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Like kind exchange repeal; strong case for opposition

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By now you have heard about the proposal for a repeal or limitation of the "like kind exchange" as part of a comprehensive tax reform plan for the U.S. Many interest groups and real estate organizations are fighting back against the repeal that poses problems for real estate and threatens to hamper economic growth.

In the months since this proposed change was announced, real estate professionals and business owners have been speculating about what this repeal means for real estate and the economy in general.

Here are some of the potential effects the repeal would have for real estate:

- * Disruption of the real estate marketplace
- * Hinder job creation
- * Increase the tax burden on many real estate transactions
- * Reduce capital investment

A like kind exchange allows no tax or limited tax due at the time of an exchange so an investor or owner of a property can change the form of investment real estate without cashing out or recognizing a capital gain. The gain can be rolled from one piece of investment real estate to another. While there may be profit on each swap, one can avoid tax until the property is sold for cash many years later, under the long term capital gain rate.

Proponents of the repeal argue that it would help provide extra tax money for governments to invest in commercial development but it wouldn't make up for the economic losses from lack of transactions and reinvestment. Investors and property owners facing immediate taxes on the sale of assets, likely won't move forward with a sale that is desired to expand and grow a business but not necessarily needed. Like kind exchanges encourage the development of real estate and keep dollars moving in the U.S. economy.

Efforts to Protect Like Kind Exchange

Several interest groups and lobbying organizations have already or soon plan to meet with the U.S. Congress in efforts to put an end to Obama's plan. One of the most notable of these is the Federation of Exchange Accommodators (FEA). The FEA tracks the discussion about the Section 1031 like kind exchange repeal and was created to encourage people to voice their opposition of the plan to Congress.

It's still too early to tell whether or not the repeal will go through. Some are hopeful that Congress will stop it from passing. Regardless of what happens, anyone that will be impacted by these developments should pay close attention. Looking ahead, it's expected that congressman Paul Ryan will release a proposal for tax changes before Congress takes its annual recess in August. Ryan chairs the U.S. House Ways & Means Committee. In the Senate, Orrin Hatch is the chairman of the Finance Committee. He is aiming for a June or July timeframe for a tax reform bill: he will receive

input from five Committee Working Groups by the end of April.

The next few months will be very telling for the fate of Section 1031. Make sure to keep an eye on new developments and consult with your advisor on how this repeal could affect you.

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