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Hot Like-Kind Exchange Issues

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Agenda

Significant Current Developments

Exchanges Involving Partnerships

Bifurcating or Fragmenting an Exchange

Hot Like-Kind Exchange Issues

Significant Current Developments
**Legislative Developments**

To date, we have not seen the introduction of Federal legislation that would directly affect like-kind exchanges.

Corporate and individual tax reform could be problematic for like-kind exchanges if rate reductions are offset with the elimination of tax preferences and deductions.

Bonus depreciation has an effect on personal property exchanges by reducing the net present value of the deferral benefit.


50% bonus expires 12/31/2012 (2013 for LPPP)

Senate bill introduced to extend 100% bonus

- Not clear whether it will pass—may get picked up in lame duck session

**Regulatory Developments**

**Proposed Regulations under § 337(d)**

Prop. Reg. § 1.337(d)-7

The IRS on April 13, 2012 issued proposed regulations under Section 337(d) providing guidance concerning certain transfers of property from a C corporation to a regulated investment company (RIC) or a real estate investment trust (REIT).

Current regulations generally provide that if property of a C corporation becomes the property of a RIC or REIT in a conversion transaction, then (absent a deemed sale election) the RIC or REIT will be subject to tax on the net built-in gain in the converted property under the rules of Section 1374 and the underlying regulations as if the RIC or REIT were an S corporation.

Practitioners have expressed concern that the general rule may inappropriately expose property transferred in like-kind exchanges and involuntary conversions to this treatment.