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TCJA limits like-kind exchange nonrecognition rules to real estate

Changes by the recently enacted Tax Cuts and Jobs Act (TCJA) impact like-kind exchange rules.

In a like-kind exchange, a taxpayer doesn't recognize gain or loss on an exchange of like-kind properties if both the relinquished property and the replacement property are held for productive use in a trade or business or for investment purposes. For exchanges completed after Dec. 31, 2017, the TCJA limits tax-free exchanges to exchanges of real property that is not held primarily for sale (real property limitation). Thus, exchanges of personal property and intangible property can't qualify as tax-free like-kind exchanges.

Although the real property limitation applies to exchanges completed after Dec. 31, 2017, transition rules provide relief for certain exchanges. Specifically, the real property limitation doesn't apply to an exchange if the relinquished property is disposed before Jan. 1, 2018, or the replacement property is received by the taxpayer before Jan. 1, 2018. If the transition rules apply and all other requirements for a tax-free exchange are satisfied, an exchange of personal property or intangible property that is completed after Dec. 31, 2017 can qualify as a tax-free like-kind exchange.

To ensure compliance with requirements imposed by the IRS, we inform you that any tax advice contained in this communication (including any attachments) is not intended or written to be used, and cannot be used, for the purpose of avoiding penalties under the Internal Revenue Code.