

California “Claw Back” Law

Are you thinking about selling property in California, doing a 1031 Exchange and buying out of state? Changes to California law may affect your real estate strategies.

Many investors utilize 1031 Exchanges to move their investments out of California and into other states or territories. Strategically, some investors hope to “cash out” of their investment properties at some point in the future and only pay their Federal Capital Gains Tax, Depreciation Recapture and the state taxes in the new state, which are frequently lower than in California.

Effective January 1, 2014, California enacted a “claw back” reporting requirement for taxpayers exchanging out of California Relinquished Property into Replacement Property in another state. (Sections 18032 and 24953 of the Revenue and Taxation Code). Effective for exchanges that occur in taxable years beginning on or after January 1, 2014, taxpayers must file an informational return with the Franchise Tax Board (FTB) for the year of the exchange **and for each subsequent taxable year in which the gain or loss from that exchange has not been recognized, even if the taxpayer no longer resides in California**. If a taxpayer fails to file an informational return, and fails to file an income tax return when the Replacement Property is disposed of in a taxable transaction, the FTB may make an estimate of the net income from any available information, and may propose to assess the amount of tax, interest, and penalties due.

At IPX1031, we pride ourselves on not only being an industry leader in service and security, but also strive to help our clients and their advisors keep current on issues of interest. We aim to be your valued information resource. For more information or if you have questions, please feel free to contact us at your convenience.

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