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Foreign investors exchanging in U.S. real estate market

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Due to the state of the currently depressed (but improving) real estate market in the U.S. many foreign investors from Canada, China, Germany, Great Britain, Mexico and elsewhere in the world are purchasing U.S. property for investment purposes. Sometimes these investors are buying second homes, but more often than not they are purchasing investment properties that generate income. As the U.S. real estate market continues to improve, prices will stabilize and begin to rise. This means that many of these foreign investors will look into selling their investment properties at considerable gains.

Since their home countries are unlikely to have a law similar to Section 1031 which allows investors to legally defer capital gains tax, they might assume they must pay taxes on their gain. In addition, many foreign investors know about 1031 Exchanges but assume that they are not eligible for the benefits of them. However, that assumption is wrong!

Section 1031 is available to all U.S. taxpayers, including U.S. citizens, non-U.S. citizens and entities such as corporations, partnerships, LLCs, trusts, etc.; in other words, any person or any entity that files a U.S. tax return. Since the foreign investor has a U.S. tax ID number and reports the income from their investment property, they are a U.S. taxpayer.

Although achieving a "fully tax-deferred exchange" may be impacted by the requirements of the Foreign Investment in Real Property Tax Act (FIRPTA), the benefits of a 1031 Exchange are available to foreign investors. For assistance coordinating a Tax Deferred Exchange within the requirements of FIRPTA, contact a local IPX1031 representative and your tax advisor to determine the impact of current tax laws.

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