

# PENN ATTORNEYS

## TITLE ALERT

**DATE: 2/5/07**

**RE: Title Alert 2007-05**

**1099-S—Certification for No Reporting  
on Principal Residence**

Please review the following bulletin issued by K. Gene Aalseth and Karen M. Saez, who are Vice Presidents and Associate Senior Underwriters for First American Title Insurance Company. The new Certification for No Information Reporting (1099-S) on Principal Residence is attached for your convenience.

The “Certification for No Information Reporting on the Sale or exchange of a Principal Residence” form and procedures have been changed by IRS Revenue Procedure 2007-12<sup>1</sup> effective January 22, 2007. Questions 5 and 6 have been added to the certification so that the form corresponds to changes made to Internal Revenue Code Section 121 in 2004 and 2005. Section 121 generally provides for the exclusion of gain in the amount \$250,000 (\$500,000 if married, filing jointly) on the sale of a personal residence provided owner has used it as a residence 2 of the last 5 years. The changes to section 121 provide that the exclusion does not apply if the principal residence was acquired in a 1031 like-kind exchange within the prior 5 years.

A 1099-S form need not be filed if the certification form (copy attached):

Has Parts I and III properly completed by the seller

Has a “true” response to assurances (1) through (5) and either a true response or a “not applicable” response to (6) of Part II

Is signed by each owner of the principal residence under penalty of perjury

Is retained by the company for 5 years (Year of sale + 4 years = 5 years)

For more detail on 1099-S withholding and this form see below.<sup>2</sup>

You may view the IRS Bulletin at: [http://www.irs.gov/irb/2007-04\\_IRB/ar09.html](http://www.irs.gov/irb/2007-04_IRB/ar09.html)

Please contact your servicing Penn Attorneys Office with any questions.

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PLEASE INSERT INTO YOUR FORMS, POLICIES & PROCEDURES BINDER

<sup>1</sup> Rev. Proc 2007-12 (January 22, 2007), 2007-4 I.R.B. 354

<sup>2</sup> See 26 U.S.C. §§ 121 & 6045; 26 C.F.R. 1.6045-4(e); IRS Rev. Proc. 2007-12 (issued 1/22/07), 2007 I.R.B. 354; Rev. Proc. 98-20, 1998-7 I.R.B. 32, 1998-1 C.B. 549, superseded by 2007-12

## Certification for No Information Reporting (1099-S) on Principal Residence (Pursuant to IRS Rev. Proc. 2007-12)

### Part I. Seller Information *(If there is more than one seller, each should complete a separate Certification.)*

Name	Taxpayer Identification Number (TIN)
Address or Legal Description (including City, State, and Zip Code) of Residence Being Sold or Exchanged	

### Part II. Seller Assurances

Check "True" or "False" for Assurances 1 through 5. Check "True," "False," or "N/A" (i.e., Not Applicable) for Assurance 6.

True False

- (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.
- (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.
- (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.
- (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 principal 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 an exchange to which Section 1031 of the Internal Revenue Code applied.

True False 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*