



The Voice of the 1031 Industry

2017-2018 GAC Recap: What has the FEA done for you lately?

Tax Reform – the Gift that Keeps on Giving

The GAC's 4-year marathon that felt like an ever-faster, never-ending sprint started in late 2013 and early 2014 with the releases of the Baucus plan that would have limited 1031, and the Camp draft that would have eliminated 1031 altogether. That's when we began coalition building to make our small single voice, that sounded to some like Chicken Little, into a loud, large army of diverse associations covering real estate, agriculture, conservation, equipment/vehicle rental and leasing industries.

2017 found a core GAC team in the Capitol at least 3-5 days each month, meeting with Members of Congress, Treasury, the President's Economic Council, and attending fundraisers for greater access to direct conversations with key legislators. We had about 500 meetings in 2017, which ended with a signed tax reform statute and survival of Section 1031 for real estate.

Since the tax bill was signed, we've made 3 trips to DC for meetings with legislators, Treasury and IRS regarding new regulations interpreting the complex, hastily drafted tax bill. New IRC Sec. 199A has posed new questions and threats to Sec. 1031 exchanges. Additionally, the Republicans talk of Tax Reform 2.0 and the Democrats talk of revising certain parts of the TCJA, notably Sec. 199A. The parts that each party would change will require "pay-fors", and 1031 remains a popular target, in spite of the significant education and bipartisan support we've accomplished over the past 4 years. Despite our success, we must continue to sleep with one eye open, and must continue to fund and participate in our government affairs activities, albeit at a somewhat less frenetic pace than 2017.



Section 199A, the Elusive Deduction and Secret Weapon Against 1031

This is a new Code section that can impact the QI business in two ways. Section 199A, designed to lower the effective tax rate for pass through entities, permits a 20% deduction for qualified business income. GAC has monitored for clarity on whether a QI business is among the blacklisted Specified Service Trade or Businesses (SSTB) that are not eligible for the deduction. The Proposed Regulations appear to permit QI companies to qualify for the deduction unless the QI company also provides legal, accounting or consulting services; investment advice regarding replacement property; or brokerage services, making the QI an ineligible SSTB.

Separately, there is a capital limitation calculation for the deduction, measured by the “unadjusted basis immediately after acquisition” (UBIA) of qualifying property. The GAC has been actively involved in meeting with, and providing written comments to Treasury, requesting that they define UBIA as it relates to assets acquired through a 1031 exchange as cost basis of the replacement property. Subsequently, Treasury issued proposed regulations defining UBIA of replacement property as being the adjusted, carry-over tax basis of the relinquished property. This definition would result in a significant reduction in the 199A income tax deduction available to taxpayers that did a like-kind exchange, causing taxpayers to choose whether to do an exchange, forego the transaction altogether, or sell and maximize the 199A deduction. Bottom line – this taxpayer unfriendly interpretation could chill demand for our services.

We are engaged with coalition partners, including the Real Estate Roundtable, IPA, ADISA, NMHC and NAR, in submitting comments requesting that the final regs interpret UBIA as not less than the cost basis of the relinquished property plus the value of new capital invested in the replacement property.

*Section 1031 and the QI industry have come a long way,
but we continue to face challenges.*



California Here We Come, Right Back Where We Started From

CA Assembly Bill 2529 came out of nowhere earlier this year. It would have mandated withholding by QIs on all California exchanges in which any non-California Replacement Property was acquired. GAC mobilized a team of California connected members who reached out to the Bill's author as well as other Assembly members and contacts within the Board of Equalization (BOE) and the Franchise Tax Board (FTB). The committee formed a coalition with and provided talking points to the California Land Title Association, the California Escrow Association, the California Association of Realtors, and IPA to oppose the Bill. Success was achieved when the Bill was withdrawn.

FEA is grateful for the contributed efforts of Julie Baird and Anthony Alosi, First American Exchange Corp., and its California lobbyist; Suzanne Goldstein Baker and Paulo Sanchez, Investment Property Exchange Services, Inc.; Robert Bernard, Acacia Exchange Services, Inc.; Ralph Bunje, 1031 Strategies and Services Group; Mary Cunningham, Chicago Deferred Exchange Co.; Rob Egenolf, Amherst Exchange Corp.; Bill Exeter, Exeter 1031 Exchange Services, LLC; Mary Foster, 1031 Services, Inc.; David Hellman, Marin County Exchange Corp.; Billie Sue Records, Mission Bank 1031 Exchange, LLC; Javier Vande Steeg, Asset Preservation, Inc. and Lou Weller.



FEA Heroes – We Couldn't Have Done it Without You

The QI industry, as well as Sec. 1031, survived tax reform through some Herculean physical and financial contributions from some of our members. First and foremost, we would not have lived to die another day if it wasn't for the skilled, indefatigable leadership of Dave Franasiak and his team at Williams & Jensen, who passionately lobbied for our very survival every day, and continue to map our strategy, work the coalition, identify and lobby our issues.

Recognizing that our livelihoods were at stake, a number of FEA members contributed extraordinary sums of money, measured either in dollar volume or relative to their business size. A core group made substantial contributions of time and money through the many trips to Washington, their travel expenses, donations to fundraisers and to the PAC. The FEA is grateful for the extra efforts of all, but would like to particularly acknowledge the outsized contributions of: Brent Abrahm, Julie Baird, Suzanne Goldstein Baker, Craig Brown, Dave Brown, Mary Cunningham, Lucas Ecklund-Baker, Brendan Faber, Samuel Brooks, David Fisher, David Franasiak, Mary Foster, Max Hansen, Lynn Harkin, Bill Horan, Nick Karellas, Margo McDonnell, Scott Saunders, John Wunderlich, and their companies.

Recognizing that our livelihoods were at stake, a number of FEA members contributed extraordinary sums of money, measured either in dollar volume or relative to their business size.



The Voice of the 1031 Industry

Federation of Exchange Accommodators
1255 SW Prairie Trail
Ankeny, IA 50023
Phone: (515) 244-6515
Fax: (515) 334-1174
www.1031.org