

Larry's Tax Law

President Obama's Administration Continues Its Quest to Limit the Ability to Defer Income Under IRC § 1031

By Larry Brant on 4.29.16 | Posted in Legislation, Tax Laws

As reported in my [November 2014 blog post](#), President Obama's administration wants to limit taxpayers' ability to defer income under IRC § 1031. In response to former House Ways and Means Committee Chairman David Camp's proposed Tax Reform Act of 2014, which would have eliminated IRC § 1031 altogether, the Obama administration proposed to retain the code section, but limit deferral with regard to real property exchanges to \$1 million per taxpayer each tax year. Personal property exchanges, under the President's proposal, would go unscathed.

In 2015, President Obama expanded his proposal relative to IRC § 1031 to limit personal property exchanges by excluding certain types of property from the definition of "like kind." The excluded personal property included items such as collectibles and art. The President's proposed \$1 million real property exchange limitation was left intact.

Fast forward to today. No tax reform legislation has gained enough traction to even come close to being enacted into law. Nevertheless, President Obama's attack on IRC § 1031 continues. In the administration's [2017 budget proposal](#) (released a few months ago), the White House expands its quest to limit the application of IRC § 1031. This proposal is identical to President Obama's original response to former Chairman Camp's 2014 tax reform proposal, but it goes further. Now, the President is proposing that the \$1 million limitation apply to both personal and real property exchanges. In addition, like his 2015 proposal, President Obama wants to exclude certain personal property, collectibles and art, from the definition of "like kind."

I am not sure any real logic or significant tax policy supports the White House's latest proposal to limit the application of IRC § 1031. Rather, the proposal appears to be solely aimed at tax revenue generation. According to the Treasury, the proposal, if enacted into law, would increase tax revenues by \$47.3 billion over 10 years.

IRC § 1031 is clearly on lawmakers' radar screens as a means to increase tax revenues. Time will tell whether IRC § 1031 will be repealed or significantly curtailed in its application. Nevertheless, one thing is for sure: IRC § 1031 remains a potential target. **Stay tuned!**

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Tags: like-kind exchanges, personal property, President Obama, Tax Reform Act of 2014