

IRS Let. Rul 200807005

Following the holding of earlier rulings on the same topic, this ruling holds that the taxpayer may acquire replacement property from a related party if the related party is also doing an exchange into a replacement property.

The taxpayer intends to sell the relinquished property to an unrelated party and acquire the replacement property from a related party. The related party then intends to use the exchange proceeds to acquire a replacement property in the related party's exchange. Both the taxpayer and related party will engage QIs to complete their exchanges and both will hold their replacement properties for two years following the receipt of the later of the replacement properties (other than a disposition under §1031(f)(2)). The ruling first finds that §1031(f)(1) is not applicable because the taxpayer is exchanging with an unrelated QI. Referencing Congressional policy statements and commentary regarding § 1031(f)(2)(C), it then finds that § 1031(f)(4) does not apply either. Section 1031(f)(4) provides that an exchange is taxable if it is part of a transaction, or series of transactions, structured to avoid the purposes of § 1031(f). In this case, there will be no "cashing out" of either party's investment in real estate. Upon completion of the series of transactions, both parties will own property that is of like kind to the property they exchange.