

31, 2019; the causes of such growth, including whether growth occurred as a result of mergers or acquisitions; whether such growth is likely to be temporary or permanent; whether the FDIC-supervised institution has become involved in any additional activities since December 31, 2019; and the type of assets held by the FDIC-supervised institution. The FDIC will notify an FDIC-supervised institution of a determination under this paragraph. An FDIC-supervised institution may, not later than 30 days after the date of a determination by the FDIC, inform the FDIC, in writing, of why the FDIC-supervised institution should be eligible for the temporary relief. The FDIC will make a final determination after reviewing any response.

\* \* \* \* \*

### PART 337—UNSAFE AND UNSOUND BANK PRACTICES

■ 31. The authority citation for part 337 continues to read as follows:

**Authority:** 12 U.S.C. 375a(4), 375b, 1463, 1464, 1468, 1816, 1818(a), 1818(b), 1819, 1820(d), 1821(f), 1828(j)(2), 1831, 1831f, 1831g, 5412.

■ 32. Amend § 337.12 by adding paragraph (d) to read as follows:

#### § 337.12 Frequency of examination.

\* \* \* \* \*

(d) From December 2, 2020, through December 31, 2021, for purposes of determining eligibility for the extended examination cycle described in paragraph (b) of this section, the total assets of an institution shall be determined based on the lesser of:

- (1) The assets of the institution as of December 31, 2019; and
- (2) The assets of the institution as of the end of the most recent calendar quarter.

### PART 347—INTERNATIONAL BANKING

■ 33. The authority citation for part 347 continues to read as follows:

**Authority:** 12 U.S.C. 1813, 1815, 1817, 1819, 1820, 1828, 3103, 3104, 3105, 3108, 3109; Pub. L. 111–203, section 939A, 124 Stat. 1376, 1887 (July 21, 2010) (codified 15 U.S.C. 78o–7 note).

■ 34. Amend § 347.211 by adding paragraph (d) to read as follows:

#### § 347.21 Examination of branches of foreign banks.

\* \* \* \* \*

(d) From December 2, 2020, through December 31, 2021, for purposes of determining eligibility for the extended examination cycle described in

paragraph (b) of this section, the total assets of an insured branch shall be determined based on the lesser of:

- (1) The assets of the insured branch as of December 31, 2019; and
- (2) The assets of the insured branch as of the end of the most recent calendar quarter.

### PART 348—MANAGEMENT OFFICIAL INTERLOCKS

■ 35. The authority citation for part 348 continues to read as follows:

**Authority:** 12 U.S.C. 1823(k), 3207.

■ 36. Amend § 348.2 by adding paragraph (q)(3) to read as follows:

#### § 348.2 Other definitions and rules of construction.

\* \* \* \* \*

(q) \* \* \*

(3)(i) *Temporary relief for 2020 and 2021.* Notwithstanding paragraph (q)(1) of this section, from December 2, 2020, through December 31, 2021, except as provided in paragraph (q)(3)(ii) of this section, the term *total assets*, with respect to a depository organization, means the lesser of assets of the depository organization reported on a consolidated basis as of December 31, 2019, and assets reported on a consolidated basis as of December 31, 2020.

(ii) *Reservation of authority.* The temporary relief provided under this paragraph (q)(3)(i) of this section does not apply to an FDIC-supervised institution if the FDIC determines that permitting the FDIC-supervised institution to determine its assets in accordance with that paragraph would not be commensurate with the risk posed by the institution. When making this determination, the FDIC will consider all relevant factors, including the extent of asset growth of the FDIC-supervised institution since December 31, 2019; the causes of such growth, including whether growth occurred as a result of mergers or acquisitions; whether such growth is likely to be temporary or permanent; whether the FDIC-supervised institution has become involved in any additional activities since December 31, 2019; and the type of assets held by the FDIC-supervised institution.

\* \* \* \* \*

**Brian P. Brooks,**

*Acting Comptroller of the Currency.*

By order of the Board of Governors of the Federal Reserve System.

**Ann Misback,**

*Secretary of the Board.*

Federal Deposit Insurance Corporation.

By order of the Board of Directors.

Dated at Washington, DC, on or about November 17, 2020.

**James P. Sheesley,**

*Assistant Executive Secretary.*

[FR Doc. 2020–26138 Filed 12–1–20; 8:45 am]

BILLING CODE 6210–01–P

### FARM CREDIT ADMINISTRATION

#### 12 CFR Part 614

RIN 3052–AC92

#### Amortization Limits; Correction

**AGENCY:** Farm Credit Administration.

**ACTION:** Final rule; correction.

**SUMMARY:** On September 28, 2020, the Farm Credit Administration (FCA) published a final rule that repealed the regulatory requirement that production credit associations (PCAs) amortize their loans in 15 years or less, while requiring all Farm Credit System (FCS or System) associations to address amortization through their credit underwriting standards and internal controls. In that publication, FCA inadvertently omitted a statement that the Office of Management and Budget's Office of Information and Regulatory Affairs determined that the final rule is not a major rule under the applicable provisions of the Congressional Review Act. This document corrects that error.

**DATES:** This correction is effective December 2, 2020.

#### FOR FURTHER INFORMATION CONTACT:

Richard A. Katz, Senior Counsel, Office of General Counsel, (703) 883–4020, TTY (703) 883–4056, Farm Credit Administration, 1501 Farm Credit Drive, McLean, VA 22102–5090.

**SUPPLEMENTARY INFORMATION:** In FR Doc. 2020–18552, entitled “Amortization Limits,” beginning on page 60691 in the **Federal Register** of Monday, September 28, 2020, make the following corrections;

1. On page 60693, in the second column, the heading for section V is corrected to read “Regulatory Flexibility Act and Major Rule Conclusion.”

2. On page 60693, in the second column, add paragraph at the end of section V to read as follows:

Under the provisions of the Congressional Review Act (5 U.S.C. 801 *et seq.*), the Office of Management and Budget's Office of Information and Regulatory Affairs has determined that this final rule is not a “major rule,” as the term is defined at 5 U.S.C. 804(2).

Dated: October 21, 2020.

**Dale Aultman,**

*Secretary, Farm Credit Administration Board.*

[FR Doc. 2020–23688 Filed 12–1–20; 8:45 am]

BILLING CODE 6705–01–P

## DEPARTMENT OF THE TREASURY

### Internal Revenue Service

#### 26 CFR Part 1

[TD 9935]

RIN 1545–BP02

#### Statutory Limitations on Like-Kind Exchanges

**AGENCY:** Internal Revenue Service (IRS), Treasury.

**ACTION:** Final regulations.

**SUMMARY:** This document contains final regulations providing guidance under section 1031 of the Internal Revenue Code (Code) to implement recent statutory changes to that section. More specifically, the final regulations amend the current like-kind exchange regulations to add a definition of real property to implement statutory changes limiting section 1031 treatment to like-kind exchanges of real property. The final regulations also provide a rule addressing a taxpayer's receipt of personal property that is incidental to real property the taxpayer receives in an otherwise qualifying like-kind exchange of real property. The final regulations affect taxpayers that exchange business or investment property for other business or investment property, and that must determine whether the exchanged properties are real property under section 1031.

**DATES:**

*Effective date:* These final regulations are effective on December 2, 2020.

*Applicability dates:* These regulations generally apply to exchanges beginning after December 2, 2020. See §§ 1.1031(a)–1(e)(2), 1.1031(a)–3(c), and 1.1031(k)–1(g)(9). However, the regulations in §§ 1.168(i)–1(e)(2)(viii)(A) and 1.168(i)–8(c)(4)(i) apply to taxable years beginning after December 2, 2020. See §§ 1.168(i)–1(m)(5) and 1.168(i)–8(j)(5).

**FOR FURTHER INFORMATION CONTACT:**

Edward C. Schwartz at (202) 317–4740, or Suzanne R. Sinno at (202) 317–4718 (not toll-free numbers).

**SUPPLEMENTARY INFORMATION:**

#### Background

##### I. Overview

This document amends the Income Tax Regulations (26 CFR part 1, as

revised April 1, 2020) under section 1031 (current regulations). The amendments to the current regulations (final regulations) implement statutory amendments to section 1031 made by section 13303 of Public Law 115–97, 131 Stat. 2054 (2017), commonly referred to as the Tax Cuts and Jobs Act (TCJA). Section 13303(c) of the TCJA amended section 1031 to limit its application to exchanges of real property for exchanges completed after December 31, 2017, subject to a transition rule for certain exchanges in which property had been transferred before January 1, 2018. To implement these statutory changes, the final regulations limit the application of the like-kind exchange rules under section 1031 to exchanges of real property, add a definition of real property, and adapt an existing incidental property exception to apply to a taxpayer's receipt of personal property that is incidental to real property the taxpayer receives in the exchange.

##### II. Section 1031 After the TCJA

As amended by the TCJA, section 1031(a) provides that no gain or loss is recognized on the exchange of real property held for productive use in a trade or business or for investment (relinquished real property) if the relinquished real property is exchanged solely for real property of a like kind that is to be held either for productive use in a trade or business or for investment (replacement real property). The legislative history to the TCJA amendments to section 1031 provides that Congress “intended that real property eligible for like-kind exchange treatment under present law will continue to be eligible for like-kind exchange treatment under the [amended] provision.” H.R. Conf. Rept. 115–466, at 396, fn. 726 (2017) (Conference Report). However, left unchanged by the TCJA, section 1031(b) provides that a taxpayer must recognize gain to the extent of money and non-like-kind property the taxpayer receives in an exchange.

##### III. Current Regulations Regarding “Like Kind”

The need to determine whether the relinquished real property and the replacement real property are of a like kind continues to exist after the changes to section 1031 made by the TCJA. Current § 1.1031(a)–1(b) provides that “like kind” refers to the nature or character of the real property and not to its grade or quality. The fact that any real property involved is improved or unimproved is not material in determining whether real property is of

like kind. Under current § 1.1031(a)–1(c), examples of exchanges of real property of a like kind include an exchange of a leasehold interest in a fee with 30 years or more to run for real estate.

##### IV. Identification of Exchanged Properties

Under section 1031(a)(3), unchanged by the TCJA, real property a taxpayer receives in an exchange is not of like-kind to the relinquished property unless, within 45 days after the taxpayer's transfer of the relinquished real property, the real property is identified as replacement real property to be received in the exchange. Current § 1.1031(k)–1(c)(4) provides a limit on the number of properties, or the fair market value of the properties, a taxpayer may identify to meet the requirements of section 1031(a)(3). However, under current § 1.1031(k)–1(c)(5), property is disregarded in evaluating the identification rules if it is incidental to a larger item of property and therefore, is not treated as property separate from the larger item. Property is incidental to a larger property if, in standard commercial transactions, the property is typically transferred with the larger item of property, and the aggregate fair market value of all of the incidental property does not exceed 15 percent of the aggregate fair market value of the larger item of property.

##### V. Recognition of Gain or Loss on Actual or Constructive Receipt of Non-Like-Kind Property

Under current § 1.1031(k)–1(f)(1) and (2), if a taxpayer actually or constructively receives money or non-like-kind property for the relinquished property before the taxpayer receives like-kind replacement real property, the transaction is a sale or taxable exchange and not a like-kind exchange, even though the taxpayer may ultimately receive like-kind replacement real property. Current § 1.1031(k)–1(g)(2) through (5) provides safe harbors, the use of which results in a taxpayer not being considered in actual or constructive receipt of the consideration for the relinquished property.

Under current § 1.1031(k)–1(g)(4)(i), in the case of a taxpayer's transfer of relinquished property involving a qualified intermediary, the determination of whether the taxpayer is in actual or constructive receipt of money or non-like-kind property is made as if the qualified intermediary is not the agent of the taxpayer. However, current § 1.1031(k)–1(g)(4)(i) applies only if the agreement between the taxpayer and the qualified intermediary