



Kenneth E. Bentsen, Jr.
President

February 20, 2009

George J. Blaine, Esquire
Associate Chief Counsel (Income Tax and Accounting)
Internal Revenue Service
1111 Constitution Avenue, N.W.
Washington, D.C. 20224

Dear Mr. Blaine,

On behalf of the Equipment Leasing and Finance Association¹ (“ELFA”) we are writing with respect to an issue relating to Section 1031 (f) and 1031(f) (4) when the replacement property is acquired from an equipment dealer that is a related party to the exchangor.

It is our understanding that your office is considering issuing nonprecedential guidance regarding certain matters involving the use of Section 1031 by the equipment rental industry. Specifically, the guidance would concern the application of Section 1031(f) and 1031(f)(4) when the replacement property is acquired from an equipment dealer that is a related party to the exchangor. On the surface, the mere purchase of replacement property from a related party dealer does not appear to be done for reasons of tax avoidance, nor does there appear to be any “cashing out” of an investment by the exchangor. However, the issues raised by Section 1031(f) and 1031(f)(4) extend beyond the specific issue of exchanges in the equipment rental industry. For example, it could potentially affect like-kind exchange activity for captive finance subsidiaries of equipment manufacturers that acquire equipment from related manufacturers. Such related party exchanges would be legitimate business transactions.

Given the broader issues, we believe published guidance is appropriate rather than non-precedential, non-case specific guidance. It is our sincere hope that you would consider issuing formal published guidance that would allow input from the Office of Tax Policy of the Department of the Treasury and the public in lieu of generic legal advice.

We would welcome the opportunity to provide more information to assist in your decision making process.

¹ The ELFA is a trade association representing commercial banks, financial services companies, and manufacturers engaged in financing the utilization and investment of and in capital goods. Our \$650 billion sector provides capital to business, government and non-profit sector for investment in capital plant and equipment. ELFA members are the driving force behind the growth in the commercial equipment finance market and contribute to capital formation in the U.S. and abroad.

Thank you very much for your consideration.

With kindest personal regards,

Sincerely,

A handwritten signature in black ink, appearing to be 'K. Bentsen, Jr.', written in a cursive style.

Kenneth E. Bentsen, Jr.
President

cc:

Eric A. San Juan
Acting Tax Legislative Counsel
Internal Revenue Service