



*The Voice of the 1031 Industry*

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

## ***Impact of Modification of IRC §1031 to “Rollover” Structure***

Legislative proposals have been raised from time to time that suggest “simplifying” §1031 by converting §1031 to a “rollover” structure.

**A rollover would not simplify §1031 in practice, but would result in more complexity for taxpayers, would eliminate the value provided by professional Qualified Intermediaries (“QIs”) and would reduce taxpayer compliance for proper §1031 treatment.**

- Conversion to a rollover would be administratively problematic, would create uncertainty in the process, and would increase both unwitting as well as intentional taxpayer abuse of §1031 resulting in a revenue negative impact on the US Treasury.
- Without professional QIs, who provide a valuable service for modest fees, taxpayers’ costs for engaging in a §1031 exchange would increase due to significantly higher fees paid to attorneys and accountants for exchange documentation and information about §1031 requirements.
- The Qualified Intermediary safe harbor provides a substantial free benefit to the US Treasury. Without QIs to promote and encourage compliance with the technical requirements for proper §1031 treatment, tax revenue would decrease through improperly claimed tax deferrals and increased auditing costs.

### ***What is a Qualified Intermediary?***

The Treasury Regulations provide rules and a safe harbor for taxpayers engaging in non-simultaneous exchanges under IRC §1031 (“§1031”) that involve different buyers and sellers. In these delayed, multiparty exchanges (which constitute the majority of like-kind exchanges), the taxpayer is prohibited from having receipt of or control over the sale proceeds (“exchange funds”) from the relinquished property prior to receiving replacement property, or termination of the exchange.

**Professional Qualified Intermediaries are independent third parties that facilitate §1031 like-kind exchanges** by creating and providing necessary documentation, and by holding, safeguarding and disbursing the exchange funds for qualifying like-kind replacement property. QIs serve as a resource to taxpayers and their advisors, and promote compliance with tax rules. **Qualified Intermediaries do not act as brokers, deal makers or advisors to the taxpayer as doing so would disqualify them from serving as QI.**

Federation of Exchange Accommodator (“FEA”) member QIs are subject matter experts in §1031 exchanges. Our members provide information, education and training to taxpayers, their accountants, attorneys, brokers and other advisors. Many FEA members have attorneys, accountants and industry-credentialed Certified Exchange Specialists® on staff.

The FEA has a long history of advocating for and promoting additional guidance to make the practice of §1031 exchanges simpler for all parties. Over the last 25 years, the FEA has proposed modifications to the Treasury Regulations, has spoken with the IRS about the need for additional guidance to provide clarity and safe harbors for confusing or uncertain areas of §1031 practice, and has submitted comments

in response to IRS Notices and Requests. The FEA's activities in this regard benefit a multitude of taxpayers.

The FEA's experience has been that even though there has been no formal "simplification" of §1031 and the Treasury Regulations since 1991, IRS guidance issued over the past three decades, with valuable and practical input from FEA members, has produced increased clarity and ease for taxpayers in the use of tax deferred exchanges, making the practice more straightforward, efficient and cost-effective. The FEA continues to review the Regulations and the statute to identify modifications that may simplify the process for taxpayers while maintaining fiscal soundness for the Treasury.

### ***About the FEA***

The Federation of Exchange Accommodators ("FEA") is the industry association for professional exchange facilitators, also known as Qualified Intermediaries ("QI"). FEA member companies facilitate tax-deferred exchanges of investment and business use properties under IRC §1031 for taxpayers of all sizes, from individuals of modest means to high net worth taxpayers and from small businesses to large entities. Members represent a broad spectrum of the industry, ranging from small privately held businesses to publicly traded title insurance companies and banks, located in small towns to large cities across the nation.