Submission to Business Income Tax Working Group

March 31, 2015

1. This paper is in response to the Senate Finance Committee request for taxpayer suggestions. **I strongly suggest no modification or deletion be made to IRC section 1031 like-kind exchange provisions.**

2. My major concern is that the expenditure and revenue numbers being used and made available to you are very misleading and could wrongly influence any suggestions you make.

3. The economic impact of any IRC section 1031 changes have already been presented to you many times and in particular in the Ernst & Young study supported by numerous business organizations. The study shows that repealing IRC section 1031 like-kind exchange law would slow economic growth, reduce GDP, and hurt many U.S. small businesses and Mom & Pop investment efforts. In addition over 37 major diverse organizations whose members use 1031 exchanges, have urged Congressional members to retain IRC section 1031.

4. I feel that the estimates you have been given in JCT reports are misleading. For instance in JCX-20-14, dated 2/20/2014 it is estimated that 2016 revenue of $1.1 Billion will go up to 6.5 Billion in 2021**. This is an increase of six times in just five years.** How these estimates are made is not discernable and we believe can easily mislead the Working Groups.

5. The same misleading estimates, while different, also appear in the most recent revenue report JCX-50-15, dated 3/6/2015. The President's proposed cap of $1 million per year on real estate gain deferral, and elimination of deferral on collectibles, is estimated to produce $38 million in revenue in 2016, but would climb to $699 million by 2021. This would be an increase of over 18 times in just five years. **Is this realistic?**

6. Like-kind exchanges are only a deferral of the capital gain tax that will be paid when the property is sold. It is not a disbursement of Treasury funds like so many other expenditires. So any stoppage of 1031 exchange activity will not result in immediate impact as implied. In addition, the total five year period expenditures, the yearly lumping together of estimates does not take into account the lowering of basis and duplication of gain that occurs in tax payer records. Again, the estimated total you are being given is very misleading. For instance, in the 2013 report the five year expenditure estimate is $47.3 Billion, while the 2014 JCX estimate for five years is over doubled at $98.1 Billion. **Why, what is the rational and source for such an increase?**

7. There is no doubt that the 1031 exchange provision is a significant driver of investment real estate and other small business activity which create jobs in many fields. If investors are unable to defer gains they will simply hold onto their properties rather than pay more taxes**.** Again, a major impact on growth and collection of taxes.

8. Since my time in the military I have been involved for over 30 years with real estate. In 1990 I founded Real Estate Exchange Corporation in Gainesville, VA as an exclusive Qualified Intermediary firm, to assist small residential investors. Many times I have seen these investors buy a property so the homeowners could move up. Without investors who can do a 1031 exchange, there will be a major negative impact on the real estate market. Remember each 1031 exchange creates at least four real estate tranactions.

9. We caution you to **be very careful** when using expenditure and revenue estimates pertaining to section 1031 modification or elimination.

Sincerely,

Col. Edwin V. Horan, USAF (Ret.)
Past Broker/Realtor®, QI, and Certified Exchange Specialist®
Author of book: “How to Do a Like Kind Exchange of Real Estate”
and annual workbook: “Reporting the Like-Kind Exchange of Real Estate Using IRS Form 8824”