

May 1, 2014

The Honorable Danny K. Davis
2159 Rayburn House Office Building
United States House of Representatives
Washington, DC 20515

Dear Representative Davis:

“Example §1031 Company” is headquartered in Chicago, Illinois and employs twenty people.

We urge you to oppose the proposals to eliminate like-kind exchanges and to support retention of IRC §1031 in the law’s present form. Section 1031 is a valuable tax planning tool that provides a powerful engine to the U.S. economy. Like-kind exchanges promote transactional activity that results in job creation and taxable income that fuels other businesses.

1. **Repeal of §1031 will cause a decline in real estate values** as investors will be motivated to hold on to properties and to invest in more liquid, non-real estate investments with faster returns. The proposals effectively impose punitive, targeted tax increases on economically sound commercial real estate investment, **the likely unintended consequence of which will be** similar to implementation of 1986 tax reform modifications that resulted in **a recession**.
2. **Section 1031 has remained in the tax code since 1921**, notwithstanding repeated Congressional scrutiny, **because it is based on sound tax policy predicated on continuity of investment** by the taxpayer, and is **consistent with tax reform goals of efficiency, neutrality, fairness, and simplicity**. It is widely used by a broad spectrum of individual and business entity taxpayers at all levels. Definitions of “like-kind” are well understood and §1031 exchanges facilitated by Qualified Intermediaries are not administratively difficult for the IRS or taxpayers.
3. **Section 1031 like-kind exchanges are legitimate transactions**, not abusive tax avoidance schemes. Payment of tax occurs: 1) upon sale of the replacement asset; 2) incrementally, through increased income tax due to foregone depreciation; or 3) by inclusion in a decedent’s taxable estate, at which time the value of the replacement asset could be subject to estate tax at a rate double the capital gains tax rate.
4. **When the impacts of depreciation, the estate tax, and the economic stimulus from like-kind exchanges are considered, neither elimination nor restrictions to §1031 would result in additional revenue to the U.S. Treasury, an improvement to the tax code, or any benefit to the U.S. economy**. Like-kind exchanges are revenue neutral over the long term because gain deferred is directly offset by a reduction in future depreciation deductions available for assets acquired through an exchange.
5. **Like-kind exchanges contribute to the velocity of the economy** by stimulating a broad spectrum of real estate transactions, and encouraging taxpayers to replace and upgrade machinery and equipment, thus stimulating purchases, sales, and manufacturing of machinery, equipment, vehicles and other assets.
6. **Repeal of §1031 would tax cash flow because no profit is taken from the transaction**. Section 1031 permits efficient management of capital and cash flow while investment is retained in the business.

The transactional activity stimulated by §1031 results in jobs in the real estate, construction, financial services, vehicle and equipment leasing, manufacturing, and other industries. Fewer transactions ultimately result in fewer jobs in these industries and in local small businesses that generate revenue from the after tax dollars of employed workers. Since domestic real estate and assets used predominantly within the United States cannot be exchanged for foreign based real estate and assets, §1031 directly stimulates reinvestment in U.S. communities and businesses, promoting job growth within our own borders.

If you have any questions, or wish to discuss any of these matters, please do not hesitate to call me.

Sincerely,