

FEBRUARY 22, 2010

CALIFORNIA ASSEMBLY BILL 2640: PROPOSED REPEAL OF SECTION 1031 AND OF OTHER NONRECOGNITION PROVISIONS OF THE INTERNAL REVENUE CODE EFFECTIVE JANUARY 1, 2010

California taxpayers who engage in tax-deferred transactions under Section 1031 and other provisions of the Internal Revenue Code should take note of Assembly Bill 2640 (“**AB 2640**”), introduced last Friday, February 19, 2010. If enacted, AB 2640 would repeal many nonrecognition provisions of the Internal Revenue Code, including Section 1031, for California income tax purposes. The repeal would be effective for taxable years beginning on or after January 1, 2010. Besides Section 1031, AB 2640 would apply to and would repeal nonrecognition treatment for, among others, involuntary conversions, for certain seller reacquisitions of real property and for transfers of property between spouses.

If enacted, AB 2640 could significantly increase the California income tax of taxpayers who engage in previously tax-deferred transactions. Also, because AB 2640 creates a divergence between the Federal and the California income tax laws that apply to those taxpayers, enactment would probably increase the complexity and cost of preparing their Federal and California income tax returns.

Taxpayers should be aware that AB 2640 proposes repeal effective for taxable years beginning on or after January 1, 2010. The proposed statute raises significant questions for California taxpayers who have already engaged in exchanges of the sort covered by the proposed legislation, and for those who plan to do so before the ultimate legislative fate of AB 2640 is known.

As AB 2640 was introduced only three day ago, it’s still much too early in the legislative process to predict what, if any, traction it will have in the Assembly and whether or in what form it will ultimately become law. For more information on AB 2640, both as it relates to nonrecognition transactions described above and as it may otherwise affect the current application of Federal income tax law, please contact:

*Alfred F. DeLeo at 310-284-2285 or adeleo@coxcastle.com
Erik C. Loomis at 310-284-2181 or eloomis@coxcastle.com
Gabriel R. Duarte at 310-284-2263 or gduarte@coxcastle.com*

© 2010 Cox, Castle & Nicholson LLP is a full service law firm offering comprehensive legal services to the business community and specialized services for the real estate industry. Reproduction is prohibited without written permission of the publisher. The publisher is not engaged in rendering legal, investment or insurance advice through this publication. No statement is to be construed as legal, business or insurance advice.

Los Angeles
2049 Century Park East, 28th Floor
Los Angeles, CA 90067
P (310) 277-4222
F (310) 277-7889

Orange County
1980 MacArthur Blvd., Suite 500
Irvine, CA 92612
P (949) 476-2111
F (949) 476-0256

San Francisco
555 California Street, 10th Floor
San Francisco, CA 94104
P (415) 392-4200
F (415) 392-4250