The 1031 tax reform update: IPX1031 is working to save §1031 like-kind exchanges - by Suzanne Goldstein Baker

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Labor Day has come, bringing with it fond memories of summer vacations and days at the beach. How did IPX1031 spend its summer? Working to save §1031 like-kind exchanges, of course!

Our president, John Wunderlich, and I, met with the treasury department, the national economic council, and key legislators over the summer. A highlight was a meeting with assistant secretary for tax policy, David Kautter, on his first day on the job following senate approval!

The word from the President’s advisors is that they have great depth of knowledge about real estate and are very familiar with §1031. That's a good thing. The members of the tax-writing committees tell us that they are hearing from their constituents about the importance of like-kind exchanges, another good thing.

What’s the forecast? This is like a multiple-choice test with no right answer.

We do know that the Border Adjustment Tax (BAT) proposal is dead. The real estate industry is asking for a carve out from the blueprint for tax reform that would allow it to retain like-kind exchanges and the interest expense deduction in return for giving up immediate expensing of real estate improvements.

The President continues to seek a corporate rate of 15%, but there is consensus among policymakers that 20-25% is a more realistic goal, and 15% is mathematically impossible. The “Big Six” – treasury secretary Steve Mnuchin, national economic council director Gary Cohn, house speaker Paul Ryan, senate majority leader Mitch McConnell, house ways and means committee chair Kevin Brady and senate finance committee chair Orrin Hatch – met with the President to hash out tax reform on September 5, but no detailed proposals came from that meeting.

Policy leaders have stated that details would be forthcoming this month, with a bill to mark up in October and vote on it in November. Others are targeting year-end. Still others are less sanguine, and predict that the partisan nature of the budget reconciliation path chosen (which allows for a simple majority vote in the Senate, with no democratic votes), the fissures within the republican party, and the pressure for a GOP legislative “win” will result in not much more than some lowered rates.

On September 6, against the wishes of GOP party leaders and some of his own advisors, the President agreed to a democratic proposal to raise the debt ceiling for just 3 months, until December 15. As a practical matter, this makes substantive tax reform more difficult because congress will have to avoid a fiscal cliff, negotiate a massive spending bill and work out a deal on immigration all at the same time. GOP leadership had hoped to take the year-end fiscal cliff off the bargaining agenda with an 18-month debt ceiling increase.

Most agree that anything can happen. Or not. Congress could magically come together and hammer out a bill. We’re not underestimating anyone so we’ll be back in D.C. later this month. Keep sending letters to congress using this link: http://take-action.ipx1031.com/. They are hearing our voices! By simply visiting the link, in less than two minutes you can send an email to your representative and
senators voicing your support to keep §1031 tax deferred exchanges in the tax code.

From brokerage to banking to construction, 1031 touches many different industries, stimulating local economic activity and property redevelopment. Eliminating tax deferred exchanges would cause a sharp drop in real estate transactions, affecting your business, your clients and the industry as a whole. You can make a difference.

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