



Tax Reform Act of 2014
Discussion Draft
Section-by-Section Summary

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Provision: Under the provision, gain from timber cut by an owner and used in its trade or business, and from the disposal of timber or coal or domestic iron ore held for more than one year before the disposal, would no longer be treated as capital gain. Thus, all gain in these circumstances would be treated as ordinary income. This provision generally would be effective for tax years beginning after 2014.

JCT estimate: The revenue effect of the provision over 2014-2023 is included in the JCT estimate provided for sections 1001-1003 of the discussion draft.

Sec. 3133. Repeal of like-kind exchanges.

Current law: Under current law, an exchange of property, like a sale, generally is a taxable transaction. A special rule provides that no gain or loss is recognized to the extent that property held for productive use in the taxpayer's trade or business, or property held for investment purposes, is exchanged for property of a like-kind that also is held for productive use in a trade or business or for investment. The taxpayer receives a basis in the new property equal to the taxpayer's adjusted basis in the exchanged property. The like-kind exchange rule applies to a wide range of property from real estate to tangible personal property. It does not apply, however, to exchanges of stock in trade or other property held primarily for sale, stocks, bonds, partnership interests, certificates of trust or beneficial interest, other securities or evidences of indebtedness or interest, or to certain exchanges involving livestock or involving foreign property. A like-kind exchange does not require that the properties be exchanged simultaneously – as long as the property to be received in the exchange is identified within 45 days and ultimately received within 180 days of the sale of the originally property, gain is deferred.

Provision: Under the provision, the special rule allowing deferral of gain on like-kind exchanges would be repealed. The provision would be effective for transfers after 2014. However, a like-kind exchange would be permitted if a written binding contract is entered into on or before December 31, 2014, and the exchange under the contract is completed before January 1, 2017.

Considerations:

- The like-kind exchange rules currently allow taxpayers to defer tax on the built-in gains in property by exchanging it for similar property. With multiple exchanges, gains essentially may be deferred for decades, and ultimately escape taxation entirely if the property's basis is stepped up to its fair market value upon the death of the owner.
- The current rules have no precise definition of "like-kind," which often leads to controversy with the IRS and provides significant opportunities for abuse.

JCT estimate: According to JCT, the provision would increase revenues by \$40.9 billion over 2014-2023.