

TAX-FREE EXCHANGES UNDER § 1031 2025–2026 EDITION RELEASE NOTES

Here are some of the areas that contain the changes and additions, including changes from the 2025 “One Big Beautiful Bill Act (“OBBBA”):

Chapter 1. Background and Overview of I.R.C. § 1031:

- Qualified Opportunity Zone Funds compared to Section 1031: changes made by the OBBBA.

Chapter 2. Requirements for Tax-Free Exchange:

- Goodwill as a real property intangible?
- A new California case on a related party exchange.
- Draft California sourcing rules for allocations of gain from interstate exchanges.

Chapter 4. Tax Consequences of an Exchange:

- OBBBA: 100% bonus depreciation as an alternative to Section 1031.
- New real property category of Section 1245 property under the OBBBA: qualified production property.
- New examples in the Form 8824 instructions for recapture of Section 1245 and Section 1250 depreciation recapture in an exchange.
- Proposed regulations deny deferral under Section 1031 in computing the corporate alternative minimum tax.
- New York tax case discussion of penalty abatement in a drop and swap.

Chapter 8. Reverse and Improvement Exchanges:

- Controlling interest transfer taxes and transfers of membership interests between the taxpayer and an EAT.
- FinCEN residential real estate rule and EATs.
- Options for taxpayers to make improvements as replacement property on land they already own.
- New ruling on a transfer of land from a taxpayer to a related party to set up a related party leasehold improvement exchange.

Chapter 9. Current Problems in Exchanging:

- New California drop and swap case.
- New York drop and swap case.
- Post-exchange conversion of a DST into REIT operating partnership shares.

Mary B. Foster
mfoster@1031services.com