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SECTION 1031 LIKE-KIND EXCHANGES

Issue:

Capital gains taxes and, in some cases, ordinary income tax on the sale of business property can be deferred if a farmer or rancher purchases replacement property of a like-kind. These transactions are called 1031 exchanges, named after the Internal Revenue Code (IRC) Section that defines them. When farmers sell land or equipment and do not acquire like-kind property they recognize gain and pay the deferred tax.

Background:

IRC Section 1031 like-kind exchanges have existed since 1921. The rationale for allowing property owners to defer taxes on asset transfers when they continue their investment in like-kind assets is as valid today as it was in 1921.

Using Section 1031, farmers are able to exchange:

- Real property such as land or buildings;
- Personal property such as combines, cotton gin machinery, feed processing equipment, irrigation equipment, fertilizer equipment, planters, trucks, plows, farm tractors, haying machinery, milking machines, and poultry feeding and watering equipment; and
- Breeding and production livestock.

There are many reasons that farmers and ranchers use Section 1031 like-kind exchanges for land and buildings. They may want to consolidate distant land parcels into a contiguous unit to reduce the time and money they spend moving equipment, specialized structures, supplies and commodities from one place to the other. They may want to consolidate crop land closer to livestock barns, crop storage facilities, equipment sheds or the homestead where they live. They may use like-kind exchanges to obtain more productive cropland or to mitigate environmental impacts. Or they may want to move their farm businesses out of the path of urban development to a more rural setting.

Farmers and ranchers may also use like-kind exchanges to reconfigure their businesses so that young or beginning farmers can join the business. Farmers and rancher may use Section 1031 like-kind exchanges to trade in used farm equipment and farm vehicles for newer models that are more fuel efficient, more technologically advanced or mitigate labor needs. Livestock exchanges may be used to relocate livestock businesses, acquire younger animals, and/or improve the genetic diversity of herds.

Like-kind exchanges involving single purpose agricultural or horticultural structures are important to farmers and ranchers wanting to replace or upgrade structures like greenhouses and buildings used to house animals.

Without Section 1031 like-kind exchanges some farmers and ranchers would need to incur debt in order to continue their farm or ranch businesses or, worse yet, delay mandatory improvements to maintain the financial viability of their farm or ranch.

Legislative Status:

There are three legislative proposals under consideration that propose to eliminate or severely restrict the application of IRC Section 1031 to defer capital gains taxes.

1. The Administration's 2016 Proposed Budget would limit the deferral of gain for Section 1031 real estate exchanges to \$1,000,000 per taxpayer, per year.
2. In the U.S. House of Representatives, former Ways & Means Committee Chair Dave Camp (R-Mich.) included complete repeal of Section 1031 in tax reform legislation.
3. The tax reform proposal from the last Congress offered by the former Senate Finance Committee Chair Ron Wyden (D-Ore.) provided for either a repeal of Section 1031 or a limitation to a much narrower "similar or related in service or use" standard in place of the current "like kind."

AFBF Policy:

Farm Bureau supports allowing farmers to defer taxes when exchanging farm property for farm property (Section 1031 like-kind exchanges). Farm Bureau supports increasing the time allowed to identify exchange property from 45 days to six months and the time allowed to close and receive property from six months to one year.