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PLR: Like-kind exchange, cellular towers for cable signal distribution systems

The IRS today publicly released a private letter ruling* that concludes that cellular towers and other items used by the taxpayer in its business qualify for like-kind exchange treatment under section 1031 when exchanged by the taxpayer for cable telecommunication signal distribution property. PLR 201706009 (released February 10, 2017, and dated November 14, 2016)

Read [PLR 201706009](#) [PDF 52 KB]

**Private letter rulings are taxpayer-specific rulings furnished by the IRS National Office in response to requests made by taxpayers and can only be relied upon by the taxpayer to whom issued. It is important to note that, pursuant to section 6110(k)(3), such items cannot be used or cited as precedent. Nonetheless, such rulings can provide useful information about how the IRS may view certain issues.*

Background

The taxpayer—a communications services provider that offers communications infrastructure to its customers—owns either fee simple or long-term leasehold interests in multiple wireless communication tower sites across the nation. Each “tower” site consists of:

- Fencing around the tower site
- An antenna support structure for mounting antennas that are affixed to the land by a concrete foundation and attachment hardware (such as bolts and lashings)
- A nearby equipment hut with HVAC systems installed in the hut
- The land underlying the site itself

All of the taxpayer’s towers are permanently affixed to the land or would be extensively damaged if removed.

Cable distribution systems

The taxpayer is contemplating exchanging its towers for fiber-optic and copper cables installed either above or below ground and various other associated properties, including:

- Telephone poles for carrying the cables
- Underground conduits
- Concrete pads
- Attachment hardware
- Pedestals
- Guy wires
- Anchors

These items are collectively referred to as “cable distribution systems.” The cable distribution systems are permanently affixed to the land or are intended never to be removed until the end of their respective useful lives.

IRS conclusion

The IRS ruled that the towers and other items used by the taxpayer in its business qualify for like-kind exchange treatment under section 1031 when exchanged by the taxpayer for the cable distribution systems.

After describing the law and applicable judicial decisions, the IRS noted that state law property classifications are not the sole basis for determining whether the towers and the cable distribution systems are like-kind property for purposes of section 1031.

The IRS first explained that the towers and the cable distribution systems transmit or support the transmission of telecommunication signals across distances. The IRS observed that neither the towers nor the cable distribution systems are used for other activities. In addition, the towers and the cable distribution systems are, or are intended to be, permanently affixed to land. The IRS found that under these facts, the taxpayer’s towers and the cable distribution systems are like-kind property for purposes of section 1031.

The IRS concluded:

- The taxpayer’s real property improved with the towers—including fencing around the tower site, an antenna support structure for mounting antennas that are affixed to the land by a concrete foundation and attachment hardware (such as bolts and lashings), nearby equipment huts with HVAC systems installed in the huts and all other structural components of the towers and the huts that are fully installed—is of “like kind” within the meaning of section 1031(a)(1) and Reg. section 1.1031(a)-1(b) to
- The real property improved with the cable distribution systems—copper or fiber optic cables, telephone poles, underground conduits, concrete pads, attachment hardware, pedestals, guy wires, and anchors that are fully installed

The IRS stated that this ruling applies only to the towers and the cable distribution systems being transferred and received by the taxpayer as relinquished or replacement property, respectively, in the exchange that are affixed or embedded in real property held in fee simple or similar interest or under a long-term lease, easement, right of way or similar long-term right of use arrangement, in each case having a duration of 30 years or more including optional renewal periods exercisable by the tenant or right of use holder.

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