

# Like-Kind Exchanges (LKEs)

ICSC opposes the elimination of like-kind exchanges (LKEs). LKEs support the efficient deployment of capital and spur investment that creates local jobs, supports property values, generates state and local tax revenue, lowers rents and reduces risk in the economy through less leverage. In addition to supporting healthy commercial real estate markets, LKEs are important to farmers and ranchers, as well as land conservation efforts.

The like-kind exchange of real estate under Section 1031 of the tax code has been in place since 1921. It allows the taxpayer to exchange a property for another of “like kind” without recognizing taxable gain on the disposition of the old assets. This allows for capital to be immediately reinvested into the new property.

The deferral of gain is offset by a reduction in future depreciation deductions for the acquired asset, resulting in increased annual income, taxed at ordinary tax rates. Taxpayers ultimately recognize their gain when they “cash out” of the asset, and therefore have resources available to pay the taxes.

**LKEs support jobs.** Research by EY estimates that LKEs supported 976,000 jobs and generated \$48.6 billion of labor income in 2021 alone by encouraging property improvements that employed construction and other skilled trade workers, architects, real estate brokers, attorneys and appraisers, among many others.

**LKEs generate revenue for states and localities.** LKEs help get real estate into the hands of new owners with the time, resources and desire to restore and improve them. That turnover generates transfer taxes and recording fees. It also triggers property reassessments that increase the tax base. According to EY, the economic activity supported by LKEs generated \$13.1 billion in federal, state and local tax revenue in 2021.

**LKEs help small and minority-owned businesses expand and grow.** Small firms and minority entrepreneurs frequently lack access to capital markets and third-party lending facilities. Because owners are able to reinvest their proceeds on a tax deferred basis, properties acquired in an LKE carry less overall debt—30% less than when acquired through a taxable sale. In this way, LKEs create a ladder of economic opportunity for minority, veteran and women-owned businesses and other cash-poor entrepreneurs.

**LKEs stabilize property values during economic downturns.** The deferral of gain on the relinquished property encourages the acquisition of replacement property by a buyer who would otherwise wait until economic conditions have recovered.

**LKEs increase the supply of affordable rental housing.** Multifamily housing transactions represent 40% of real estate LKEs. Tax incentives like the low-income housing tax credit do not apply to land acquisition costs, but investors can use an LKE to acquire land for the development of new housing.

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