that date; **and**
2. the exchanger has difficulty meeting the exchange deadlines because:
  - the relinquished or replacement property is located in the disaster area;
  - the principal place of business of any party to the transaction is located in the disaster area;
  - any party to the transaction (or an employee involved in the 1031 exchange) is killed, injured, or missing as a result of the disaster;
  - a document prepared in connection with the exchange or a relevant land record is destroyed, damaged or lost as a result of the disaster;
  - a lender decides not to fund the loan, or is unable to fund the loan due to lack of flood, disaster or hazard insurance; or
  - a title company cannot provide title insurance due to the disaster.

The 120-day extension applies if an already identified replacement property or an identified reverse exchange relinquished property is substantially damaged in the disaster.

It is important to note that the time extensions do not automatically apply to any disaster; the time extensions only apply when the IRS *issues a Notice or News Release* **and** if the taxpayer falls within the designated criteria. In recent years with continued weather related disasters the notifications have increased in frequency. For a current list of the RECENT TAX RELIEF granted to taxpayers head on over to the IRS website:  
<https://www.irs.gov/newsroom/tax-relief-in-disaster-situations>

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So, could you be an “affected taxpayer” even when you reside outside the disaster area? Find out by visiting the list which is available through Treasury Regulation Section 301.7508A-1(d)(1), head over to Cornell Law at <https://www.law.cornell.edu/cfr/text/26/301.7508A-1> and read the entire Treasury Reg.

Within the regulation the following are included:

- Any individual whose principal residence (for purposes of section 1033(h)(4)) is located in a covered disaster area;
- Any business entity or sole proprietor whose principal place of business is located in a covered disaster area;
- Any individual who is a relief worker affiliated with a recognized government or philanthropic organization and who is assisting in a covered disaster area;
- Any individual whose principal residence (for purposes of section 1033(h)(4)), or any business entity or sole proprietor whose principal place of business is not located in a covered disaster area, but whose records necessary to meet a deadline for an act specified in paragraph (c) of this section are maintained in a covered disaster area;
- Any estate or trust that has tax records necessary to meet a deadline for an act specified in paragraph (c) of this section and that are maintained in a covered disaster area;
- The spouse of an affected taxpayer, solely with regard to a joint return of the husband and wife; or
- Any individual, business entity, or sole proprietorship not located in a covered disaster area, but whose records necessary to meet a deadline for an act specified in paragraph (c) of this section are located in the covered disaster area;
- Any individual visiting the covered disaster area who was killed or injured as a result of the disaster; or
- Any other person determined by the IRS to be affected by a federally declared disaster (within the meaning of section 1033(h)(3)).

A taxpayer who believes they may be an affected taxpayers but who resides or has a business located outside the covered disaster area should contact their tax consultant and determine if they may be able to apply for tax relief.

***For all your 1031 Tax Deferred Exchange questions and needs, please contact Brigitte Echave at 520-465-8690 or 520-798-1031 or 866-383-1031.  
FREE Consultations!***

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