



The Voice of the 1031 Industry

The Voice

Monthly Newsletter



A Message From Our President

**Amanda Schmunk,
Homestead Escrow and Exchange Company**

Hi ##[Name | First]##,

How did summer fly by so quickly?! As we see another seasonal change from summer into autumn, I get the privilege of writing this President's Message to you all for the last time. We are just about a month away from our [annual conference](#) where I will pass the gavel to the new incoming president, Al Caporale!

While I am sad to be finishing my role as president, I am so proud of all the things that the [Federation of Exchange Accommodators \(FEA\)](#) was able to accomplish this year.

Under another threat of a \$500,000 cap on deferral from President Biden, our lobbyist Dave Frasiak – along with our entire government affairs committee – worked their tails off coordinating 15 meetings with members of congress this year. The FEA also hosted a wonderfully attended Midyear Meeting in DC where members from across the country came together to have 85 meetings in person with members of congress and their staff – all in one day!

I am also thankful for each committee and their members for their effort and dedication to improving the FEA this year! We were able to:

- Review and improve our investment policies and strategies through our Finance Committee
- Review, revise, and publish the CES exam study guide for new takers for the first time in 17 years through our Education Committee
- Grow our membership in ALL categories this year through the hard work of the Membership Committee
- Plan an amazing Midyear Meeting in Washington and Annual Conference in Austin coming up in a few weeks with the hard work of the wonderful Conference Planning Committee

The FEA would not be as strong as it is today if it were not for all of our committee members, and I am so thankful to have been able to work with them this year as FEA President.

The rest of this year and next will be interesting politically. We must remain diligent and prepare ourselves for any battles ahead. My one ask when I took this role almost a year ago was that everyone get involved in some way, and that has not changed. The work has not slowed down, and we are likely facing an uphill battle, but together we have shown that we can fight for our section of the tax code, and we will not back down.

I again ask everyone to get involved and stay involved. Please consider joining a committee if you are not on one, and remain diligent in the defense of Section 1031!

Finally, I would like to thank everyone for the opportunity to be your president this last year. The support that so many of you have shown me has been amazing, and it has been my honor to represent the FEA. I hope you have all had a great summer and look forward to seeing as many of you as possible in Austin in a few weeks!

For the last time,

Amanda Schmunk

2024 FEA President



It's not too late to register for the [2024 Annual Conference!](#)

September 16-18, 2024
Downright Austin, A Renaissance Hotel
Austin, Texas

Already registered? Join us for the [sunset bat cruise](#) and/or [charity bike ride!](#) Please note that the bike ride's total mileage has changed to 25 miles.

[Register now](#)

Government Affairs Committee

Democratic Party 2024 Platform Document

The Democratic Party 2024 Platform document, released in advance of the Democratic National Convention this month, calls for the repeal of the “like-kind exchange loophole” and refers to the Tax Cuts and Jobs Act as a tax scam.

The platform is a “wish list” for Democratic policies, many of which never come to fruition. Nevertheless, we will continue to monitor the situation and be vocal advocates for the retention of IRC Section 1031. David Fransiak also continues to monitor both the House Ways and Means Committee and the Senate Finance Committee regarding their discussions focused on the expiration of the Tax Cuts and Jobs Act.

FEA will begin spearheading a grassroots letter-writing campaign to Congress in September. Updates to FEA members will be emailed as they become available.



Upcoming FEA 1031 PAC Fundraisers

There is a Zoom fundraiser for Rep. Steube on **September 10 at 11:30 am EST**, sponsored by the FEA PAC. We are also in the process of setting up three additional fundraisers for Sens. Todd Young (R-IN), John Barrasso (R-WY), and Ron Johnson (R-WI) in September or October. We will also continue hosting FEA PAC fundraisers for the tax writing committee members through the remainder of the year.

The FEA 1031 PAC contributes to members of Congress of both political parties and is funded by eligible individual employees. To become an eligible employee, individuals must be employed by FEA member companies that have filed a permission to solicit form or have signed up for individual membership in the FEA. For more information, please contact Kimberly Steenhoek at director@1031.org.

45 Day and 180 Day Postponements for Disaster Areas in South Dakota, Puerto Rico, Vermont, Minnesota, South Carolina, North Carolina, Florida, Georgia, Kentucky, Missouri, Texas, West Virginia

The IRS has issued postponements of the 45-day and 180-day deadlines as follows:

South Dakota Postponement for disasters that began on June 16, 2024 (SD-2024-13 8/23/2024).

- Covered Disaster Area: Aurora, Bennett, Bon Homme, Brule, Buffalo, Charles Mix, Clay, Davison, Douglas, Gregory, Hand, Hanson, Hutchinson, Jackson, Lake, Lincoln, McCook, Miner, Minnehaha, Moody, Sanborn, Tripp, Turner, Union, and Yankton counties.
- General postponement date is February 3, 2025.

Puerto Rico Postponement for disasters that began on August 13, 2024 (PR-2024-05 8/23/2024).

- General postponement date is February 3, 2025.

Vermont Postponement for disasters that began on August 8, 2024 (VT-2024-01 8/13/2024).

- Covered Disaster Area: Addison, Bennington, Caledonia, Chittenden, Essex, Franklin, Grand Isle, Lamoille, Orange, Orleans, Rutland, Washington, Windham, and Windsor counties.
- General postponement date is February 3, 2025.

Minnesota Postponement for disasters that began on June 16, 2024 (MN-2024-01 8/12/2024).

- Covered Disaster Area: Blue Earth, Brown, Carver, Cass, Cook, Cottonwood, Faribault, Fillmore, Freeborn, Goodhue, Itasca, Jackson, Lake, Le Sueur, Martin, McLeod, Mower, Murray, Nicollet, Nobles, Pipestone, Redwood, Renville, Rice, Rock, St. Louis, Steele, Wabasha, Waseca, and Watonwan counties.
- General postponement date is February 3, 2025.

North Carolina Postponement for disasters that began on August 5, 2024 (NC-2024-07 8/9/2024).

- Covered Disaster Area: Alamance, Alleghany, Anson, Beaufort, Bertie, Bladen, Brunswick, Cabarrus, Camden, Carteret, Caswell, Chatham, Chowan, Columbus, Craven, Cumberland, Currituck, Dare, Davie, Davidson, Duplin, Durham, Edgecombe, Forsyth, Franklin, Gates, Granville, Greene, Guilford, Halifax, Harnett, Hertford, Hoke, Hyde, Iredell, Johnston, Jones, Lee, Lenoir, Martin, Mecklenburg, Montgomery, Moore, Nash, New Hanover, Northampton, Onslow, Orange, Pamlico, Pasquotank, Pender, Perquimans, Person, Pitt, Randolph, Richmond, Robeson, Rockingham, Rowan, Sampson, Scotland, Stanly, Stokes, Surry, Tyrrell, Union, Vance, Wake, Warren, Washington, Wayne, Wilkes, Wilson and Yadkin counties.
- General postponement date is February 3, 2025.

South Carolina Postponement for disasters that began on August 4, 2024 (SC-2024-07 8/9/2024).

- Covered Disaster Area: All 46 counties.
- General postponement date is February 3, 2025.

Florida Postponement for disasters that began on August 1, 2024 (FL-2024-07 8/9/2024).

- Covered Disaster Area: Alachua, Baker, Bay, Bradford, Brevard, Calhoun, Charlotte, Citrus, Clay, Collier, Columbia, DeSoto, Dixie, Duval, Escambia, Flagler, Franklin, Gadsden, Gilchrist, Glades, Gulf, Hamilton, Hardee, Hendry, Hernando, Highlands, Hillsborough, Holmes, Jackson, Jefferson, Lafayette, Lake, Lee, Leon, Levy, Liberty, Madison, Manatee, Marion, Monroe, Nassau, Okaloosa, Okeechobee, Orange, Osceola, Pasco, Pinellas, Polk, Putnam, Santa Rosa, Sarasota, Seminole, St. Johns, Sumter, Suwannee, Taylor, Union, Volusia, Walton, Wakulla and Washington counties.
- General postponement date is February 3, 2025.

Georgia Postponement for disasters that began on August 4, 2024 (GA-2024-07 8/9/2024).

- Covered Disaster Area: Appling, Atkinson, Bacon, Ben Hill, Berrien, Brantley, Brooks, Bryan, Bulloch, Burke, Camden, Candler, Charlton, Chatham, Clinch, Coffee, Colquitt, Cook, Crisp, Decatur, Dodge, Echols, Effingham, Emanuel, Evans, Glynn, Grady, Irwin, Jeff Davis, Jefferson, Jenkins, Johnson, Lanier, Laurens, Liberty, Long, Lowndes, McIntosh, Mitchell, Montgomery, Pierce, Richmond, Screven, Tattnall, Telfair, Thomas, Tift, Toombs, Treutlen, Turner, Ware, Wayne, Wheeler, Wilcox, and Worth counties.
- General postponement date is February 3, 2025.

Kentucky Postponement for disasters that began on May 21, 2024 (KY-2024-03 7/31/2024).

- Covered Disaster Area Adair, Allen, Ballard, Barren, Bell, Breckinridge, Butler, Caldwell, Calloway, Carlisle, Christian, Clay, Clinton, Crittenden, Cumberland, Edmonson, Estill, Fulton, Garrard, Graves, Grayson, Green, Greenup, Harlan, Hart, Hickman, Hopkins, Jackson, Knox, Larue, Laurel, Lee, Leslie, Livingston, Logan, Lyon, Marshall, McCracken, McCreary, McLean, Meade, Menifee, Metcalfe, Monroe, Muhlenberg, Ohio, Owsley, Perry, Pulaski, Rockcastle, Russell, Simpson, Todd, Trigg, Warren, Washington, Wayne, Whitley, and Woodford counties.

- General postponement date is February 3, 2025.

Missouri Postponement for disasters that began on May 19, 2024 (MO-2024-14 7/29/2024).

- Covered Disaster Area Barry, Bollinger, Butler, Carter, Howell, Madison, McDonald, New Madrid, Oregon, Reynolds, Ripley, Scott, Shannon, Stoddard, and Texas counties.
- General postponement date is February 3, 2025.

Texas Postponement for disasters that began on July 5, 2024 (TX-2024-08 7/22/2024).

- Covered Disaster Area Anderson, Angelina, Aransas, Austin, Bowie, Brazoria, Brazos, Burleson Calhoun, Cameron, Camp, Cass, Chambers, Cherokee, Colorado, Dewitt, Fayette, Fort Bend, Freestone, Galveston, Goliad, Gregg, Grimes, Hardin, Harris, Harrison, Hidalgo, Houston, Jackson, Jasper, Jefferson, Kenedy, Kleberg, Lavaca, Lee, Leon, Liberty, Madison, Marion, Matagorda, Milam, Montgomery, Morris, Nacogdoches, Newton, Nueces, Orange, Panola, Polk, Refugio, Robertson, Rusk, Sabine, San Augustine, San Jacinto, San Patricio, Shelby, Trinity, Tyler, Upshur, Victoria, Walker, Waller, Washington, Webb, Wharton and Willacy counties.
- General postponement date is February 3, 2025.

West Virginia Postponement for disasters that began on April 11, 2024 (WV-2024-04 7/10/2024).

- Covered Disaster Area: Boone, Brooke, Doddridge, Gilmer, Hancock, Kanawha, Lincoln, Marshall, Ohio, Roane, Tyler, Wetzel and Wood counties.
- General postponement date is November 1, 2024.

The **Covered Disaster Area** is the counties or parishes listed above. *Please check the IRS disaster website periodically at the address listed below for updates because the FEA does not send out notices for each disaster or for counties added to ongoing disaster extensions.*

An **“Affected Taxpayer”** includes individuals who live, and businesses whose principal place of business is located in, the Covered Disaster Area. Affected Taxpayers are entitled to relief regardless of where the relinquished property or replacement property is located. Affected Taxpayers may choose either the General Postponement relief under Section 6 OR the Alternative relief under Section 17 of Rev. Proc. 2018-58. Taxpayers who do not meet the definition of Affected Taxpayers do not qualify for Section 6 General Postponement relief.



Option One

General Postponement under Section 6 of Rev. Proc. 2018-58 (Affected Taxpayers only).

Any 45-day deadline or 180-day deadline (for either a forward or reverse exchange) that falls



Option Two

Section 17 Alternative (Available to (1) Affected Taxpayers and (2) other taxpayers who have difficulty meeting the exchange deadlines. See Rev. Proc. 2018-58, Section 17 for conditions constituting “difficulty”).

on or after the Disaster Date above is postponed to the General Postponement Date.

The General Postponement applies regardless of the date the Relinquished Property was transferred (or the parked property acquired by the EAT) and is available to Affected Taxpayers regardless of whether their exchange began before or after the Disaster Date.

Option Two is only available if the relinquished property was transferred (or the parked property was acquired by the EAT) on or before the Disaster Date. Any 45-day or 180-day deadline that falls on or after the Disaster Date is extended to THE LONGER OF: (1) 120 days from such deadline; OR (2) the General Postponement Date.

Please see Revenue Procedure 2018-58, Section 17, and the Notices shown on <https://www.irs.gov/newsroom/tax-relief-in-disaster-situations>.

Tax Update

In the Matter of Silverado Lodging Co., LLC and the Patels. OTA case nos. 21047599, 21047600, 21047601 Submitted by Mary Foster

This is another California ‘drop and swap’ case. The property was a hotel owned by Silverado Lodging Co., LLC, a tax partnership (“Silverado”), and the members were the two Patel brothers. The hotel was managed by an independent operator. Silverado listed the hotel for sale in May 2014; entered into a purchase and sale agreement with buyer on September 10, 2014; the Patel brothers signed for Silverado as “authorized members.” They then decided to distribute the hotel into a 50/50 TIC. They assigned the membership interests in Silverado to the individual LLCs in October, but the deed creating the TIC was not signed until early December 2014 and recorded on December 30, 2014. The sale of the hotel closed on January 9, 2015. The Patel brothers both set up exchanges and acquired replacement properties.

The OTA opinion acknowledges that the form of the transaction was an exchange by the individuals, but the substance was a taxable sale by Silverado. The opinion sets forth factors to determine if the substance over form doctrine applies:

1. whether Silverado took an active role in the sale and negotiated the essence of the sale
2. whether the individuals conducted any negotiations on their own behalf with the buyer;
3. the time elapsed between Silverado’s negotiations and the final exchange;
4. whether the sale was conducted on substantially the same terms as negotiated by Silverado; and
5. whether the individuals received the benefits and burdens of ownership of the property.

The opinion found that the negotiations for the sale were completed primarily on behalf of Silverado. The individuals stepped into the shoes of Silverado 10 days prior to the sale and after the essential terms had been negotiated. The agreement was not substantially modified once the individuals were substituted in as sellers. While the individuals held legal title for 10 days prior to the sale, Silverado still had a contractual obligation with the operator of the hotel and other service providers and still bore the risk of loss for the hotel, and the opinion found that Silverado held the benefits and burdens of ownership at the time of the sale.

The individuals argued that they continued their investment in like-kind property, and thus the exchange should qualify under Magneson and Bolker. The OTA rejected this argument. It first stated that Magneson and Bolker address only the holding requirement of Section 1031. The issue in this case is whether the exchange requirement has been met, i.e. did Silverado acquire replacement property in an exchange.

The individuals also argued that they were in substance the true owners of the property through Silverado, and Silverado was a mere accounting vehicle. The OTA also rejected this argument because the individuals chose to conduct business through Silverado and they do not have the freedom to disregard the form they chose. The choice of business entity carries certain advantages and disadvantages, and once a taxpayer makes such an election, they are bound by their choice.

Welcome to our new members!

Regular Members

[Schell & Hogan, LLP](#), Saint Simons Island, GA

[Hub 1031, Inc.](#), Hermosa Beach, CA

Affiliate Members

[Morgan Stanley](#), Fort Worth, TX

[Metropolitan Commercial Bank](#), New York, NY

[Exchange-X](#), Tampa, FL

[Avidbank](#), San Jose, CA

Professional Advisor Member

[Kris Miller](#), Southlake, TX

Affiliate Member Spotlights

The logo for Avidbank, featuring the word "Avidbank" in a bold, blue, sans-serif font. The "i" in "Avid" is stylized with a white dot. A small "TM" trademark symbol is located at the top right of the "k".

1732 N. 1st Street, 6th Floor, San Jose CA 95112

Contact: Michael Hines – mhines@avidbank.com

[Avidbank](#) is a highly responsive business bank, providing creative financial solutions. We are advocates for our clients and specialize in providing innovative banking products and supportive services that exceed our clients' expectations.

We specialize in commercial & industrial lending, venture lending, structured finance, asset-based lending, sponsor finance, fund finance, and commercial real estate and construction lending.

Our specialty deposits and treasury management services teams offer tailored solutions designed to meet the specific needs of our clients, including:

- Competitive Interest Rates
- Partnership-based Banking Experience
- 100% Insured 1031 Deposits (available upon request)
- Robust online banking access and tools including remote deposit, wires, ACH, transfers, and individualized account access and approval authorities
- Hassle free Account / Sub-Account Opening Process

Our experienced team collaborates with you to meet your banking needs whether on an individual or business level. Access to decision-makers provides a direct banking experience and an uncommon accountability. We serve organizations in the San Francisco Bay Area and beyond.

Responsive, Collaborative & Accountable. We do what we say.

Exchange-X

400 N. Ashley Drive, Suite 1900, Tampa FL 33602

Contact: Peter Marzo – info@exchange-x.com

[Exchange-X](#) is a nationally recognized 1031 exchange real estate investment firm with a focus on Delaware Statutory Trust (DST) properties. The Exchange-X platform offers direct access to over 70 leading DST sponsors and dozens of active offerings. Our mission is to provide 1031 exchangers a state-of-the-art real estate investment platform to easily seek, identify and acquire high quality replacement properties.

Message From Executive Director Kimberly Steenhoek



FEDERATION
of EXCHANGE
ACCOMMODATORS

The Voice of the 1031 Industry

35TH ANNIVERSARY 1989 - 2024

The [Federation of Exchange Accommodators \(FEA\)](#) is celebrating some important milestones this year! August marks FEA's 35th anniversary. Founded August 17, 1989, the FEA was formed to support, preserve, and advance Section 1031 Exchanges and the QI industry.

Thank you to all the FEA members and leaders for their contributions and service over the past 35 years. Your commitment to FEA ensures that this organization continues to remain the voice

of the 1031 industry.

This year also marks the [30th FEA Annual Conference](#). What better way to celebrate than by joining us for this year's annual conference in Austin, TX, Sept. 16-18. I look forward to seeing you there!



Kimberly Steenhoek
2024 FEA Executive Director

Federation of Exchange Accommodators
www.1031.org

