

CLIENT REPORT

New Guidance on the Sale or Exchange of a Principal Residence

Dear Client:

The IRS has provided updated guidance on the information reporting requirements for a sale or exchange of a principal residence. The guidance describes the written assurances (certification) that a real estate reporting person must obtain from the seller of a principal residence to except the sale or exchange from the information reporting requirements for real estate transactions. The guidance includes assurances that take into account the effects of a like-kind exchange. As you own a principal residence or are a real estate reporting person, this guidance may be of importance to you.

Effective for the sale or exchange of a principal residence occurring after January 22, 2007, the updated guidance requires a seller to certify that during the five-year period ending on the date of the reported sale or exchange of the residence, the seller did not acquire the residence in a qualifying like-kind exchange. Further, if the seller's basis in the residence is determined by reference to the basis in the hands of a person who acquired the residence in a like-kind exchange, the seller must provide assurance that the exchange occurred more than 5 years prior to the date of the reported sale or exchange of the residence. The updated guidance also requires that the seller certify that the seller's spouse (and not just the seller) did not use any portion of the residence for business or rental purposes.

A suggested sample form for sellers to fill out has been provided by the IRS. A seller is required to certify that:

1. the seller owned and used the residence as a principal residence for periods aggregating two or more years during the five years preceding the sale or exchange;
2. the seller did not sell or exchange another principal residence during the two years preceding the sale or exchange;
3. the seller did not use any portion of the residence for business or rental purposes;
4. the sale or exchange is of the entire residence for \$250,000 or less; or, if the seller is married, the sale or exchange is of the entire residence for less than \$500,000 and the seller's gain is \$250,000 or less; or, if the seller is married and the sale or exchange is for \$500,000 or less, the seller intends to file a joint return, the residence was also the principal residence of the seller's spouse for at least two of the five years preceding the sale and the seller's spouse also has not sold or exchanged a principal residence for two years preceding the sale or exchange.

Please call us at your earliest opportunity if you would like more information about how this development affects you, or to discuss a planned sale or exchange of real estate.

Sincerely yours,

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