



# CCM COVID-19 ALERT

May 15, 2020

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## ABA Section of Taxation Letter in Response to IRS Notice 2020-23

In a CCM [client alert](#) dated April 23, 2020, deadline changes for Section 1031 like-kind exchanges announced in Notice 2020-23 by the Internal Revenue Service (“IRS”) were outlined. In response to Notice 2020-23, the Section of Taxation of the American Bar Association (“ABA Tax Section”) submitted a [letter](#) to the IRS requesting further clarification and guidance and providing additional recommendations for changes.

Notice 2020-23 does not explicitly state whether Section 17 of Revenue Procedure 2018-58 applies to Section 1031 deadline postponements. Revenue Procedure 2018-58 provides for several extension options from which taxpayers can choose. The ABA Tax Section requests the IRS confirm Notice 2020-23 applies Section 17 to Section 1031 deadline postponements. Application of Section 17 postpones the 45-day and 180-day periods by 120 days or to the last date of the general disaster extension period, whichever is later, if the following are met:

- the sale of the relinquished property closes on or before the date of the federally declared disaster, and
- the last day of such period falls on or after the date of the federally declared disaster.

Specified Time-Sensitive Actions falling within a certain time period are postponed until July 15, 2020 per Notice 2020-23. Such actions must have a due date of performance on or after April 1, 2020. The ABA Tax Section recommends the IRS apply the postponement period to deadlines falling on or after January 20, 2020, instead of April 1, 2020. This recommendation due in part to Federal Emergency

Management Agency Major Disaster Declarations listing the COVID-19 emergency start date of the “Incident Period” as January 20, 2020. Another reason the ABA Tax Section requests this date change is due to many taxpayer’s inability to meet Section 1031 deadlines prior to April 1, 2020 because of various governmental restrictions and business closures. For example, due to various governmental shelter-in-place orders, an individual’s inability to leave their residence to look at potential replacement properties.

The ABA Tax Section recommends the IRS apply the mandatory postponement period under Section 7508A(d)(1). Meaning, deadlines to occur on or after January 20, 2020 are postponed to the later of (a) July 15, 2020, or (b) the latest day of the Incident Period specified for the federally declared disaster plus 60 days.

It is hoped the IRS will provide further guidance and clarification soon.

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