The Tax Cuts and Jobs Act: 
A New Landscape for 
I.R.C. Section 1031 Exchanges

Building Strong Relationships. Creating Customized Value.
**Section 1031 Exchanges for Real Property Survive Tax Reform**

The “Tax Cuts and Jobs Act,” effective January 1, 2018, preserved Section 1031 like-kind exchanges for real property assets. Real estate exchanges are subject to the same rules and restrictions as under previous law. The 45-day identification and 180-day exchange periods remain unchanged. All real estate in the United States, improved or unimproved, also remains like-kind to all other domestic real estate. Foreign and domestic property are not interchangeable. There are no new considerations on the real estate portion of the provision.

**Personal Property Exchanges Eliminated**

Exchanges of personal property, including heavy equipment, farm machinery, livestock, vehicles, aircraft, artwork and collectibles, franchises, crypto currencies and intangibles, are eliminated. However, transition rules allow for completion of an exchange initiated before January 1, 2018.

**Full Expensing**

The new law contains bonus depreciation provisions that permit 100% full expensing of certain short-lived assets such as heavy equipment, farm machinery, vehicles, and hotel furniture for the year the assets are placed in service. This provision applies to both new and used assets acquired by the taxpayer. Full expensing is temporary and will expire in 2022. Taxpayers and advisors should be mindful of state tax considerations and of the need to time year-end transactions to occur in the same tax year to avoid recapture.
The Section 199A deduction provides certain pass-through businesses a deduction equal to 20% of qualified business income. For high income earners, the deduction formula looks to W-2 wages paid to employees and depreciable property held by the trade or business. On August 8, 2018, the Treasury Department released proposed regulations on Section 199A. These new regulations penalize 1031 exchangers seeking to take advantage of the Section 199A deduction by defining “unadjusted basis immediately after acquisition” (UBIA) in a like-kind exchange as the carryover tax basis of the relinquished property, versus the actual cost of either the relinquished or the replacement property. If the proposed regulations are finalized in this form, this will limit the deduction available to pass-through and sole proprietor businesses under Section 199A.

**Planning Ahead**

The Section 199A like-kind exchange penalty stands as the most pressing near-term challenge to Section 1031. Otherwise, should full expensing expire in 2022, it will be important for Congress to consider reinstating Section 1031 exchanges for personal property.

Given the partisan environment under which the Tax Cuts & Jobs Act was passed, it is a near certainty that the law will be attacked should Congressional control shift in favor of the Democrats in 2018 or 2020. Continued vigilance to safeguard Section 1031 will be necessary for the foreseeable future.

**IPE 1031 is grateful to all those who supported the effort to preserve like-kind exchanges. Without this support, Section 1031 would have been a complete casualty of tax reform.**
Top Reasons to Select IPE 1031 as Your Qualified Intermediary

- Proven Track Record
- Unequaled Expertise
- Specialized Exchange Solutions
- Errors and Omissions Insurance Coverage and Fidelity Bonding
- Superior Exchange Funds Security
- Independent Accounting Oversight
- Relationship and Service Driven
- Section 1031 Industry Leadership

IPE 1031 is Midwest based and provides exchange services nationwide.

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