1031 Exchange FOCUS

SECTION 1031 OF THE INTERNAL REVENUE CODE IS ONE OF THE GREATEST WEALTH BUILDING TOOLS AVAILABLE TO INVESTORS

> CA Reporting Requirements

Internal Revenue Code Section 1031 allows investors to defer the payment of capital gains taxes when selling investment property.

California Governor Jerry Brown signed AB-92 into law which requires taxpayers to file an information return with the Franchise Tax Board when exchanging a California property for replacement property outside of California.

The information return must be filed for the year in which the exchange is completed and each subsequent year that the gain or loss is deferred. If the taxpayer fails to file an information return and fails to file a tax return, the FTB is authorized to make an estimate of the net income, using any available information, and to assess the amount of tax, interest and penalties due.

The new law covers exchanges occurring on or after January 1, 2014.

§18032 deals with personal income tax, while §24953 deals with corporate income tax. The text of the new amendments are identical.

(a) If gain or loss from the exchange of property in this state of a taxpayer is not recognized under this part because of Section 1031 of the Internal Revenue Code, relating to exchange of property held for productive use or investment, for a taxable year and the property acquired in that exchange is located out side of this state, the taxpayer shall file an information return with the Franchise Tax Board for the taxable year of the exchange and for each subsequent taxable year in which the gain or loss from that exchange has not been recognized, in the form and manner prescribed by the Franchise Tax Board.

(b) If a taxpayer fails to file an information return required pursuant to subdivision (a), and fails to file a return required under Part 10.2 (commencing with Section 18401), the Franchise Tax Board may make an estimate of the net income, from any available information, including the amount of gain described in subdivision (a), and may propose to assess the amount of tax, interest, and penalties due in the same manner as section 19087.

(c) Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3 of Title 2 of the Government Code shall not apply to any standard, criterion, procedure, determination, rule, notice, or guideline established or issued by the Franchise Tax Board pursuant to this section.

(d) This section shall apply to exchanges of property that occurs in taxable years beginning on or after January 1, 2014.

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