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California Assembly Bill 2640: Proposed Repeal Of Section 1031 And Of Other Nonrecognition Provisions Of The Internal Revenue Code Effective January 1, 2010

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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.

Related Professionals

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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.

To view the full client alert, please [click here](#).