



The Voice of the 1031 Industry

**IRC SECTION 1031 IS A VITAL AND COST EFFECTIVE STIMULANT
TO THE U.S. ECONOMY AND TO U.S. JOB CREATION.
SECTION 1031 SHOULD NOT BE REPEALED OR MODIFIED
UNDER TAX REFORM INITIATIVES.**

**91 National, Regional and State Business and Industry Associations
Support I.R.C. Section 1031 Like-Kind Exchanges**

- Agricultural & Food Transporters Conference
- Agricultural Retailers Association
- Alternative & Direct Investment Securities Association
- American Car Rental Association
- American Farm Bureau Federation
- American Farmland Trust
- American Institute of Architects
- American Land Title Association
- American Mushroom Institute
- American Petroleum Institute
- American Rental Association
- American Seniors Housing Association
- American Sheep Industry Association
- American Soybean Association
- American Sugarbeet Growers Association
- Appraisal Institute
- Asian American Hotel Owners Association
- Associated Equipment Distributors
- Associated General Contractors of America
- Association of Equipment Manufacturers
- Association of Manufacturing Technology
- Building Owners and Managers Association International
- CCIM Institute
- Connecticut Bar Association
- Equipment Leasing Finance Association
- Far West Equipment Dealers Association
- Federation of Exchange Accommodators
- Inland Real Estate Group
- Institute of Real Estate Management
- International Council of Shopping Centers
- Investment Program Association
- Iowa-Nebraska Equipment Dealers Association
- Iowa-Nebraska Equipment Distributors
- Iowa Farm & Land Chapter #2
- Iowa Soybean Association
- Land Trust Alliance
- Livestock Marketing Association
- Minnesota-South Dakota Equipment Dealers Association
- Montana Equipment Dealers Association
- NAIOP, the Commercial Real Estate Development Association
- National All-Jersey Inc.
- National Alliance of Forest Owners
- National Apartment Association
- National Association of Home Builders
- National Association of Manufacturers
- National Association of Real Estate Investment Trusts
- National Association of REALTORS®
- National Association of State Departments of Agriculture
- National Association of Wheat Growers
- National Automobile Dealers Association
- National Barley Growers Association
- National Cattlemen's Beef Association
- National Corn Growers Association
- National Cotton Council
- National Council of Farmer Cooperatives
- National Milk Producers Federation
- National Multifamily Housing Council
- National Peach Council
- National Pork Producers Council
- National Potato Council
- National Renderers Association
- National Sorghum Producers
- National Sunflower Association
- National Tool and Machining Association
- National Turkey Federation
- North American Equipment Dealers Association
- Ohio-Michigan Equipment Dealers Association
- Peconic Land Trust
- Precision Machined Products Association
- Precision Metalforming Association
- Professional Rodeo Cowboys Association
- Public Lands Council
- Real Estate Board of New York
- Real Estate Roundtable
- REALTORS® Land Institute
- Society of Industrial and Office REALTORS®
- Southwest Council of Agribusiness
- The Conservation Fund
- The Nature Conservancy
- The Trust for Public Land
- Truck Renting and Leasing Association
- U.S. Apple Association
- U.S. Canola Association
- U.S. Chamber of Commerce
- U.S. Sweet Potato Council
- United Egg Producers
- United Equipment Dealers Association
- United Fresh Produce Association
- United Producers, Inc.
- USA Rice Federation
- Western Growers Association

On January 5, 2016, an Op-Ed from U.S. Rep. Steve Stivers was published in response to ongoing proposals to repeal or limit Section 1031. The following is an excerpt from the Op-Ed:

Raising Taxes on Property Exchanges Would Kill Jobs, Raise Rents, Deepen Debts: “There are many good ideas for pro-growth, pro-job, pro-family tax reform. But Congress should reject one scheme that keeps coming up: taxing like-kind exchanges,” says U.S. Rep. Steve Stivers. “Tax reformers from both parties want to reduce taxes while closing loopholes and broadening the base. But repealing like-kind exchanges is the wrong way to do the right thing.” *The Hill*, January 5, 2016.

On February 9, 2016, the Obama Administration released its FY2017 budget expanding its proposed \$1 million annual limit on deferral of gain to exchanges of all §1031 eligible assets, and continued to propose elimination of art and collectibles exchanges. Previous proposals in the FY2015 and FY2016 budgets sought to limit deferral only for exchanges of real property.

On December 16, 2014, the following twenty-five national associations wrote the President urging him to omit this proposal:

- American Farmland Trust
- Asian American Hotel Owners Association
- Alternative and Direct Investment Securities Association
- American Land Title Association
- American Senior Housing Association
- Building Owners and Managers Association International
- CCIM Institute
- Federation of Exchange Accommodators
- Inland Real Estate Group
- Institute of Real Estate Management
- International Council of Shopping Centers
- Investment Program Association
- Land Trust Alliance
- NAIOP
- Commercial Real Estate Development Association
- National Apartment Association
- National Association of Home Builders
- National Association of Real Estate Investment Trusts
- National Association of REALTORS®
- National Multifamily Housing Council
- Peconic Land Trust
- Real Estate Round Table
- REALTORS® Land Institute
- The Conservation Fund
- The Nature Conservancy
- The Trust for Public Land.

Some highlights from the letter: “The revenue proposal to limit the deferral of gain on real property like-kind exchanges, if enacted, would undermine the functioning of the real estate marketplace, reduce capital investment, and discourage job-creating property improvements and land conservation efforts.”

“Allowing capital to flow more freely among investments encourages commerce, and supports economic growth and job creation...”

“Federal like-kind exchange rules positively affect local government budgets since more frequent turnover of real estate generates significant property tax and recording fees, as well as property reassessments that increase the property tax base.”

“Section 1031 is often a critically important means of facilitating conservation real estate transactions involving open spaces and/or significant environmentally sensitive properties that may be exchanged for other privately held property.”

“...Our current like-kind exchange rules generate broad economic and environmental benefits that serve the public interest.”

On November 21, 2013, the Senate Finance Committee (SFC) released a staff discussion draft on proposed reforms to cost recovery and tax accounting rules, in which Section 1031 like-kind exchanges were targeted for repeal. The SFC invited comments relating to the goals of business tax reform. In response, forty-four national, regional and state business and industry associations submitted comments in support of Section 1031 and/or opposing the SFC’s call for repeal of Section 1031.

On February 24, 2014, House Ways and Means Chairman Dave Camp released draft legislation to reform the tax code and Section 1031 was similarly targeted for repeal.

Following is a sampling of public commentary from the many associations in favor of Section 1031:

“Deferral of gain on like-kind exchange is a bedrock principle of our tax policy and nearly as old as income tax itself.”

“The roll-over of gain on like-kind exchanges ensures a well-functioning, dynamic, and efficient U.S. real estate market... Allowing capital to flow more freely among investments is critical to facilitate commerce and support economic growth and job creation...”

“Like-kind exchanges generate tax revenue for federal, state, and local governments and facilitate land conservation efforts... Like-kind exchanges result in smaller depreciation deductions for the taxpayer going forward.”

“Substituting a “similar use” concept for like-kind exchange rules would violate tax neutrality and weaken the real estate market... [A] “similar use” rule would reduce liquidity in the real estate market, make real estate development more costly, and reduce the likelihood that real property will undergo the improvements and upgrades that often occur when new owners take over the property.”

American Farm Bureau Federation: “Using like-kind exchanges, active farmers and ranchers are able to combine acreage, acquire higher grade land and consolidate parcels into contiguous plots. Agricultural equipment transactions are undertaken to acquire new machinery that is more technologically advanced or better suited for their operation. Without like-kind treatment, cash-strapped farmers and ranchers are more likely to defer expanding the business and to delay updating their equipment.”

U.S. Chamber of Commerce: “The Chamber welcomes the continuing discussion on tax reform, however, has significant concerns about the Draft Proposal, which concerns are articulated below.”

National Association of Manufacturers: “A number of manufacturers have captive finance arms to facilitate and support sales and leasing transactions with their customers, and in some cases, to enable sales where financing might otherwise be difficult to obtain. The captive finance arms use LKEs to reduce tax gains and thus, financing costs, enabling them to provide competitive financing for customers. The program provides dual benefits to both the lessor and the lessee. LKEs help ensure leasing is a viable, affordable option for customers. The proposed repeal of LKE would decrease cash flows and increase lending costs, which in turn decreases the ability to compete for sales and jobs in U.S. manufacturing.

Comments from a Joint Response by:

- American Rental Association
- Associated Equipment Distributors
- Association of Equipment Manufacturers
- AMT – The Association for Manufacturing Technology
- Far West Equipment Dealers Association
- Federation of Exchange Accommodators
- Iowa-Nebraska Equipment Dealers Association
- Iowa-Nebraska Equipment Distributors
- Mid-America Equipment Retailers Association
- Minnesota-South Dakota Equipment Dealers Association
- Montana Equipment Dealers Association
- National Automobile Dealers Association
- National Tooling and Machining Association
- North American Equipment Dealers Association
- Ohio Equipment Dealers Association
- Ohio-Michigan Equipment Dealers Association
- Precision Machined Products Association
- Precision Metalforming Association
- Truck Renting and Leasing Association.

"We wish to restate objections... regarding the impact of like-kind exchange repeal...Our organizations represent companies that sell, use, rent, service, lease and manufacture construction, farm, forestry, transportation and mining equipment... IRC Section 1031 is neither a loophole nor a tax savings vehicle, but rather a powerful economic engine that promotes capital investment, improves business productivity and creates jobs. Tax-deferred exchanges are one of the few incentives available to, and used by, taxpayers of all sizes in all sectors of the economy. The non-recognition exchange policy is premised on the "continuity of investment" and ensures that a taxpayer who continues with the same qualifying investment, with no intervening receipt of cash, is left in the same tax position as if the relinquished asset was never sold. By deferring the tax consequences associated with replacing outdated equipment, LKE helps businesses invest in newer, more efficient and more environmentally-friendly machinery."

Associated Equipment Distributors: "...we estimate that approximately a quarter of our members have LKE programs in place to manage their rental fleets. The tax liability associated with selling a fully depreciated asset acts as a disincentive to purchase newer, more efficient machinery. By allowing companies to defer that tax liability if they buy a new machine to replace the old, LKE frees up resources that make the capital investment possible."

Asian American Hotel Owners Association: "This provision provides tremendous benefit not only to hoteliers, but also to the communities in which our members live and work. Section 1031 exchanges allow hotel owners to have more available capital to invest in additional properties, which then increases economic development within the community, boosts the tax base and results in the creation of more jobs."

National Association of Real Estate Investment Trusts: "Section 1031 is at the very essence of how the commercial real estate industry creates jobs, supplies needed investment in communities, meets consumer demands and increases property values."

Iowa Soybean Association: "ISA President Mark Jackson, who farms near Rose Hill, said countless members have used it for land, conservation, equipment and other transactions."

Iowa Farm & Land Chapter #2 REALTORS® Land Institute: In a 2013 survey, the members of the Iowa Realtors Land Institute estimated that if Section 1031 were repealed, land transactions would drop by nearly 30%, with many opining that repeal would be highly negative to the Iowa and agricultural economies.



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RECENT PRESS REGARDING IRC SECTION 1031 AND THE PROSPECT FOR REPEAL OR MODIFICATION TO A “SIMILAR OR RELATED IN SERVICE OR USE” STANDARD

Raising Taxes on Property Exchanges Would Kill Jobs, Raise Rents, Deepen Debts: “There are many good ideas for pro-growth, pro-job, pro-family tax reform. But Congress should reject one scheme that keeps coming up: taxing like-kind exchanges,” says U.S. Rep. Steve Stivers. “Tax reformers from both parties want to reduce taxes while closing loopholes and broadening the base. But repealing like-kind exchanges is the wrong way to do the right thing.” *The Hill*, January 5, 2016.

Congress Pondering 1031: The potential repeal of like-kind exchanges jeopardizes landowners and other investors. *The Land Report*, Spring, 2015.

Why Pro-Growth Tax Reform Must Preserve Like-Kind Exchanges: One of the most notable provisions at risk [with tax reform] – like-kind exchanges – empowers both businesses and individual property owners to roll over their capital gain into new investments that spur economic activity across the country... Sen. Johnny Isakson (R-Ga.) recently noted that most lawmakers do not fully comprehend the potential impact of limiting like-kind exchanges. *The Hill*, February 24, 2015.

Taking 1031s Off the Table Would Have an “Atomic Bomb” Effect: Federal tax reform could have disastrous effects on [New York City’s] real estate market if it shakes things up too much, industry players said this morning... 1031 exchanges, also known as like-kind exchanges, are crucial to the market’s health. “If there was ever an issue with 1031s being taken out of this market, it would have an atomic-bomb kind of effect.” *The Real Deal*, February 23, 2015.

Real Estate Groups Building Protections for Tax Break: “In any given year, over a quarter of a million U.S. taxpayers use like-kind exchanges to reinvest capital and grow their businesses... Every time policymakers have looked closely at this issue, they have concluded that like-kind exchanges buttress economic growth and should be preserved.” *Congressional Quarterly*, January 29, 2015.

Reform Proposal Would End Farmer-Friendly 1031 Exchanges: “Don’t just associate tax reform with stimulated growth. The 1031 is the lifeblood of investment.” Some analysts have estimated that as many as 30 percent of real estate transactions could be eliminated if the 1031 [exchange] goes away. *Iowa Farmer Today*, January 28, 2015.

Real Estate Industry Supports 1031 Exchanges: “The Senate Finance Committee is considering a repeal of Internal Revenue Code Section 1031... Local commercial real estate agents say like-kind exchanges stimulate the economy... Without it, sellers would be far more reluctant to sell their properties... It is estimated by one expert that 1031 exchanges are implicated in 30 percent of all transactions... If 30 percent of all transactions went away, what would that do to the economy?” *The Hampton Roads Business Journal*, September 12, 2014.

Capitol Perspective: The real estate industry comprises over 20% of our economy and I believe Congress must create policies to grow this sector,” says U.S. Rep. Steve Stivers... Impending tax reform proposals may have significant ramifications for commercial real estate owners and investors. “The most important thing CCIM members can do [to inform their congressional leaders] is to explain the role taxes play in the decision-making process for their clients,” Stivers says. “For example, ... what effect would eliminating like-kind exchanges have on developers’ ability to assemble land?” *CIRE Magazine*, July/August, 2014.

Politics and Commercial Real Estate: Something else must appear on our radar screens: tax reform. On a federal level, it could have a more profound impact on our commercial real estate market than anything else... Most important, particularly for the sales market, 1031 exchanges may be jeopardized, which would throw the marketplace into a deep freeze. *The New York Observer*, June 17, 2014.

Tax & Spend Is About to Hit Real Estate Investment Hard: This year there are some alarming discussions in Congress directly targeting the 1031 Exchange used by real estate investors to postpone capital gains taxes on real estate transaction profits... Congress has no fewer than three different proposals being discussed right now, and all of them either completely do away with the 1031 Exchange or do enough damage to it that real estate investment activities will plummet in the future. *Huffington Post*, June 12, 2014.

1031 Like-Kind Exchanges - An Exceptional Tool for Real Estate Investors: For nearly a century, Congress has recognized that investment real property ownership and investment should be promoted and taxpayers should not be held hostage out of the fear of the tax consequences of selling... The proposals for repeal of Section 1031 have the potential to have a devastating impact on the real estate market and the larger overall economy. *Acquire Magazine*, May, 2014.

Tax Reform Not Simple: "Uniformly, farmers and ranchers use 1031 to acquire higher grade parcels, consolidate tracts, move tracts closer to home, etc... Losing that option would eliminate their ability to exchange out of ag assets into non-ag assets to diversify or retire with a different type of real property asset... More farmers than ever are going into commercial assets given farm values appear to be at their peak for now." *DTN/Progressive Farmer*, February 27, 2014.

Sacred Cows Targeted – Tax “Simplification” Sends Ag Shivers: “[Section 1031] mitigates terrible taxes and perpetuates land ownership... [transactions] really wouldn’t happen if someone had to pay immediate capital gains taxes because that could reduce funds for their second investment by half.” *DTN/The Progressive Farmer*, February 20, 2014.

A Disconcerting Proposal from the Senate: Proposed Repeal of Section 1031: “Repealing Code Section 1031 might well cause many real estate investors to hold property longer... which undoubtedly would slow down the pace of real estate development on a national scale.” *JDSupra Business Advisor*, February 10, 2014.

Unsettling Time for Real-Estate Owners and Investors: “... Senate tax writers’ reform-bill proposals for real estate should be unsettling for anyone owning residential investment property, such as rental houses... Senate Finance Committee Chairman Max Baucus would terminate ... tax deferred exchanges under Section 1031.” *The Seattle Times*, December 14, 2013.

Tax Reform Could Hit Real Estate Owners and Investors: “Under Baucus’ plan, mom-and-pop real estate investors – people who’ve purchased a small portfolio of rental houses or condos – could be hit hard. Besides the depreciation deduction stretch-out, the inability to exchange properties tax-free for others of similar or greater value would put a severe crimp on their ability to grow and manage their investments over time.” *The Hartford Courant*, December 14, 2013.

Tax Reform Targets Include 1031 Property Exchanges: Eliminating capital gains tax deferral on like-kind property would chill real estate investment markets, say critics of the Senate Finance Committee proposal. “Whoa. Don’t throw out the 1031 baby with the nasty tax code water... Without a tax deferral, many sellers won’t sell.” *News OK*, December 14, 2013.

1031 Exchanges Benefit Farmers, Iowa: “It’s a critical issue not on folks’ radar... If [1031] goes away, farmers will be stunned at the impact.” *Iowa Soybean Association Gold Standard*, June, 2013.

A Concern that Congress Could Derail Real Estate Recovery: “Elimination of Section 1031, which was first established in 1921, would prompt property owners to take their real estate off the market for fear of the tax consequences.” *Des Moines Business Record*, March 20, 2013.

Tax-Deferred Exchanges of Farmland Provide Valuable Savings to Some Farmers: “By allowing farmland owners to defer payment of taxes on capital gains – which can be significant on land that has been owned for many years – farmers who sell land and use the proceeds to purchase other property can often increase their net worth, reduce borrowing costs, and expand the size of their operations.” *Amber Waves*, September, 2011.



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