

Bulletin

FLORIDA BULLETIN 07-01

To: All Old Republic National Title Agents and Offices

From: Underwriting Department

Re: New Seller Certification for No Information Reporting on the Sale or Exchange of a Principal Residence

Date: January 26, 2007

Rev. Proc. 2007-12 supercedes Rev. Proc. 98-20 and is effective for sales or exchanges of a principal residence occurring after January 22, 2007. It sets forth the acceptable form of the certification that real estate reporting persons must obtain from each seller of a principal residence to except the sale or exchange from information reporting on Form 1099-S *Proceeds From Real Estate Transactions* under IRS Code Sec. 6045(e)(5). It incorporates amendments to IRS Code Sec. 121 *Exclusion of Gain from Sale of Principal Residence*. Attached is a copy of ORT Form 3956 revised to include the required changes. This is a sample form and it may be reformatted as appropriate, however, the form and content of questions 1 through 6 should not be changed.

It appears from the Revenue Procedure language that the former requirement that each seller is required to complete and sign a separate form has been retained, even though they are married. Any seller who does not sign is subject to Form 1099-S reporting.

A copy must be furnished to each person who signs the certification. A real estate reporting person may obtain the certification at any time on or before the January 31 of the year following the year of the sale or exchange of the residence and must be retained for four years after the year of the sale or exchange. Obviously, the certification should be obtained at the time of closing unless absolutely prevented by the circumstances. Any real estate reporting person who has actual knowledge that any assurance is incorrect should report the circumstances to a supervisor and, at minimum, report the sale on IRS Form 1099-S, in order to avoid liability under various IRS Code sections.

***This Bulletin is to become a permanent part of your Bulletin Manual,
and you are to comply with the requirements contained herein.***

IRS FORM 1099-S CERTIFICATION EXEMPTION FORM

CERTIFICATION FOR NO INFORMATION REPORTING ON THE SALE OR EXCHANGE OF A PRINCIPAL RESIDENCE

This form may be completed by the seller of a principal residence. This information is necessary to determine whether the sale or exchange should be reported to the seller, and to the Internal Revenue Service on Form 1099-S, *Proceeds From Real Estate Transactions*. If the seller properly completes Parts I and III, and makes a "true" response to assurances (1) through (6) in Part II (or a "not applicable" response to assurance (6)), no information reporting to the seller or to the Service will be required for that seller. The term "seller" includes each owner of the residence that is sold or exchanged. Thus, if a residence has more than one owner, a real estate reporting person must either obtain a certification from each owner (whether married or not) or file an information return and furnish a payee statement for any owner that does not make the certification.

Part I. Seller Information

1. Name _____
2. Address or legal description (including city, state, and ZIP code) of residence being sold or exchanged

3. Taxpayer Identification Number (TIN) _____

Part II. Seller Assurances

Check "true" or "false" for assurances (1) through (5), and "true," "false," or "not applicable" for assurance (6).

True False

- | | | | |
|--------------------------|--------------------------|-----|---|
| <input type="checkbox"/> | <input type="checkbox"/> | (1) | I owned and used the residence as my principal residence for periods aggregating 2 years or more during the 5-year period ending on the date of the sale or exchange of the residence. |
| <input type="checkbox"/> | <input type="checkbox"/> | (2) | I have not sold or exchanged another principal residence during the 2-year period ending on the date of the sale or exchange of the residence. |
| <input type="checkbox"/> | <input type="checkbox"/> | (3) | I (or my spouse or former spouse, if I was married at any time during the period beginning after May 6, 1997, and ending today) have not used any portion of the residence for business or rental purposes after May 6, 1997. |

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True False

(4) At least one of the following three statements applies:

The sale or exchange is of the entire residence for \$250,000 or less.

OR

I am married, the sale or exchange is of the entire residence for \$500,000 or less, and the gain on the sale or exchange of the entire residence is \$250,000 or less.

OR

I am married, the sale or exchange is of the entire residence for \$500,000 or less, and (a) I intend to file a joint return for the year of the sale or exchange, (b) my spouse also used the residence as his or her principal residence for periods aggregating 2 years or more during the 5-year period ending on the date of the sale or exchange of the residence, and (c) my spouse also has not sold or exchanged another principal residence during the 2-year period ending on the date of the sale or exchange of the residence.

(5) During the 5-year period ending on the date of the sale or exchange of the residence, I did not acquire the residence in and exchange to which section 1031 of the Internal Revenue Code applied.

T F N/A

(6) If my basis in the residence is determined by reference to the basis in the hands of a person who acquired the residence in an exchange to which section 1031 of the Internal Revenue Code applied, the exchange to which section 1031 applied occurred more than 5 years prior to the date I sold or exchanged the residence.

Part III. Seller Certification

Under penalties of perjury, I certify that all the above information is true as of the end of the day of the sale or exchange.

Signature of Seller

Date