

**AMERICAN BAR ASSOCIATION TAX SECTION – 2008 ADDENDUM TO SECTION 1031 STATE SURVEY Q & A  
(Final Document)**

**LEGEND:**

N/A – Not Applicable

N/C – No Change

STATE	QUESTIONS													
	<b>Q1:</b> Does State impose rules/restrictions in addition to federal requirements on what qualifies as "like kind" replacement property in order to qualify for a tax deferral?	<b>Q2:</b> If taxpayer consummates tax deferred exchange of personal property when some of like-kind property is located outside of or is moved outside State does State impose tax treatment different from federal tax deferral treatment?	<b>Q3:</b> Does State require special reporting of an exchange on State tax form?	<b>Q4:</b> If taxpayer consummates partially tax deferred exchange in which non-like property is received, is gain reportable in your State computed with reference to depreciation/cost recovery rates allowed in State or is federal cost recovery/depreciation rates used to compute gain in exchange?	<b>Q5:</b> Does your jurisdiction impose a withholding tax, special estimated tax or similar tax on taxable portion of any exchange proceeds?	<b>Q6:</b> Are tax deferral laws applicable in your State for like-kind exchanges different for resident and non-resident taxpayers in any way?	<b>Q7:</b> Is single owner LLC that is disregarded for federal income tax purposes also disregarded for State income tax purposes?	<b>Q8:</b> Is single-owner LLC that is disregarded for federal income tax purposes also disregarded for purposes of State's sales taxes?	<b>Q9:</b> If State imposes real estate transfer tax, does State impose real estate transfer tax when qualified intermediary or taxpayer involved in exchange transfers ownership of limited liability company that holds record title to exchange property or is the real estate transfer tax only applied when record title to the exchange property is conveyed?	<b>Q10:</b> If State imposes sales or similar tax does State collect sales tax when qualified intermediary or taxpayer involved in exchange transfers ownership of membership interest in LLC that holds title to exchange property or is sales tax only applied when title to exchange property is transferred?	<b>Q11:</b> Does State impose special licensing, bonding or registration requirements on qualified intermediaries or exchange accommodation titleholders that provide exchange services in State?	<b>Q12:</b> Does State recognize special federal income tax treatment?	<b>Q13:</b> (a) Does your State recognize the federal income tax treatment of safe harbor parking arrangements?  (b) Are there any unusual features?	
<b>Alabama</b>													(a)	(b)
<b>Alaska</b>	No	No	No	State	No	No	Yes	N/A no sales tax	N/A	N/A	No	N/A no individual income tax	(a) Yes	(b) N/C
<b>Arizona</b>	N/C	N/C	N/C	N/C	N/C	N/C	N/C	N/C	N/C	N/C	N/C	N/C	(a) N/C	(b) N/C

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Arkansas	No <sup>1</sup>	No See Q1	N/C	N/C	N/C	N/C	N/C	N/C	N/C	N/C	N/C	(a) N/C	(b) N/C	
California												(a)	(b)	
Colorado												(a)	(b)	

<sup>1</sup> Section 1031 has not been adopted. Arkansas law generally conforms to federal income tax treatment of like-kind exchanges.

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<b>Connecticut</b>	N/C	N/C	N/C	N/C	N/C	N/C	N/C	N/C	N/C	N/C	N/C	N/C	(a) N/C	(b) N/C
<b>Delaware</b>													(a)	(b)
<b>District of Columbia</b>													(a)	(b)

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<b>Florida</b>	No	No	No	Federal	No	No	Yes	No <sup>2</sup>	Applied only on change of record or registered title	Applied only on change of record or registered title	No	Yes <sup>3</sup>	(a) Yes (b)
<b>Georgia</b>	No	No	No	State	Yes <sup>4</sup>	Yes See Q5	Yes	No	Applied on change of record or registered title	Applied only change of record or registered title	N/C	Yes-but GA is not a community property state	(a) Yes (b) N/C

<sup>2</sup> Section 608.471(3), F.S., states that LLCs that are disregarded for corporate income tax purposes, are treated as separate legal entities for all non-income tax purposes.

<sup>3</sup> Florida does not have a personal income tax.

<sup>4</sup> O.C.G.A. Section 48-7-128 requires the buyer to withhold 3% of the purchase price on the sale of real property and associated tangible personal property by a nonresident seller. The withholding provision of this Code section is not applicable to resident sellers.

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<b>Hawaii</b>													(a)	(b)
<b>Idaho</b>	N/C	N/C	N/C	N/C	N/C	N/C	N/C	N/C	N/C	N/C	N/C	N/C	(a) N/C	(b) N/C
<b>Illinois</b>	N/C	N/C	N/C	N/C	N/C	N/C	N/C	N/C	N/C	N/C	N/C	N/C	(a) N/C	(b) N/C
<b>Indiana</b>	N/C	N/C	N/C	N/C	N/C	N/C	N/C	N/C	N/C	N/C	N/C	N/C	(a) N/C	(b) N/C

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<b>Iowa</b>	N/C	N/C	N/C	N/C	N/C	N/C	N/C	N/C	N/C	N/C	N/C	N/C	(a) N/C	(b) N/C
<b>Kansas</b>													(a)	(b)
<b>Kentucky</b>													(a)	(b)

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	<b>Q1:</b> Does State impose rules/restrictions in addition to federal requirements on what qualifies as "like kind" replacement property in order to qualify for a tax deferral?	<b>Q2:</b> If taxpayer consummates tax deferred exchange of personal property when some of like-kind property is located outside of or is moved outside State does State impose tax treatment different from federal tax deferral treatment?	<b>Q3:</b> Does State require special reporting of an exchange on State tax form?	<b>Q4:</b> If taxpayer consummates partially tax deferred exchange in which non-like property is received, is gain reportable in your State computed with reference to depreciation/cost recovery rates allowed in State or is federal cost recovery/depreciation rates used to compute gain in exchange?	<b>Q5:</b> Does your jurisdiction impose a withholding tax, special estimated tax or similar tax on taxable portion of any exchange proceeds?	<b>Q6:</b> Are tax deferral laws applicable in your State for like-kind exchanges different for resident and non-resident taxpayers in any way?	<b>Q7:</b> Is single owner LLC that is disregarded for federal income tax purposes also disregarded for State income tax purposes?	<b>Q8:</b> Is single-owner LLC that is disregarded for federal income tax purposes also disregarded for purposes of State's sales taxes?	<b>Q9:</b> If State imposes real estate transfer tax, does State impose real estate transfer tax when qualified intermediary or taxpayer involved in exchange transfers ownership of limited liability company that holds record title to exchange property or is the real estate transfer tax only applied when record title to the exchange property is conveyed?	<b>Q10:</b> If State imposes sales or similar tax does State collect sales tax when qualified intermediary or taxpayer involved in exchange transfers ownership of membership interest in LLC that holds title to exchange property or is sales tax only applied when title to exchange property is transferred?	<b>Q11:</b> Does State impose special licensing, bonding or registration requirements on qualified intermediaries or exchange accommodation titleholders that provide exchange services in State?	<b>Q12:</b> Does State recognize special federal income tax treatment?	<b>Q13:</b> (a) Does your State recognize the federal income tax treatment of safe harbor parking arrangements? (b) Are there any unusual features?	
<b>Louisiana</b>													(a)	(b)
<b>Maine</b>	N/C	N/C	N/C	N/C	N/C	N/C	N/C	N/C	N/C	N/C	N/C	N/C	(a) N/C	(b) N/C
<b>Maryland</b>													(a)	(b)

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	<b>Q1:</b> Does State impose rules/restrictions in addition to federal requirements on what qualifies as “like kind” replacement property in order to qualify for a tax deferral?	<b>Q2:</b> If taxpayer consummates tax deferred exchange of personal property when some of like-kind property is located outside of or is moved outside State does State impose tax treatment different from federal tax deferral treatment?	<b>Q3:</b> Does State require special reporting of an exchange on State tax form?	<b>Q4:</b> If taxpayer consummates partially tax deferred exchange in which non-like property is received, is gain reportable in your State computed with reference to depreciation/cost recovery rates allowed in State or is federal cost recovery/depreciation rates used to compute gain in exchange?	<b>Q5:</b> Does your jurisdiction impose a withholding tax, special estimated tax or similar tax on taxable portion of any exchange proceeds?	<b>Q6:</b> Are tax deferral laws applicable in your State for like-kind exchanges different for resident and non-resident taxpayers in any way?	<b>Q7:</b> Is single owner LLC that is disregarded for federal income tax purposes also disregarded for State income tax purposes?	<b>Q8:</b> Is single-owner LLC that is disregarded for federal income tax purposes also disregarded for purposes of State’s sales taxes?	<b>Q9:</b> If State imposes real estate transfer tax, does State impose real estate transfer tax when qualified intermediary or taxpayer involved in exchange transfers ownership of limited liability company that holds record title to exchange property or is the real estate transfer tax only applied when record title to the exchange property is conveyed?	<b>Q10:</b> If State imposes sales or similar tax does State collect sales tax when qualified intermediary or taxpayer involved in exchange transfers ownership of membership interest in LLC that holds title to exchange property or is sales tax only applied when title to exchange property is transferred?	<b>Q11:</b> Does State impose special licensing, bonding or registration requirements on qualified intermediaries or exchange accommodation titleholders that provide exchange services in State?	<b>Q12:</b> Does State recognize special federal income tax treatment?	<b>Q13:</b> (a) Does your State recognize the federal income tax treatment of safe harbor parking arrangements? (b) Are there any unusual features?	
Massachusetts													(a)	(b)
Michigan													(a)	(b)
Minnesota	N/C	N/C	N/C	N/C	N/C	N/C	N/C	N/C	<sup>5</sup>	Tax applied only on change of record or registered title	N/C	N/C	(a) N/C	(b) N/C

<sup>5</sup> Generally, tax applied only on change of record or registered title. But if property was acquired by the LLC from its members within the prior six months, then tax applied on change of ownership of LLC (“look through treatment”)



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<b>Mississippi</b>													(a)	(b)
<b>Missouri</b>	N/C	N/C	N/C	N/C	N/C	N/C	N/C	N/C	N/C	N/C	N/C	N/C	(a) N/C	(b) N/C
<b>Montana</b>	N/C	N/C	N/C	N/C	N/C	N/C	N/C	N/C	N/C	N/C	N/C	N/C	(a) N/C	(b) N/C

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Nebraska	N/C	N/C	N/C	N/C	N/C	N/C	N/C	N/C	N/C	N/C	N/C	N/C	(a) N/C	(b) N/C
Nevada													(a)	(b)
New Hampshire	No	No	No	Federal based on 12/31/2000 IRC	No	No	No <sup>6</sup>	N/A-no sales tax	Applied on change of ownership of LLC <sup>7</sup>	N/A-no sales tax	No	No <sup>8</sup>	(a) Yes	(b)

<sup>6</sup> Replacement property must be purchased by the selling LLC. New Hampshire is a business organization state.

<sup>7</sup> If a real estate holding company, the change in interest is taxed.

<sup>8</sup> The LLC is taxed as a business organization.

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New Jersey	N/C	N/C	N/C	N/C	N/C	N/C	N/C	No <sup>9</sup>	N/C	Applied on change of record or registered title	N/C	N/C	(a) Yes	(b) N/C
New Mexico	No	N/C	N/C	N/C	N/C	N/C	Yes	N/A <sup>10</sup>	N/C	N/C-see Q8	don't know	<sup>11</sup>	(a) Yes <sup>12</sup>	(b) N/C
New York	N/C	N/C	N/C	N/C	N/C	N/C	N/C	N/C	N/C	N/C	N/C	N/C	(a) N/C	(b) N/C

<sup>9</sup> Required to register to pay sales tax.

<sup>10</sup> Our gross receipts tax (not sales tax) is not imposed on sales of real estate.

<sup>11</sup> To my knowledge, this question has not come up in New Mexico.

<sup>12</sup> Yes, or at least it would if they asked me.

STATE	QUESTIONS													
	<b>Q1:</b> Does State impose rules/restrictions in addition to federal requirements on what qualifies as "like kind" replacement property in order to qualify for a tax deferral?	<b>Q2:</b> If taxpayer consummates tax deferred exchange of personal property when some of like-kind property is located outside of or is moved outside State does State impose tax treatment different from federal tax deferral treatment?	<b>Q3:</b> Does State require special reporting of an exchange on State tax form?	<b>Q4:</b> If taxpayer consummates partially tax deferred exchange in which non-like property is received, is gain reportable in your State computed with reference to depreciation/cost recovery rates allowed in State or is federal cost recovery/depreciation rates used to compute gain in exchange?	<b>Q5:</b> Does your jurisdiction impose a withholding tax, special estimated tax or similar tax on taxable portion of any exchange proceeds?	<b>Q6:</b> Are tax deferral laws applicable in your State for like-kind exchanges different for resident and non-resident taxpayers in any way?	<b>Q7:</b> Is single owner LLC that is disregarded for federal income tax purposes also disregarded for State income tax purposes?	<b>Q8:</b> Is single-owner LLC that is disregarded for federal income tax purposes also disregarded for purposes of State's sales taxes?	<b>Q9:</b> If State imposes real estate transfer tax, does State impose real estate transfer tax when qualified intermediary or taxpayer involved in exchange transfers ownership of limited liability company that holds record title to exchange property or is the real estate transfer tax only applied when record title to the exchange property is conveyed?	<b>Q10:</b> If State imposes sales or similar tax does State collect sales tax when qualified intermediary or taxpayer involved in exchange transfers ownership of membership interest in LLC that holds title to exchange property or is sales tax only applied when title to exchange property is transferred?	<b>Q11:</b> Does State impose special licensing, bonding or registration requirements on qualified intermediaries or exchange accommodation titleholders that provide exchange services in State?	<b>Q12:</b> Does State recognize special federal income tax treatment?	<b>Q13:</b> (a) Does your State recognize the federal income tax treatment of safe harbor parking arrangements? (b) Are there any unusual features?	
North Carolina	N/C	N/C	N/C	N/C	N/C	N/C	N/C	N/C	N/C	N/C	N/C	N/C	(a) N/C	(b) N/C
North Dakota	N/C	N/C	N/C	N/C	N/C	N/C	N/C	N/C	N/C	N/C	N/C	<sup>13</sup>	(a) N/C	(b) N/C
Ohio													(a)	(b)

<sup>13</sup> North Dakota generally recognizes the federal income tax treatment; however, North Dakota is not a community property state.

STATE	QUESTIONS													
	<b>Q1:</b> Does State impose rules/restrictions in addition to federal requirements on what qualifies as "like kind" replacement property in order to qualify for a tax deferral?	<b>Q2:</b> If taxpayer consummates tax deferred exchange of personal property when some of like-kind property is located outside of or is moved outside State does State impose tax treatment different from federal tax deferral treatment?	<b>Q3:</b> Does State require special reporting of an exchange on State tax form?	<b>Q4:</b> If taxpayer consummates partially tax deferred exchange in which non-like property is received, is gain reportable in your State computed with reference to depreciation/cost recovery rates allowed in State or is federal cost recovery/depreciation rates used to compute gain in exchange?	<b>Q5:</b> Does your jurisdiction impose a withholding tax, special estimated tax or similar tax on taxable portion of any exchange proceeds?	<b>Q6:</b> Are tax deferral laws applicable in your State for like-kind exchanges different for resident and non-resident taxpayers in any way?	<b>Q7:</b> Is single owner LLC that is disregarded for federal income tax purposes also disregarded for State income tax purposes?	<b>Q8:</b> Is single-owner LLC that is disregarded for federal income tax purposes also disregarded for purposes of State's sales taxes?	<b>Q9:</b> If State imposes real estate transfer tax, does State impose real estate transfer tax when qualified intermediary or taxpayer involved in exchange transfers ownership of limited liability company that holds record title to exchange property or is the real estate transfer tax only applied when record title to the exchange property is conveyed?	<b>Q10:</b> If State imposes sales or similar tax does State collect sales tax when qualified intermediary or taxpayer involved in exchange transfers ownership of membership interest in LLC that holds title to exchange property or is sales tax only applied when title to exchange property is transferred?	<b>Q11:</b> Does State impose special licensing, bonding or registration requirements on qualified intermediaries or exchange accommodation titleholders that provide exchange services in State?	<b>Q12:</b> Does State recognize special federal income tax treatment?	<b>Q13:</b> (a) Does your State recognize the federal income tax treatment of safe harbor parking arrangements? (b) Are there any unusual features?	
<b>Oklahoma</b>													(a)	(b)
<b>Oregon</b>	N/C	N/C	N/C	N/C	Yes <sup>14</sup>	N/C	N/C	N/C	N/C	N/C	N/C	Yes	(a) N/C	(b) N/C

<sup>14</sup> Due to a recent law change, no withholding is required on 1031 exchanges that occur on or after May 31, 2008. Exchanges that occur or occurred from January 1, 2008 to May 22, 2008 may require withholding if the proceeds from the sale/exchange are distributed to a nonresident transferor (for example, if the exchange later fails or boot is involved). See Oregon Administrative Rule 150-314.258 for more information and explanation.

STATE	QUESTIONS												
	<b>Q1:</b> Does State impose rules /restrictions in addition to federal requirements on what qualifies as "like kind" replacement property in order to qualify for a tax deferral?	<b>Q2:</b> If taxpayer consummates tax deferred exchange of personal property when some of like-kind property is located outside of or is moved outside State does State impose tax treatment different from federal tax deferral treatment?	<b>Q3:</b> Does State require special reporting of an exchange on State tax form?	<b>Q4:</b> If taxpayer consummates partially tax deferred exchange in which non-like property is received, is gain reportable in your State computed with reference to depreciation/cost recovery rates allowed in State or is federal cost recovery/depreciation rates used to compute gain in exchange?	<b>Q5:</b> Does your jurisdiction impose a withholding tax, special estimated tax or similar tax on taxable portion of any exchange proceeds?	<b>Q6:</b> Are tax deferral laws applicable in your State for like-kind exchanges different for resident and non-resident taxpayers in any way?	<b>Q7:</b> Is single owner LLC that is disregarded for federal income tax purposes also disregarded for State income tax purposes?	<b>Q8:</b> Is single-owner LLC that is disregarded for federal income tax purposes also disregarded for purposes of State's sales taxes?	<b>Q9:</b> If State imposes real estate transfer tax, does State impose real estate transfer tax when qualified intermediary or taxpayer involved in exchange transfers ownership of limited liability company that holds record title to exchange property or is the real estate transfer tax only applied when record title to the exchange property is conveyed?	<b>Q10:</b> If State imposes sales or similar tax does State collect sales tax when qualified intermediary or taxpayer involved in exchange transfers ownership of membership interest in LLC that holds title to exchange property or is sales tax only applied when title to exchange property is transferred?	<b>Q11:</b> Does State impose special licensing, bonding or registration requirements on qualified intermediaries or exchange accommodation titleholders that provide exchange services in State?	<b>Q12:</b> Does State recognize special federal income tax treatment?	<b>Q13:</b> (a) Does your State recognize the federal income tax treatment of safe harbor parking arrangements? (b) Are there any unusual features?
<b>Pennsylvania</b>	<sup>15</sup>	Yes-See Q1	No	Yes-See Q1 <sup>16</sup>	<sup>17</sup>	Except as noted in Q5, No	<sup>18</sup>	No	<sup>19</sup>	See brochure per Q1	<sup>20</sup>	<sup>21</sup>	(a) see Q1 & encl. (b) see enclosure
<b>Rhode Island</b>	No	Yes <sup>22</sup>	No	State	Yes <sup>23</sup>	No	Yes	Yes	Applied only on change of record or registered title	N/C	No	Yes	(a) Yes (b) N/C

<sup>15</sup> The Pennsylvania Personal Income Tax has no provisions comparable to IRC § 1031. Gain or loss is recognized unless (i) the taxpayer consistently computes his personal income under GAAP, and (ii) the exchange is reported for both financial accounting purposes and tax purposes in a manner consistent with APB #29 (includes 10/20/06 tax bulletin "Pennsylvania Tax Treatment of IRC § 1031 Like-Kind Exchanges" issued by Department)

<sup>16</sup> The Pennsylvania Personal Income Tax does not have depreciation recapture provisions. If a taxpayer uses accelerated depreciation, basis is reduced each year for the greater of straight-line depreciation for financial accounting purposes or the tax benefit afforded by using accelerated depreciation. Federal recovery rates in effect when the item is placed in service or on January 1, 1997, whichever is later, is used.

<sup>17</sup> PA imposes a withholding tax on the income sourceable to Pennsylvania of partners and PA S corporation shareholders who are nonresidents. It is applicable, but not limited, to gains on Federally partially tax deferred exchanges.

<sup>18</sup> Single member unincorporated entities are disregarded for Personal income tax purposes. They are not, however, disregarded for realty transfer tax purposes.

<sup>19</sup> Generally, transfers to and from QIs and EATs are subject to realty transfer tax. Moreover, generally, transfers of interests in limited liability companies that hold record title also are subject to realty transfer tax.

<sup>20</sup> The Department of Revenue has no special licensing or registration requirements for personal income tax purposes. For sales tax purposes, QIs and EATs may have an obligation to register. There may be other licensing, bonding or registration requirements outside the purview of the Department of Revenue.

<sup>21</sup> For almost all personal income tax purposes, a husband and wife are not treated as one person. However, the Department of Revenue has not ruled on the issue of whether a husband and wife who hold their interests in an LLC as community property constitute one or two owners.

<sup>22</sup> If the replacement property is located outside of Rhode Island the deferred gain is still Rhode Island source income when the replacement property is sold.

<sup>23</sup> A non-resident is subject to back-up withholding on the sale of real estate located in Rhode Island.

STATE	QUESTIONS													
	<b>Q1:</b> Does State impose rules/restrictions in addition to federal requirements on what qualifies as "like kind" replacement property in order to qualify for a tax deferral?	<b>Q2:</b> If taxpayer consummates tax deferred exchange of personal property when some of like-kind property is located outside of or is moved outside State does State impose tax treatment different from federal tax deferral treatment?	<b>Q3:</b> Does State require special reporting of an exchange on State tax form?	<b>Q4:</b> If taxpayer consummates partially tax deferred exchange in which non-like property is received, is gain reportable in your State computed with reference to depreciation/cost recovery rates allowed in State or is federal cost recovery/depreciation rates used to compute gain in exchange?	<b>Q5:</b> Does your jurisdiction impose a withholding tax, special estimated tax or similar tax on taxable portion of any exchange proceeds?	<b>Q6:</b> Are tax deferral laws applicable in your State for like-kind exchanges different for resident and non-resident taxpayers in any way?	<b>Q7:</b> Is single owner LLC that is disregarded for federal income tax purposes also disregarded for State income tax purposes?	<b>Q8:</b> Is single-owner LLC that is disregarded for federal income tax purposes also disregarded for purposes of State's sales taxes?	<b>Q9:</b> If State imposes real estate transfer tax, does State impose real estate transfer tax when qualified intermediary or taxpayer involved in exchange transfers ownership of limited liability company that holds record title to exchange property or is the real estate transfer tax only applied when record title to the exchange property is conveyed?	<b>Q10:</b> If State imposes sales or similar tax does State collect sales tax when qualified intermediary or taxpayer involved in exchange transfers ownership of membership interest in LLC that holds title to exchange property or is sales tax only applied when title to exchange property is transferred?	<b>Q11:</b> Does State impose special licensing, bonding or registration requirements on qualified intermediaries or exchange accommodation titleholders that provide exchange services in State?	<b>Q12:</b> Does State recognize special federal income tax treatment?	<b>Q13:</b> (a) Does your State recognize the federal income tax treatment of safe harbor parking arrangements? (b) Are there any unusual features?	
South Carolina													(a)	(b)
South Dakota													(a)	(b)

STATE	QUESTIONS													
	<b>Q1:</b> Does State impose rules/restrictions in addition to federal requirements on what qualifies as "like kind" replacement property in order to qualify for a tax deferral?	<b>Q2:</b> If taxpayer consummates tax deferred exchange of personal property when some of like-kind property is located outside of or is moved outside State does State impose tax treatment different from federal tax deferral treatment?	<b>Q3:</b> Does State require special reporting of an exchange on State tax form?	<b>Q4:</b> If taxpayer consummates partially tax deferred exchange in which non-like property is received, is gain reportable in your State computed with reference to depreciation/cost recovery rates allowed in State or is federal cost recovery/depreciation rates used to compute gain in exchange?	<b>Q5:</b> Does your jurisdiction impose a withholding tax, special estimated tax or similar tax on taxable portion of any exchange proceeds?	<b>Q6:</b> Are tax deferral laws applicable in your State for like-kind exchanges different for resident and non-resident taxpayers in any way?	<b>Q7:</b> Is single owner LLC that is disregarded for federal income tax purposes also disregarded for State income tax purposes?	<b>Q8:</b> Is single-owner LLC that is disregarded for federal income tax purposes also disregarded for purposes of State's sales taxes?	<b>Q9:</b> If State imposes real estate transfer tax, does State impose real estate transfer tax when qualified intermediary or taxpayer involved in exchange transfers ownership of limited liability company that holds record title to exchange property or is the real estate transfer tax only applied when record title to the exchange property is conveyed?	<b>Q10:</b> If State imposes sales or similar tax does State collect sales tax when qualified intermediary or taxpayer involved in exchange transfers ownership of membership interest in LLC that holds title to exchange property or is sales tax only applied when title to exchange property is transferred?	<b>Q11:</b> Does State impose special licensing, bonding or registration requirements on qualified intermediaries or exchange accommodation titleholders that provide exchange services in State?	<b>Q12:</b> Does State recognize special federal income tax treatment?	<b>Q13:</b> (a) Does your State recognize the federal income tax treatment of safe harbor parking arrangements? (b) Are there any unusual features?	
<b>Tennessee</b>	N/C	N/C	N/C	N/C	N/C	N/C	N/C	N/C	N/C	N/C	N/C	N/C	(a) N/C	(b) N/C
<b>Texas</b>													(a)	(b)
<b>Utah</b>	N/C	N/C	N/C	N/C	N/C	N/C	N/C	N/C	N/C	N/C	N/C	N/C	(a) N/C	(b) N/C



STATE	QUESTIONS													
	<b>Q1:</b> Does State impose rules/restrictions in addition to federal requirements on what qualifies as “like kind” replacement property in order to qualify for a tax deferral?	<b>Q2:</b> If taxpayer consummates tax deferred exchange of personal property when some of like-kind property is located outside of or is moved outside State does State impose tax treatment different from federal tax deferral treatment?	<b>Q3:</b> Does State require special reporting of an exchange on State tax form?	<b>Q4:</b> If taxpayer consummates partially tax deferred exchange in which non-like property is received, is gain reportable in your State computed with reference to depreciation/cost recovery rates allowed in State or is federal cost recovery/depreciation rates used to compute gain in exchange?	<b>Q5:</b> Does your jurisdiction impose a withholding tax, special estimated tax or similar tax on taxable portion of any exchange proceeds?	<b>Q6:</b> Are tax deferral laws applicable in your State for like-kind exchanges different for resident and non-resident taxpayers in any way?	<b>Q7:</b> Is single owner LLC that is disregarded for federal income tax purposes also disregarded for State income tax purposes?	<b>Q8:</b> Is single-owner LLC that is disregarded for federal income tax purposes also disregarded for purposes of State’s sales taxes?	<b>Q9:</b> If State imposes real estate transfer tax, does State impose real estate transfer tax when qualified intermediary or taxpayer involved in exchange transfers ownership of limited liability company that holds record title to exchange property or is the real estate transfer tax only applied when record title to the exchange property is conveyed?	<b>Q10:</b> If State imposes sales or similar tax does State collect sales tax when qualified intermediary or taxpayer involved in exchange transfers ownership of membership interest in LLC that holds title to exchange property or is sales tax only applied when title to exchange property is transferred?	<b>Q11:</b> Does State impose special licensing, bonding or registration requirements on qualified intermediaries or exchange accommodation titleholders that provide exchange services in State?	<b>Q12:</b> Does State recognize special federal income tax treatment?	<b>Q13:</b> (a) Does your State recognize the federal income tax treatment of safe harbor parking arrangements? (b) Are there any unusual features?	
<b>Vermont</b>													(a)	(b)
<b>Virginia</b>	No	No	No	<sup>24</sup>	<sup>25</sup>	No	Yes	No <sup>26</sup>	Applied only on change of record or registered title	<sup>27</sup>	Yes <sup>28</sup>	Yes	(a) Yes	(b) N/A

<sup>24</sup> Under Va. Code § 58.1-301, Virginia does not allow the special depreciation allowance for certain property provided for under § 168(k) of the Internal Revenue Code. Otherwise, federal rates apply.

<sup>25</sup> No, there is nothing specifically related to exchange proceeds. However, Article 16.1 of Chapter 3 of Title 58.1 (§ 58.1-486.1 et seq.) enacted by 2007 Senate Bill 1238 (Chapter 796) requires pass-through entities doing business in the Commonwealth and having taxable income derived from Virginia sources to pay a withholding tax equal to five percent of their nonresident owners’ shares of income from Virginia sources. (See P.D. 07-150).

<sup>26</sup> In Public Document (P.D.) 98-157, the Department determined that for retail sales and use tax purposes, a single member LLC is considered a separate legal entity subject to the applicable Virginia sales and use tax laws, regardless of which “check the box” elections the entity chooses for federal income tax purposes. Virginia sales and use tax law, unlike Virginia income tax law, is not tied to federal income tax law by the concept of conformity and has a specific definition of “dealer” for the purposes of the retail sales and use tax (See also P.D. 07-72).

<sup>27</sup> Virginia does not impose a sales tax on the sale of real property. A recordation tax is applied, however, In that case, the tax is only applied on change of record or registered title to exchange property.

<sup>28</sup> Upon the sale of Virginia real estate held by an out-of-state titleholder, the closing agent must obtain a registration form or certification that the transaction is not subject to Virginia income tax. See Va. Code § 58.1-317.

STATE	QUESTIONS												
	<b>Q1:</b> Does State impose rules/restrictions in addition to federal requirements on what qualifies as "like kind" replacement property in order to qualify for a tax deferral?	<b>Q2:</b> If taxpayer consummates tax deferred exchange of personal property when some of like-kind property is located outside of or is moved outside State does State impose tax treatment different from federal tax deferral treatment?	<b>Q3:</b> Does State require special reporting of an exchange on State tax form?	<b>Q4:</b> If taxpayer consummates partially tax deferred exchange in which non-like property is received, is gain reportable in your State computed with reference to depreciation/cost recovery rates allowed in State or is federal cost recovery/depreciation rates used to compute gain in exchange?	<b>Q5:</b> Does your jurisdiction impose a withholding tax, special estimated tax or similar tax on taxable portion of any exchange proceeds?	<b>Q6:</b> Are tax deferral laws applicable in your State for like-kind exchanges different for resident and non-resident taxpayers in any way?	<b>Q7:</b> Is single owner LLC that is disregarded for federal income tax purposes also disregarded for State income tax purposes?	<b>Q8:</b> Is single-owner LLC that is disregarded for federal income tax purposes also disregarded for purposes of State's sales taxes?	<b>Q9:</b> If State imposes real estate transfer tax, does State impose real estate transfer tax when qualified intermediary or taxpayer involved in exchange transfers ownership of limited liability company that holds record title to exchange property or is the real estate transfer tax only applied when record title to the exchange property is conveyed?	<b>Q10:</b> If State imposes sales or similar tax does State collect sales tax when qualified intermediary or taxpayer involved in exchange transfers ownership of membership interest in LLC that holds title to exchange property or is sales tax only applied when title to exchange property is transferred?	<b>Q11:</b> Does State impose special licensing, bonding or registration requirements on qualified intermediaries or exchange accommodation titleholders that provide exchange services in State?	<b>Q12:</b> Does State recognize special federal income tax treatment?	<b>Q13:</b> (a) Does your State recognize the federal income tax treatment of safe harbor parking arrangements? (b) Are there any unusual features?
<b>Washington</b>	N/C	N/C	N/C	N/C	N/C	N/C	N/C	N/C	29	30			(a) (b)
<b>West Virginia</b>	No	No	No	Federal	No	No	Yes	Yes	Applied only on change of record or registered title	Applied only on change of record or registered title	No	Yes	(a) Yes (b)
<b>Wisconsin</b>	N/C	N/C	N/C	N/C	N/C	N/C	N/C	N/C	N/C	N/C	N/C	N/C	(a) N/C (b) N/C

<sup>29</sup> A limited exemption is available only on the second leg of a 1031 exchange transfer.

<sup>30</sup> Sales tax does not apply to transfers of real property.

STATE OR OTHER	QUESTIONS												
	<b>Q1:</b> Does State impose rules/restrictions in addition to federal requirements on what qualifies as “like kind” replacement property in order to qualify for a tax deferral?	<b>Q2:</b> If taxpayer consummates tax deferred exchange of personal property when some of like-kind property is located outside of or is moved outside State does State impose tax treatment different from federal tax deferral treatment?	<b>Q3:</b> Does State require special reporting of an exchange on State tax form?	<b>Q4:</b> If taxpayer consummates partially tax deferred exchange in which non-like property is received, is gain reportable in your State computed with reference to depreciation/cost recovery rates allowed in State or is federal cost recovery/depreciation rates used to compute gain in exchange?	<b>Q5:</b> Does your jurisdiction impose a withholding tax, special estimated tax or similar tax on taxable portion of any exchange proceeds?	<b>Q6:</b> Are tax deferral laws applicable in your State for like-kind exchanges different for resident and non-resident taxpayers in any way?	<b>Q7:</b> Is single owner LLC that is disregarded for federal income tax purposes also disregarded for State income tax purposes?	<b>Q8:</b> Is single-owner LLC that is disregarded for federal income tax purposes also disregarded for purposes of State’s sales taxes?	<b>Q9:</b> If State imposes real estate transfer tax, does State impose real estate transfer tax when qualified intermediary or taxpayer involved in exchange transfers ownership of limited liability company that holds record title to exchange property or is the real estate transfer tax only applied when record title to the exchange property is conveyed?	<b>Q10:</b> If State imposes sales or similar tax does State collect sales tax when qualified intermediary or taxpayer involved in exchange transfers ownership of membership interest in LLC that holds title to exchange property or is sales tax only applied when title to exchange property is transferred?	<b>Q11:</b> Does State impose special licensing, bonding or registration requirements on qualified intermediaries or exchange accommodation titleholders that provide exchange services in State?	<b>Q12:</b> Does State recognize special federal income tax treatment?	<b>Q13:</b> (a) Does your State recognize the federal income tax treatment of safe harbor parking arrangements? (b) Are there any unusual features?
<b>Wyoming</b>	N/A-no state income tax	See Q1	See Q1	Federal see Q1	See Q1	See Q1	See Q1	No <sup>31</sup>	N/A <sup>32</sup>	Applied only on change of record or registered title	<sup>33</sup>	N/A <sup>34</sup>	(a) See Q12 (b) None
<b>Guam</b>	N/C	N/C	N/C	N/C	N/C	N/C	N/C	N/C	N/C	N/C	N/C	N/C	(a) N/C (b) N/C
<b>American Samoa</b>													(a) (b)
<b>Northern Marianas</b>													(a) (b)

<sup>31</sup> Corporate structure is not a determinant for disregarding an entity from a sales tax liability in Wyoming.

<sup>32</sup> Wyoming does not have a real estate transfer tax.

<sup>33</sup> There is nothing in our state tax laws that address this question. Refer to Wyoming Secretary of State at 777-7378 or [secofstate@state.wy.us](mailto:secofstate@state.wy.us)

<sup>34</sup> N/A – Wyoming has no personal or corporate income tax.

STATE OR OTHER	QUESTIONS													
	<b>Q1:</b> Does State impose rules/restrictions in addition to federal requirements on what qualifies as "like kind" replacement property in order to qualify for a tax deferral?	<b>Q2:</b> If taxpayer consummates tax deferred exchange of personal property when some of like-kind property is located outside of or is moved outside State does State impose tax treatment different from federal tax deferral treatment?	<b>Q3:</b> Does State require special reporting of an exchange on State tax form?	<b>Q4:</b> If taxpayer consummates partially tax deferred exchange in which non-like property is received, is gain reportable in your State computed with reference to depreciation/cost recovery rates allowed in State or is federal cost recovery/depreciation rates used to compute gain in exchange?	<b>Q5:</b> Does your jurisdiction impose a withholding tax, special estimated tax or similar tax on taxable portion of any exchange proceeds?	<b>Q6:</b> Are tax deferral laws applicable in your State for like-kind exchanges different for resident and non-resident taxpayers in any way?	<b>Q7:</b> Is single owner LLC that is disregarded for federal income tax purposes also disregarded for State income tax purposes?	<b>Q8:</b> Is single-owner LLC that is disregarded for federal income tax purposes also disregarded for purposes of State's sales taxes?	<b>Q9:</b> If State imposes real estate transfer tax, does State impose real estate transfer tax when qualified intermediary or taxpayer involved in exchange transfers ownership of limited liability company that holds record title to exchange property or is the real estate transfer tax only applied when record title to the exchange property is conveyed?	<b>Q10:</b> If State imposes sales or similar tax does State collect sales tax when qualified intermediary or taxpayer involved in exchange transfers ownership of membership interest in LLC that holds title to exchange property or is sales tax only applied when title to exchange property is transferred?	<b>Q11:</b> Does State impose special licensing, bonding or registration requirements on qualified intermediaries or exchange accommodation titleholders that provide exchange services in State?	<b>Q12:</b> Does State recognize special federal income tax treatment?	<b>Q13:</b> (a) Does your State recognize the federal income tax treatment of safe harbor parking arrangements? (b) Are there any unusual features?	
Puerto Rico													(a)	(b)
U.S. Virgin Islands													(a)	(b)

**AMERICAN BAR ASSOCIATION TAX SECTION – 2008 ADDENDUM TO SECTION 1031 STATE SURVEY Q & A****(Final Document)**

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Puerto Rico		
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South Dakota		
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U.S. Virgin Islands		
Utah	Kim Ferrell/Frank Hales	801-297-4634
Vermont		
Virginia	Mark C. Haskins	804-371-2296
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