Internal Revenue Service

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Department of the Treasury
Washington, DC 20224

Third Party Communication: None
Date of Communication: Not Applicable

Person To Contact:
, ID No.
Telephone Number:

Refer Reply To:
CC:ITA:B04
PLR-106458-08

Date:
July 15, 2008

Dear :

This is in reply to your letter dated November 10, 2007, requesting a private letter ruling on the proper treatment of a sale and leaseback transaction under § 1033 of the Internal Revenue Code.

While it is the practice of the Internal Revenue Service to answer inquiries of individuals and organizations, when appropriate in the interest of sound tax administration, about their status for tax purposes and the tax effects of their acts or transactions, we have found it necessary to establish certain rules and procedures regarding the issuance of a specific ruling or opinion. In general, these rules and procedures are set forth in Rev. Proc. 2008-1, 2008-1 I.R.B. 1, and must be satisfied before we issue a specific ruling or opinion.

Your particular attention is directed to section 7 of Rev. Proc. 2008-1, which explains what taxpayers and their representatives should do when requesting a ruling. It provides, in part, that a request must contain a complete statement of all relevant facts describing the transaction in question. In addition, a ruling request must include the following general information:

(1) If the taxpayer advocates a particular conclusion, an explanation of the grounds for that conclusion and the relevant authorities to support it must be included. See section 7.01(8).

(2) In order to avoid inevitable delay in the ruling process, contrary authorities should be brought to the attention of the Service at the earliest possible opportunity. If the taxpayer determines that there are no contrary authorities, a statement in the request to this effect would be helpful. See section 7.01(9).

The information that you have provided does not satisfy the above and other requirements of Rev. Proc. 2008-1, therefore, we cannot issue a ruling at this time. However, in telephone conversations, we have provided you and your representative with general information regarding income averaging for farmers under § 1301 of the Code and involuntary conversions of property under § 1033, which is summarized below.

In general, § 1301 provides that if you are engaged in a farming business, you may be able to average all or some of your farm income by allocating it to the three prior years (base years). This may give you a lower tax if your income from farming is high and your taxable income from one or more of the three prior years was low. The term "farming business" is defined in the Instructions for Schedule J (Form 1040), *Income Averaging for Farmers and Fishermen*. For further information, see Publication 225, *Farmer's Tax Guide*.

In general, section 1033 provides that an involuntary conversion occurs when your property is destroyed, stolen, condemned, or disposed of under the threat of condemnation and you receive other property or money in payment, such as a condemnation award. You ordinarily must report the gain if you receive money or unlike property. You can elect to postpone reporting the gain if you buy property that is similar or related in service or use to the condemned property within the replacement period.

To postpone reporting all the gain, you must buy replacement property costing at least as much as the amount realized for the condemned property. If the cost of the replacement property is less than the amount realized, you must report the gain up to the unspent part of the amount realized. The basis of the replacement property is its cost, reduced by the postponed gain.

You must buy replacement property within a certain period of time. The replacement period for a condemnation begins on the earlier of the following dates:

- The date on which you dispose of the condemned property.

- The date on which the threat of condemnation began.

The replacement period generally ends two years after the end of the first year in which any part of the gain on the condemnation is realized. However, if real property held for use in a trade or business or for investment is condemned, the replacement period ends three years after the end of the first tax year in which any part of the gain on the condemnation is realized. For further information, see Publication 544, *Sales and Other Dispositions of Assets*.

You may download copies of Rev. Proc. 2008-1, Publication 225, Publication 544, and the Instructions for Schedule J (Form 1040) at the IRS website, www.irs.gov. We hope that this general information is helpful to you.

Your user fee will be refunded in separate correspondence. See section 15.10 of Rev. Proc. 2008-1.

If you have any questions, please contact the person whose name and telephone number are shown above.

In accordance with the Power of Attorney on file with this office, a copy of this letter is being sent to your authorized representative.

Sincerely,

Michael J. Montemurro
Branch Chief
Office of Associate Chief Counsel
(Income Tax & Accounting)