SUPPORTING STATEMENT
(Revenue Procedure 2000-37,
as modified by RP 2004-51)

. CIRCUMSTANCES NECESSITATING COLLECTION OF INFORMATION

On April 25, 1991, the Treasury Department and the Service promulgated final regulations under §1.1031(k)-1 providing rules for deferred like-kind exchanges under §1031(a)(3). The preamble to the final regulations states that the deferred exchange rules under § 1031(a)(3) do not apply to reverse-Starker exchanges and consequently that the final regulations do not apply to such exchanges. T.D. 8346, 1991-1 C.B. 150, 151; see Starker v. United States, 602 F.2d 1341 (9th Cir. 1979). However, the preamble indicates that Treasury and the Service will continue to study the applicability of the general rule of §1031(a)(1) to these transactions. T.D. 8346, 1991-1 C.B. 150, 151.

Since the promulgation of the final regulations under §1.1031(k)-1, taxpayers have engaged in a wide variety of transactions, including so-called "parking" transactions, to facilitate reverse like-kind exchanges. Parking transactions typically are designed to "park" the desired replacement property with an accommodation party until such time as the taxpayer arranges for the transfer of the relinquished property to the ultimate transferee in a simultaneous or deferred exchange. Once such a transfer is arranged, the taxpayer transfers the relinquished property to the accommodation party in exchange for the replacement property, and the accommodation party then transfers the relinquished property to the ultimate transferee. In other situations, an accommodation party may acquire the desired replacement property on behalf of the taxpayer and immediately exchange such property with the taxpayer for the relinquished property, thereafter holding the relinquished property until the taxpayer arranges for a transfer of such property to the ultimate transferee. In the parking arrangements, taxpayers attempt to arrange the transaction so that the accommodation party has enough of the benefits and burdens relating to the property so that the accommodation party will be treated as the owner for federal

income tax purposes.

Treasury and the Service have determined that it is in the best interest of sound tax administration to provide taxpayers with a workable means of qualifying their transactions under §1031 in situations where the taxpayer has a genuine intent to accomplish a like-kind exchange at the time that it arranges for the acquisition of the replacement property and actually accomplishes the exchange within a short time thereafter. Accordingly, this revenue procedure provides safe harbors that allow the taxpayer to acquire many of the benefits and burdens associated with the replacement property (or retain many of the benefits and burdens associated with the relinquished property) while still treating the accommodation party as the owner of the property for federal income tax purposes, thereby enabling the taxpayer to accomplish a qualifying like-kind exchange.

However, in order to avoid whipsaw abuses by the taxpayer and the accommodation party, it is necessary for this revenue procedure to include rules requiring that within five business days after the transfer of qualified indicia of ownership of the property to the accommodation party the taxpayer and the accommodation party must enter into a written agreement (the "qualified exchange accommodation agreement") that provides that the accommodation party is holding the property for the benefit of the taxpayer in order to facilitate an exchange under §1031 and this revenue procedure and that the taxpayer and the accommodation party agree to report the acquisition, holding, and disposition of the property as provided in this revenue procedure. The agreement must specify that the accommodation party will be treated as the beneficial owner of the property for all federal income tax purposes. Both parties must report the federal income tax attributes of the property on their federal income tax returns in a manner consistent with this agreement.

Revenue procedure 2004-51 (2004-33 I.R.B. 294), modifies sections 1 and 4 of Rev. Proc. 2000-37(2000-2 C.B. 308), to provide that Rev. Proc. 2000-37 does not apply if the taxpayer owns the property intended to qualify as replacement property before initiating a qualified exchange accommodation arrangement (QEAA).

2. USE OF DATA

The information will be used to enable the IRS to police these transactions by audit and to insure that the parties to the agreement are treating the tax attributes of the exchange and the exchange property consistently.

3. USE OF IMPROVED INFORMATION TECHNOLOGY TO REDUCE BURDEN

IRS Publications, Regulations, Notices and Letters are to be electronically enabled on an as practicable basis in accordance with the IRS Reform and Restructuring Act of 1998.

4. EFFORTS TO IDENTIFY DUPLICATION

We have attempted to eliminate duplication within the agency wherever possible.

5. METHODS TO MINIMIZE BURDEN ON SMALL BUSINESSES OR OTHER SMALL ENTITIES

Not applicable.

6. CONSEQUENCES OF LESS FREQUENT COLLECTION ON FEDERAL PROGRAMS OR POLICY ACTIVITIES

Not applicable.

7. SPECIAL CIRCUMSTANCES REQUIRING DATA COLLECTION TO BE INCONSISTENT WITH GUIDELINES IN 5 CFR 1320.5(d)(2)

Not applicable.

8. CONSULTATION WITH INDIVIDUALS OUTSIDE OF THE AGENCY ON AVAILABILITY OF DATA, FREQUENCY OF COLLECTION, CLARITY OF INSTRUCTIONS AND FORMS, AND DATA ELEMENTS

In large part, this revenue procedure is the product of frequent consultation and collaboration with taxpayers, practitioners, trade associations, professional associations and other special interest groups. As a result of these consultations we are confident that this revenue procedure is soundly based on available information as to the elements

described.

Revenue Procedure 2000–37 was published in the **Internal Revenue Bulletin** on October 2, 2000 (2000–40 IRB 308).It was modified by Revenue Procedure 2004–51, published on August 16, 2004 (2004–33 I.R.B. 294).

We received no comments during the comment period in response to the **Federal Register** notice (77 FR 62620), dated October 15, 2012.

9. EXPLANATION OF DECISION TO PROVIDE ANY PAYMENT OR GIFT TO RESPONDENTS

Not applicable.

10. ASSURANCE OF CONFIDENTIALITY OF RESPONSES

Generally, tax returns and tax return information are confidential as required by 26 USC 6103.

11. JUSTIFICATION OF SENSITIVE QUESTIONS

Not applicable.

12. ESTIMATED BURDEN OF INFORMATION COLLECTION

The collection of information is contained in section 4.02(3) of this revenue procedure. It requires taxpayers and exchange accommodation titleholders to enter into a written agreement that the exchange accommodation titleholder will be treated as the beneficial owner of the property for federal income tax purposes. We estimate that the taxpayers will enter into approximately 1,600 written agreements, pursuant to this provision, annually. The estimated annual burden per taxpayer to provide the information required by section 4.02(3) of this revenue procedure is one (1) hour, and the total annual reporting and/or recordkeeping burden is +3,200 hours (1 hour X 2 taxpayers X 1,600 written agreements).

Estimates of the annual cost to respondents for the hour burdens shown are not available at this time.

13. ESTIMATED TOTAL ANNUAL COST BURDEN TO RESPONDENTS

As suggested by OMB, our **Federal Register** notice dated October 15, 2012, requested public comments on estimates of cost burden that are not captured in the estimates of burden hours, i.e., estimates of capital or start-up costs and costs of operation, maintenance, and purchase of services to provide information. However, we did not receive any response from taxpayers on this subject. As a result, estimates of the cost burdens are not available at this time.

14. ESTIMATED ANNUALIZED COST TO THE FEDERAL GOVERNMENT

Not applicable.

15. REASONS FOR CHANGE IN BURDEN

There is no change in the paperwork burden previously approved by OMB. We are making this submission to renew the OMB approval.

16. PLANS FOR TABULATION, STATISTICAL ANALYSIS AND PUBLICATION

Not applicable.

17. REASONS WHY DISPLAYING THE OMB EXPIRATION DATE IS INAPPROPRIATE

We believe that displaying the OMB expiration date is inappropriate because it could cause confusion by leading taxpayers to believe that the revenue procedure sunsets as of the expiration date. Taxpayers are not likely to be aware that the Service intends to request renewal of the OMB approval and obtain a new expiration date before the old one expires.

18. EXCEPTIONS TO THE CERTIFICATION STATEMENT ON OMB FORM 83-I

Not applicable.

Note: The following paragraph applies to all of the collections of information in this submission:

An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless the collection of information displays a valid OMB control number. Books or records relating to a collection of information must be retained as long as their contents may become material in the administration of any internal revenue law. Generally, tax returns and tax return information are confidential, as required by 26 U.S.C. 6103.