**8577. Can a taxpayer defer recognition of gain under the like-kind exchange rules if the exchange is made between related parties?**

If like-kind property is exchanged between persons who are "related" to each other (as defined in IRC Sections 267(b) or 707(b)(1)), the nonrecognition treatment provided under Section 1031 will not apply if either party disposes of the property received within two years after the exchange.[[1]](#footnote-1)

If such a disposition is made by either party, then both parties must recognize the gain on the exchange in the year of the subsequent disposition.[[2]](#footnote-2) IRC Section 1031(f) (2) contains certain specific exceptions to this rule and a general exception for transactions that the IRS concludes did not have tax avoidance as one of the principal purposes.

As a result, nonrecognition treatment will be permitted if the property was disposed of within two years of the exchange as a result of:

(1) the death of the taxpayer or the related person; or

(2) an involuntary conversion (see Q 8579) if the exchange occurred before the threat of the conversion arose.[[3]](#footnote-3)

IRC Sec. 1031(f)(4) provides that if an exchange is part of a transaction (or series of transactions) structured to avoid the related party rules of Section 1031, the section will not apply at all (except for subsection (f)(4)) and any gain will be recognized in the year of the original sale.

1. . IRC Sec. 1031(f). [↑](#footnote-ref-1)
2. . IRC Sec. 1031(f)(1). [↑](#footnote-ref-2)
3. . IRC Sec. 1031(f)(2). [↑](#footnote-ref-3)