



The Voice of the 1031 Industry



An Update from the FEA Government Affairs Committee

December 2015

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GOVERNMENT AFFAIRS UPDATE

Brent Abrahm, Suzanne Goldstein Baker, Max Hansen, Chairs

FEA STAFF

Executive Director
Lynn Harkin, CAE
FEA
1255 SW Prairie Trail Pkwy.
Ankeny, IA 50023-7068
(515) 244-6515 Office
(515) 334-1067 Direct
(515) 334-1167 Fax
director@1031.org
www.1031.org

FEA GOVERNMENT AFFAIRS COMMITTEE

Committee Co-Chairs
Brent Abrahm
Accruit, LLC
Phone: 303-865-7301
brenta@accruit.com

Suzanne Goldstein Baker, CES®
Investment Property Exchange
Services, Inc.
Phone: 312-223-3003
suzanne.baker@ipx1031.com

Max Hansen, CES®
American Equity Exchange, Inc.
Phone: 406-683-6886
max@irc1031x.com

Committee Members:
Mike Anderson

GAC Special Announcement:

EY 1031 Economic Study Updated

A November 2015 revised version of the EY macro-economic study, "Economic Impact of Repealing Section 1031 Like-Kind Exchanges" is now available. Upon further review of recently released micro-economic data, it was determined that the impact on GDP supported by the 10 industries most affected by a repeal of Section 1031 is even greater than initially projected. While the macro-economic numbers remain unchanged, with an \$8.1 billion loss to the overall economy, GDP supported by real estate, vehicle / equipment leasing and rental, truck transportation, construction, and 6 other industries would contract by \$27.5 billion each year.

If you have posted the EY Study or related documents on your website, be sure to replace them with the revised documents.

Download and review the revised version of the study, synopsis and info-graphic at:

www.1031taxreform.com/1031economics

FEA Testifies Before Washington State Legislators

While the focus of government affairs activity has recently been on the subject of tax reform at the Federal level, state-level activity requires the same amount of attention when issues pop up. With only a few days' notice of a hearing to discuss potential changes to the Washington QI law, the GAC pushed for an opportunity to provide input. Mary Foster and Suzanne Goldstein Baker testified before the State of Washington, House Business and Financial Services Committee at the hearing on Friday, November 20th in

David Brown
 Steve Chacon
 Mary Cunningham
 Rob Egenolf
 Mary Foster
 Dennis Helmick
 Bill Horan
 Dan Imbior
 Tom Oldfield
 Rob Onnen
 Jennifer Poindexter
 Hugh Pollard
 Scott Saunders
 Derrick Tharpe
 Dan Wagner
 Naomi Weitzel
 John Wunderlich

Thank You to Our 1031 PAC Donors

Thank you PAC donors! The FEA 1031 PAC is a vital part of our strategy to influence Congress to keep 1031 exchanges.

For information on how to make a personal PAC contribution, please contact Naomi Weitzel at naomi.weitzel@cdec1031.com

Save the Date!



FEA 2016 Annual Conference
September 14 - 16, 2016
Las Vegas, Nevada

Monte Carlo
Las Vegas Resort and Casino
www.montecarlo.com

Affiliates First

Olympia, Washington.

The Committee reviewed the current state of the law governing qualified intermediaries, past legislation considered in Washington state, and options for future legislation to create a fiduciary relationship between qualified intermediaries and their clients. Mary and Suzanne spent almost an hour testifying on behalf of the FEA as to our collaboration with the State on the existing law, our perception that the existing law works well for all parties, and the negative unintended consequences that would ensue from broadening the statute to describe qualified intermediaries as fiduciaries, from tax law, fiduciary law and practical perspectives.

In creating the current Washington law, drafters avoided the term "fiduciary." The existing law imposes certain duties and fiduciary standards on the QI without characterizing the QI as a fiduciary to the taxpayer. Suzanne and Mary testified that the role of fiduciary could potentially disqualify a person from acting as a QI, and would go well beyond the scope of a qualified intermediary. Mary pointed out to legislators that the unintended consequence of describing a QI as a fiduciary could result in 1031s in the state of Washington being disqualified at the Federal level. Suzanne testified about how an amendment to formally make the QI a fiduciary would impose significantly increased legal responsibilities and liabilities on QIs that exceed the scope of Section 1031 and exchange agreements, for which QIs are not being compensated, and often would not even be qualified.

Of the nine states with laws covering qualified intermediaries, Washington state law is the toughest. Drafted with input from the FEA, the law, with a significant focus on consumer protection, was passed in 2009 and has been twice amended. QIs are required to have Errors and Omissions insurance and a fidelity bond of \$1 million. Additional features of the law include a definition of the prudent investor standard, specifying that the goals of investment must be preservation of principal and liquidity. The law requires notification to consumers of certain risks and that consumers are encouraged to seek legal and tax counsel. Violations are punishable through civil and criminal penalties.

The QI laws of Idaho, Maine, and Nevada were also discussed at the hearing, each of which have registration or licensing regimes for QIs. Idaho, which applied state escrow law to QIs, appears to be currently rethinking its law. Nevada has a very robust licensing statute but currently lacks the resources to develop the infrastructure required to enforce the law. Although it is not possible to obtain a license in Nevada yet, QIs must comply with the law to the extent possible, including the requirement to hold all funds from Nevada exchanges in either qualified trust or qualified escrow accounts. Failure to comply with the QT / QE requirement is a felony.

As the discussion progressed away from the fiduciary language, Washington state legislators Rep. Cindy Ryu and Rep. Sharon Tomiko Santos extended an invitation to the FEA to help support financial education throughout the state of Washington. Rep. Santos, chair of the Washington State Financial Education Public Private Partnership, said that the FEA could work to improve the sophistication level of consumers about 1031 exchanges as a powerful tool.

FEA thanks our Affiliate Members for their support, and in return, FEA members are encouraged to support our Affiliate Members.

[Affiliates First Webpage](#)

Click on the logos below for more information.



Watch video of the hearing* at http://tvw.org/index.php?option=com_tvwplayer&eventID=2015110043

*The discussion on Section 1031 starts at about 25:00.

GAC Activity

A two-year tax extender bill has been filed in the House. Williams and Jensen, our lobbying partner, and the FEA will continue to monitor as more develops.

At an event on November 20, Margo McDonnell spoke with Pat Meehan (R-PA), who made positive public comments about Section 1031.

The GAC forwarded a pro-1031 article to Grover Norquist, of Americans for Tax Reform, who tweeted the *Banker and Tradesman* article by tax law Professor Joseph Darby III, "Eating the Seed Corn" It was seen by an estimated 81,000 Twitter followers. Read the article [here](#).

Call to Action

Connections with Members of Congress cannot be undervalued. The FEA 1031 PAC sponsors events that grant access and opportunities to build relationships with important Members of Congress.

[Sign and return the Permission to Solicit Form TODAY and help bring the message to Congress.](#)

While FEA members often speak with staffers during Hill visits, Senators and Representatives are often pressed for time on Capitol Hill. Fundraisers provide an opportunity for direct conversations with Members of Congress, where we can personally catch their attention and let them know that our issue is important to voters in their states and home districts.

New 1031taxreform.com Addresses

The FEA's tax reform site has a new address for its grassroots advocacy page. When referring your contacts, please use these web addresses:

Main Advocacy Site (same):
www.1031taxreform.com

Grassroots Letters (new):
www.1031taxreform.com/take-action

Affiliates First



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FEA Recognizes Affiliates First on Website

Use an FEA Affiliate Member to assist you with your business. Check out the [FEA Affiliate Members page](#) dedicated to our affiliate partners at 1031.org. Find a list of Affiliate Members in alphabetical order by company, with their key contacts listed.

(Be sure to login first to click on a company name to see more details about that member company.)

[Visit the Affiliates First page on www.1031.org](http://www.1031.org)

Affiliate Member Spotlight



Stan Johnson Company
THE NET LEASE AUTHORITY®

Stan Johnson Company

180 Madison Ave., Suite 1500

New York, NY 10016

(646) 778-5560 Phone / (646) 646-349-2735 Fax

Stan Johnson Company offers acquisition, disposition, pricing advisory and 1031 exchange services to a wide range of clients: office, industrial, medical and retail developers, institutional REITs, pension funds, corporations, and high-net worth individuals. With the largest collaborative team in the single-tenant, net lease industry, our 30 year focus -combined with an impressive track record and substantial deal volume-positions us as one of the top three investment real estate brokerage firms in the country per RCA. **About Tom Georges:** Tom is a lead broker and Associate Director in Stan Johnson Company's New York City office. He manages a team of highly qualified professionals in the disposition, acquisition and capitalization of net-leased assets throughout the United States, with particular focus on retail, medical office, sale-leaseback and 1031 Exchange transactions. Working with developers, owners and investors, Georges played an important role in the company's expansion into New York City, the Northeast and Mid-Atlantic net-lease markets. Georges built his expertise and reputation in 1031 replacement and tax deferral transactions while with Spectrus Real Estate Group. During his tenure there, he was recognized as the top-performing sales professional with transactions in the \$5 million to \$50 million range.

Contact: Tom Georges, tgeorges@stanjohnsonco.com

FEA Holiday Office Closings



About the FEA Government Affairs Committee

The FEA Government Affairs Committee monitors legislative and regulatory activity, regularly meets with and provides commentary to the IRS, House Ways and Means Committee, Senate Finance Committee, and state and federal legislators. It proactively responds to legislative and regulatory initiatives at both the state and federal levels and advocates on behalf of the FEA and consumers. The GAC has provided input to state legislatures and regulatory agencies that shaped their approach to the licensing and regulation of exchange professionals and influenced state taxation and procedures for exchange transactions. GAC activities are led by co-chairs Brent Abrahm, Suzanne Goldstein Baker, and Max Hansen, working closely with our lobbying partners at Williams & Jensen.

The GAC is grateful for the vigilance of our members. If you become aware of any 1031 legislative or regulatory activity in your state, please contact one of the GAC co-chairs.

The commitment and perseverance of FEA members, the Government Affairs Committee, and our volunteer leaders have made the FEA The Voice of the 1031 Industry.

Federation of Exchange Accommodators

1255 SW Prairie Trail Parkway
Ankeny, IA 50023-7068

(515) 244-6515
www.1031.org

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