

2021

Survey on Protecting 1031 Exchanges and the Impact of Capital Gains Tax Proposals

National Association of REALTORS®



Introduction

Recent tax increase proposals seek to limit or eliminate current law Section 1031 tax deferral on like-kind real property exchanges. The most recent proposal calls for limiting the tax deferral to capital gains of no more than \$500,000.

There is also a proposal to impose a capital gains tax upon death on the estates of individuals who die owning assets with more than \$1 million of unrealized gain (not counting equity in a principal residence of up to \$250,000). For this purpose, an unrealized gain simply means the amount of gain that would be taxed IF the property were sold at its current value.

There is also another proposal to double the capital gains tax rate for individuals with income of over \$1 million.

The National Association of Realtors®, in collaboration with the NAR commercial Affiliates (CCIM, IREM, SIOR, RLI, CRE) conducted a survey of its commercial and residential members to compile cases and stories of the benefits of 1031 transactions and the impact of a higher capital gains tax on real estate investments.

The information and stories will be used to educate Members of Congress as to why the 1031 like-kind exchange should be retained and about the economic harm of a much higher capital gains tax rate and of taxing unrealized gains at death, particularly among NAR members.

Methodology



Objective

This survey gathers information on Section 1031 transactions of NAR members and the potential impact of a higher capital gains tax on tax and individuals with incomes of over \$1 million on the real estate industry and REALTORS®.



Case Studies Methodology

The survey asked respondents to provide information on like-kind exchange transactions during 2016—2021. Among respondents who had a like-kind exchange transaction, the survey asked information on two transactions about the fair market value of the relinquished property, gain on sale of the relinquished property, number of years property was held, additional investment on the replacement property, and jobs associated with the replacement property. Commercial survey respondents had information on 693 transactions and residential survey respondents on 479 transactions. Respondents did not provide information on all the information asked. The summary results are based on the information available for each question.



Respondents

The survey was sent to approximately 80,000 members of the National Association of REALTORS® whose primary field of specialization is commercial (“commercial members”) and to 50,000 randomly selected members whose primary field of specialization is residential (“residential members”). The commercial survey had 1,000 respondents and the residential survey had 943 respondents.



Survey Dates

Information was collected using an online survey platform from July 8 through July 22, 2021.

10 Key Findings

10% of transactions of commercial members involved a like-kind exchange transaction and 2% of those of residential members involved a like-kind exchange transaction

88% of relinquished properties in like-kind exchange transactions of commercial members were owned by individuals or through pass-through entities such as limited liability companies, S corporations, or partnerships

47% of relinquished properties reported by commercial members were valued at over \$1 million.

64% of relinquished properties reported by commercial members had a gain on sale of over \$500,000

53% of like-kind transactions reported by commercial members involved residential rental property

20% of the fair market value of the replacement property was additionally invested in the replacement property among transactions reported by commercial members.

5 jobs were typically created in association with the replacement property among transactions reported by commercial members

10 years is the median length of time the relinquished properties were held before being exchanged for a like-kind property.

14% of NAR members could be impacted by capital gains tax at death or a higher capital gains tax among those with incomes of over \$1 million.

48% of commercial members had clients who own property with unrealized gains of over \$1 million.

A low-angle, upward-looking photograph of several modern skyscrapers with glass facades. The buildings are arranged in a way that they appear to converge towards the top of the frame, creating a strong sense of height and scale. The sky is a pale, bright blue, providing a clean background for the dark lines of the buildings. The overall composition is dynamic and emphasizes the verticality of the architecture.

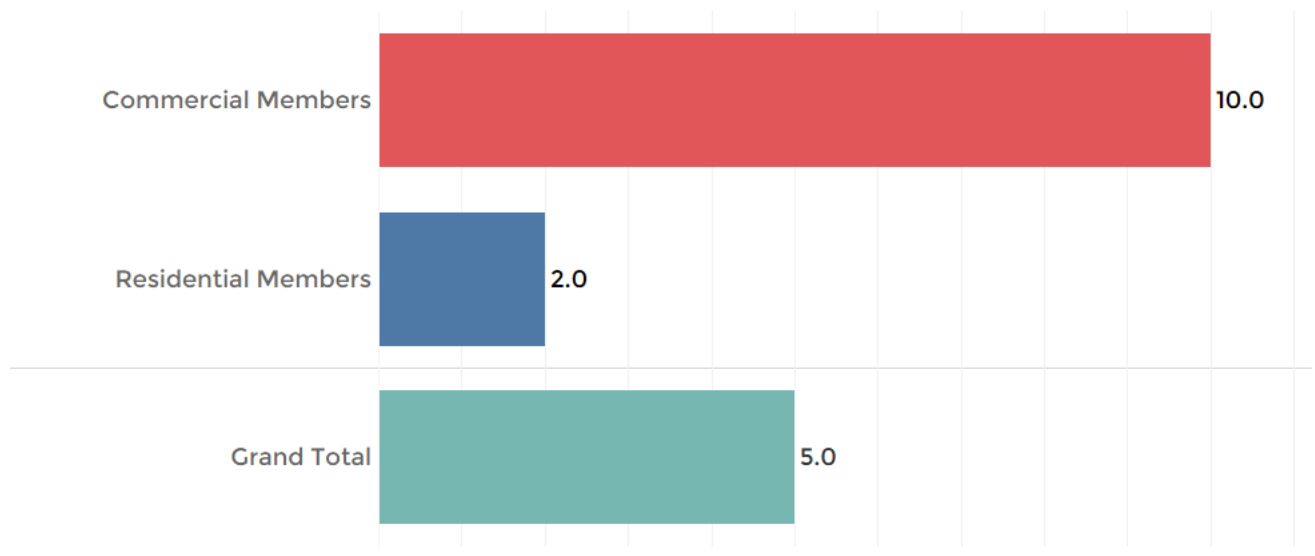
1031 Exchange Transactions

Like-kind Exchange Transactions

On average, 10% of the transactions of commercial members involved a like-kind exchange, while only 2% of the transactions of residential members involved a like-kind exchange.

Section 1031 exchange transactions are transactions that involve (1) a seller beginning a like-kind exchange or (2) a buyer completing a like-kind exchange. They are five times more prevalent among transactions of commercial members.

Average Percent of Transactions During 2016-2021 That Were Part of a Section 1031 Like-kind Exchange Among Respondents

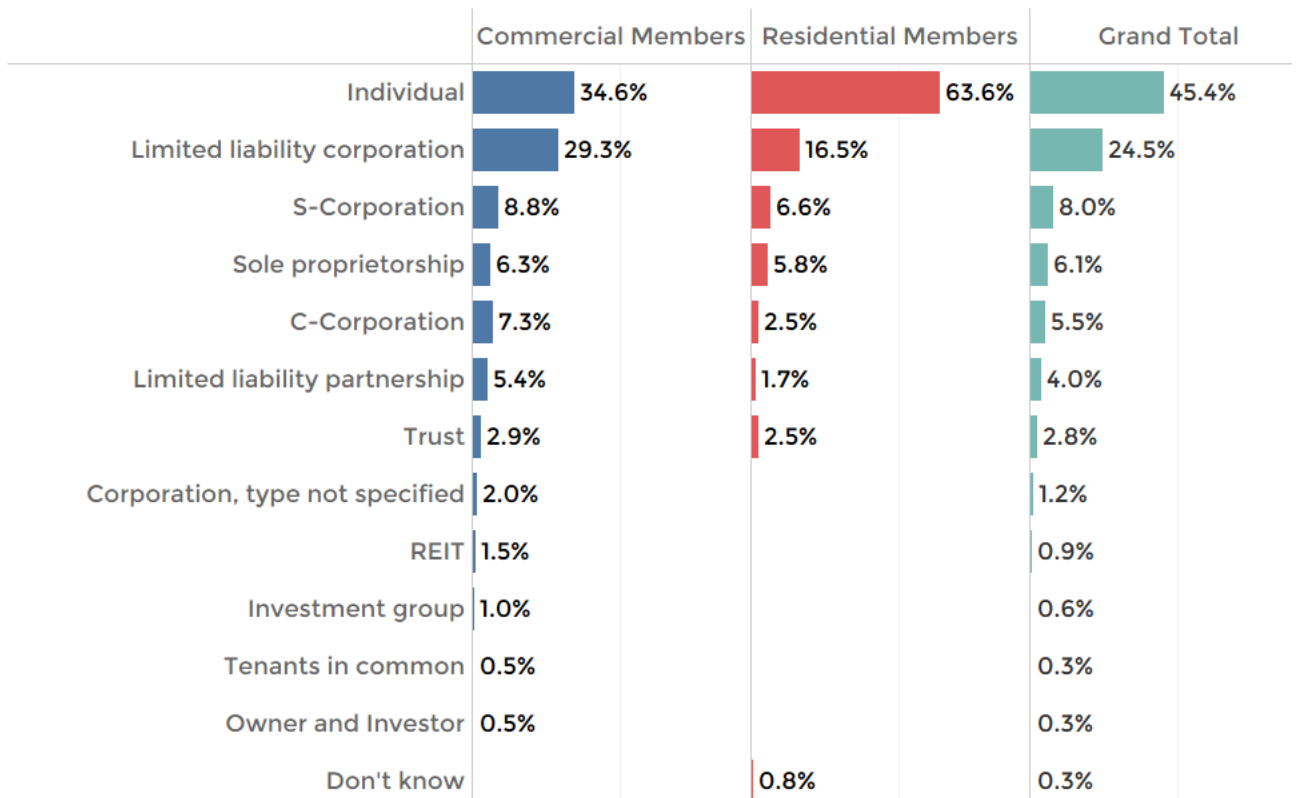


If the number of respondents were deemed as a random sample, the margin of error at the 95% level of confidence based on 844 commercial member respondents is +/- 3% and +/- 4% based on 704 residential member respondents.

Entities that Use 1031 Exchanges

The great majority (88%) of properties relinquished in 1031 exchange transactions were owned either by individuals outright or through pass-through entities such as limited liability companies (LLCs), S corporations, or partnerships.

Type of business entity that held the SOLD property (e.g., individual/sole proprietor, S-Corp, C-Corp, REIT, etc.):

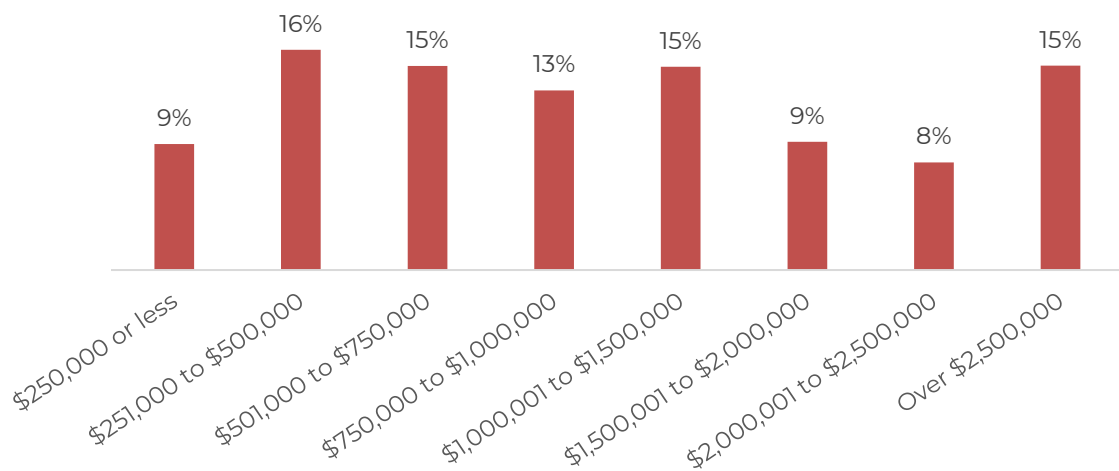


Sales Price of Relinquished Property

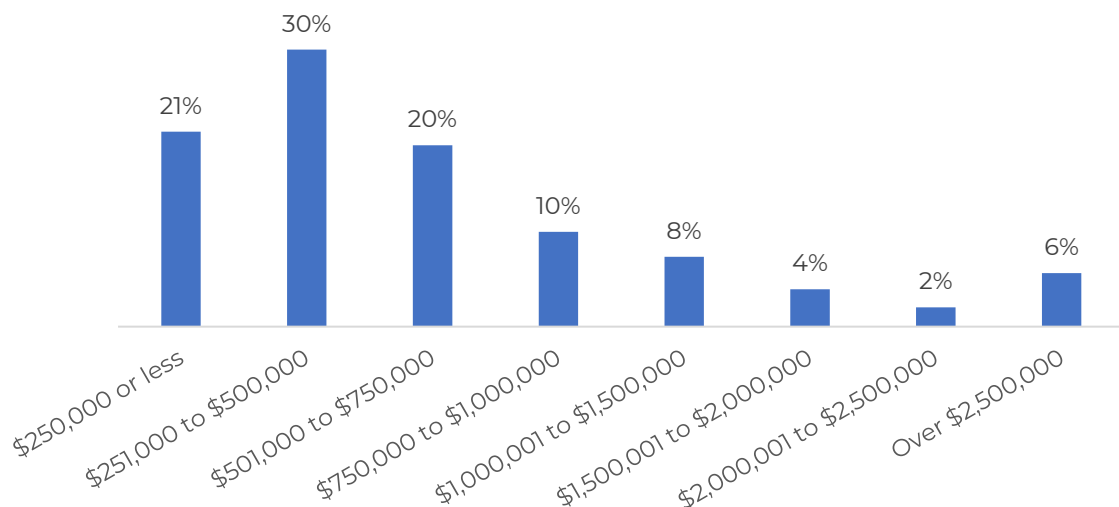
Of the properties that were relinquished as part of a Section 1031 exchange during 2016 through July 2021 that were reported by commercial members (4,839 properties), 47% were valued at over \$1 million.

Twenty percent of the relinquished properties reported by residential members (2,114 properties) were valued at over \$1 million.

Distribution of Sales Price of Relinquished Property In 1031 Exchange Transactions During January 2016-July 2021 Reported by NAR Commercial Members



Distribution of Sales Price of Relinquished Property In 1031 Exchange Transactions During January 2016-July 2021 Reported by NAR Residential Members

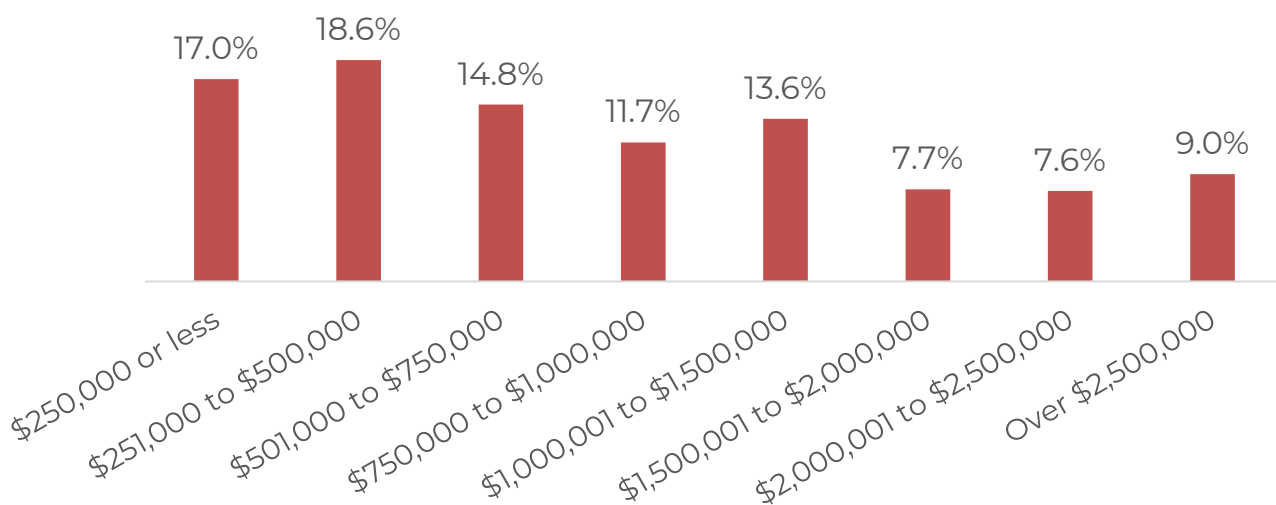


Gain on Sale of Relinquished Property

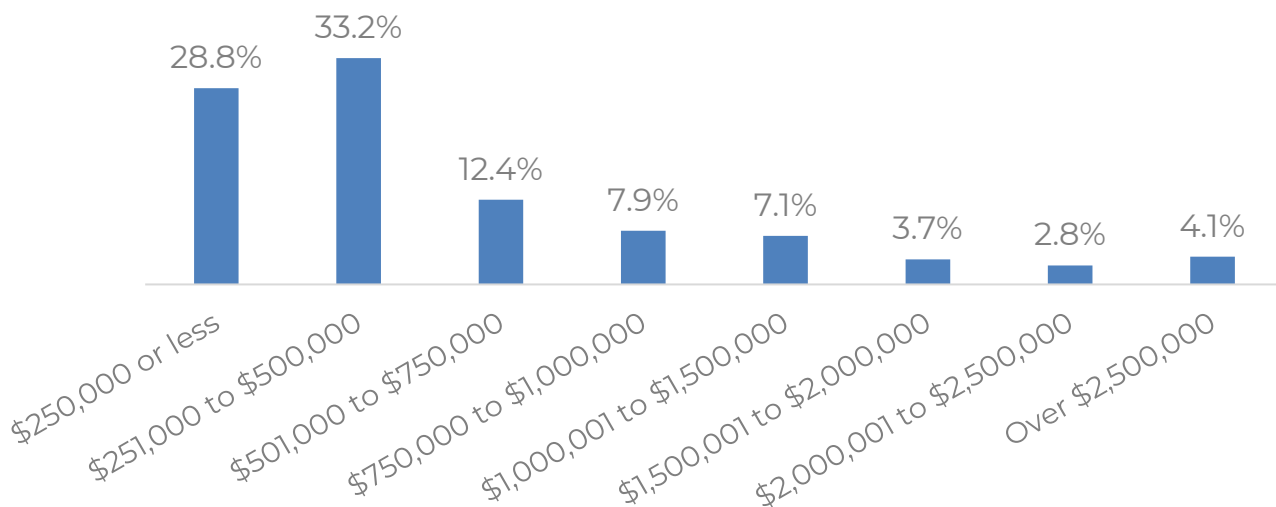
Of the properties that were relinquished as part of a Section 1031 exchange during 2016 through July 2021 that were reported by commercial members, 64% of the properties had a gain on sale of over \$500,000.

Thirty-eight percent of the relinquished properties reported by residential members had a gain on sales of over \$500,000.

Distribution of Gains on Sale of Relinquished Properties in Section 1031 Exchange Transactions During 2016-2021 Reported by NAR Commercial Members



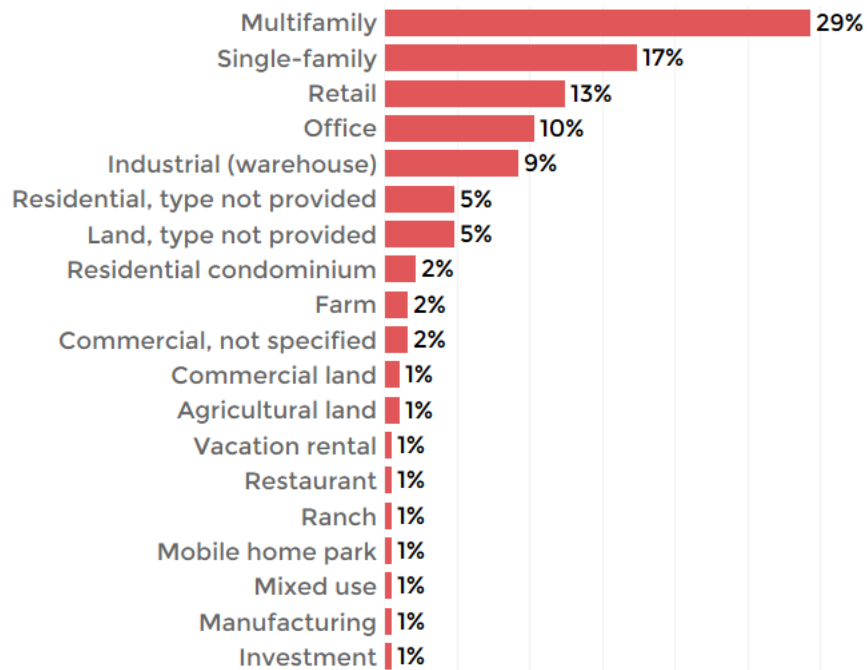
Distribution of Gains on Sale of Relinquished Properties In Section 1031 Exchange Transactions During 2016-2021 Reported by NAR Residential Members



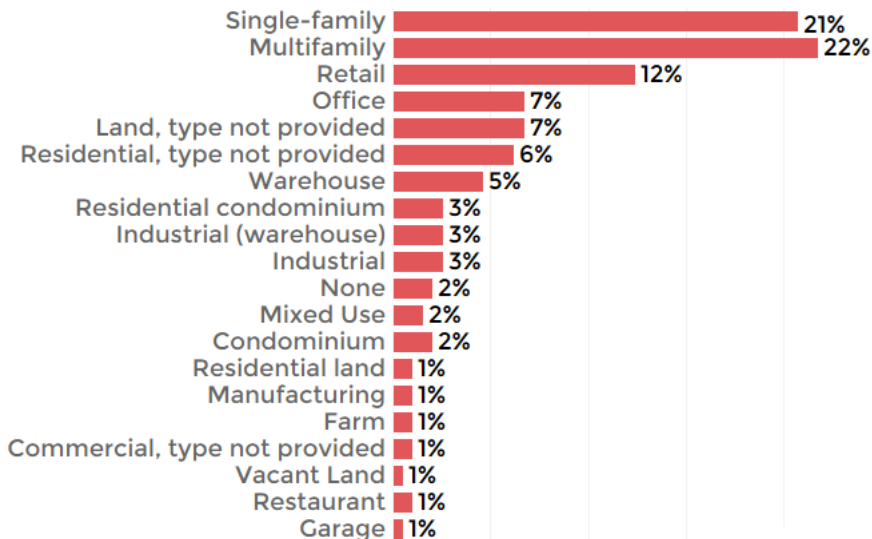
1031 Transactions During 2016-2021

Residential rental properties account for over half of 1031 exchange transactions of NAR commercial members. Among the properties reported by commercial members that were relinquished properties, 53% were multifamily and single-family rentals. Among the replacement properties, 54% were single-family, multifamily, or other types of residential rental properties.

Distribution of Relinquished Properties in a 1031 Exchange During 2016-2020 Reported by NAR Commercial Members



Distribution of Replacement Properties in a 1031 Exchange During 2016-2020 Reported by NAR Commercial Members



Sales Price by Property Type

The highest sales price and gains on sale reported by commercial members were transactions that involved the sale of industrial warehouses, agricultural properties (farms or land) and retail properties.

Median Fair Market Value of Relinquished Properties During 2016-2021 Reported by NAR Commercial Members

	Fair Market Value of Relinquished Property	(Number of transactions)
Industrial (warehouse)	\$2,500,000	15
Retail	\$2,350,000	24
Farm	\$2,100,000	3
Agricultural land	\$1,714,500	2
Multifamily	\$1,150,000	51
Commercial, not specified	\$990,000	3
Office	\$975,000	20
Land, type not provided	\$750,000	9
Commercial land	\$557,500	2
Residential condominium	\$525,000	4
Single-family	\$423,250	31
Residential, type not provided	\$350,000	9
Grand Total	\$950,000	173

Gains on Sale by Property Type

The highest sales price and gains on sale reported by commercial members were on transactions that involved the sale of industrial warehouses, agricultural properties (farms or land) retail, and multifamily properties. The gains on sale for these properties were well over \$500,000.

These are the properties that will likely be most adversely impacted if the tax deferral gain is limited. This could impact the conversion of vacant/unused retail properties into more productive uses such as for multifamily housing. The industrial property market has been a strong segment of the commercial real estate market due to booming e-commerce sales and limiting the deferral gains could also affect transactions in this market segment. Investments in farming could also be impacted if deferral gains are capped.

Median Gains on Sale of Relinquished Properties During 2016-2021 Reported by NAR Commercial Members

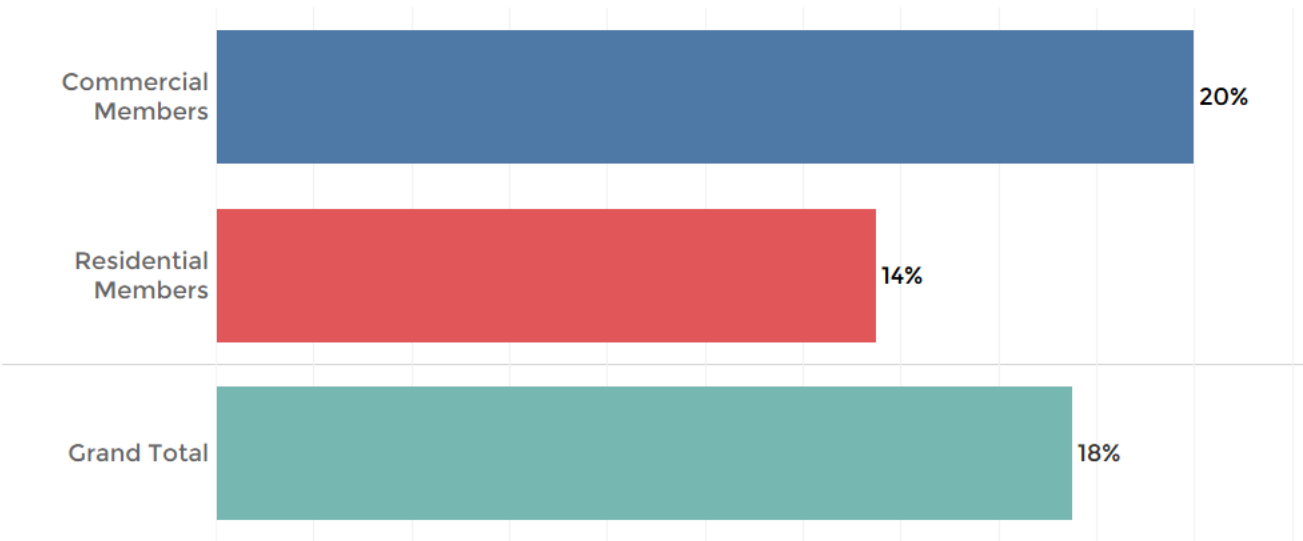
	Median Gains on Sale	(Number of transactions, gains on sale data)
Industrial (warehouse)	\$1,100,000	14
Agricultural land	\$1,050,000	2
Retail	\$1,000,000	21
Commercial, not specified	\$690,000	3
Residential condominium	\$550,000	3
Multifamily	\$550,000	51
Land, type not provided	\$510,000	9
Office	\$400,000	19
Commercial land	\$282,500	2
Residential, type not provided	\$250,000	9
Single-family	\$155,000	29
Grand Total	\$505,000	162

Investment and Job Creation

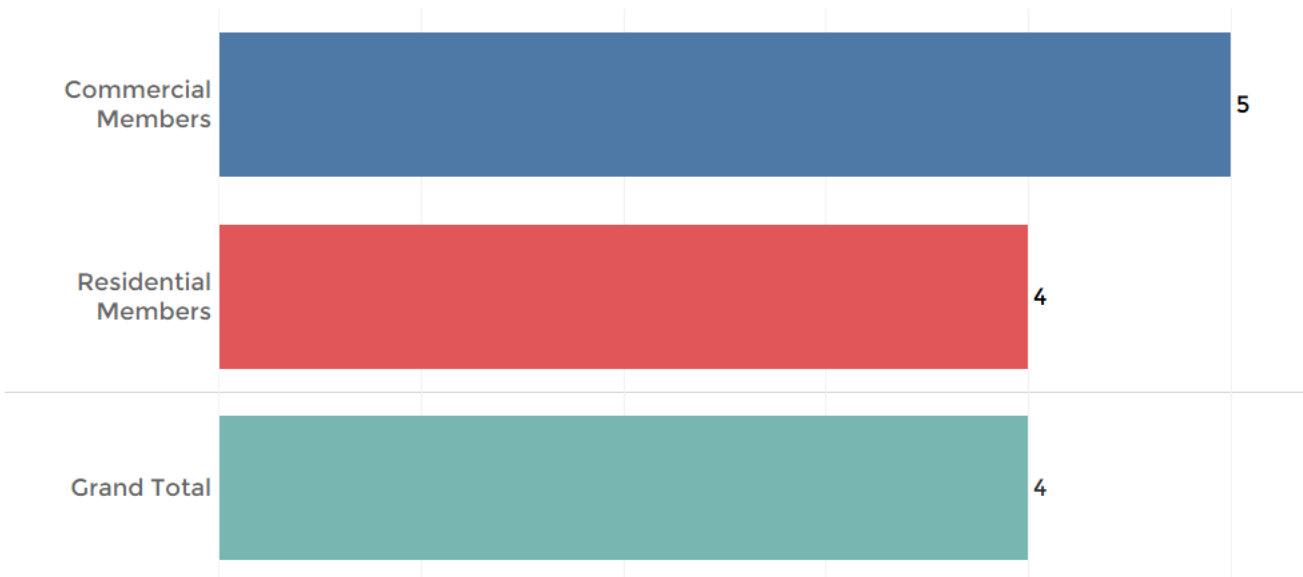
On average, commercial members that reported a like-kind exchange transaction (132 transactions) reported that an additional investment of 20% of the fair market value (FMV) of the replacement property was made by the investor of the replacement property. This is higher than the average additional investment of 14% reported by residential members (72 transactions).

On average, commercial members who reported case studies (151 transactions) reported that the replacement property is associated with 5 jobs (created or ongoing).

Average Additional Investment in the Replacement Property as a Percent of the Fair Market Value of the Replacement Property



Median Number of Jobs Associated with the Replacement Property



Investment and Job Creation by Property Type

Commercial properties are associated with higher additional investment in the replacement property and jobs associated with the replacement property compared to residential rentals (multifamily and single-family rentals). Because the gains on sale of commercial properties are typically over \$500,000, limiting the tax deferral to capital gains of no more than \$500,000 means that owners of the relinquished property will have less resources for investing in the replacement property. The trend towards working from home is likely to lead to greater migration of people and the office commercial real estate will not be as nimble in adjusting to these migration changes with less investment capital.

Median Additional Investment as a Percent of the Fair Market Value of the Replacement Property Among Section 1031 Exchange Transactions During 2016-2021 Reported by NAR Commercial Members

	Median Investment on Replacement Property, as a Percent of FMV	(Number of transactions, investment data)
Commercial, not specified	75%	3.0
Multifamily	20%	38.0
Land, type not provided	20%	7.0
Single-family	20%	23.0
Commercial land	19%	2.0
Office	18%	14.0
Retail	15%	17.0
Industrial (warehouse)	14%	12.0
Farm	10%	2.0
Residential, type not provided	20%	7.0
Grand Total	20%	125.0

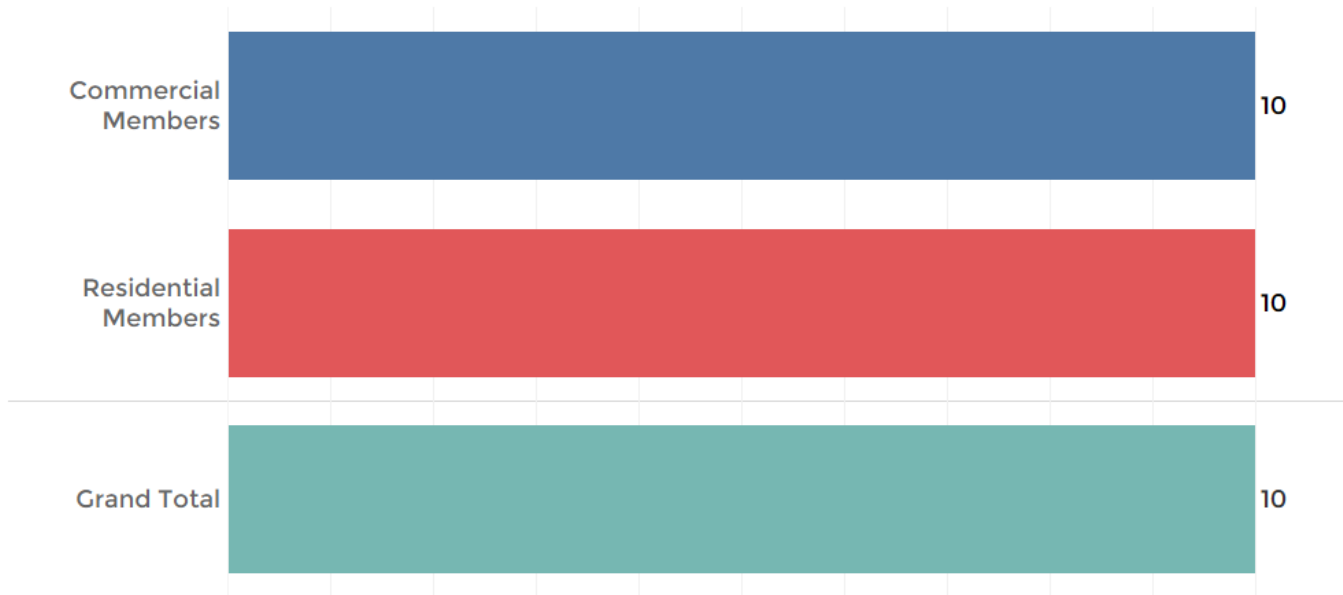
Number of Jobs Typically Created in Association with the Replacement Property Among Section 1031 Exchange Transactions During 2016-2021 Reported by NAR Commercial Members

	Median Number of Jobs Created Associated with the Replacement Property	(Number of transactions, jobs created data)
Office	6.0	18.0
Commercial, not specified	6.0	3.0
Retail	5.0	19.0
Industrial (warehouse)	5.0	15.0
Residential, type not provided	4.5	6.0
Multifamily	4.0	47.0
Single-family	3.0	22.0
Land, type not provided	3.0	7.0
Farm	3.0	2.0
Agricultural land	3.0	2.0
Residential condominium	0.0	3.0
Grand Total	4.5	144.0

Years Property Was Held

Commercial and residential members reported that properties were typically held for 10 years before being relinquished in a 1031 exchange transaction. Farms and agricultural lands tend to be held the longest period before the property is relinquished, which explains the high gains on sale of farm/agricultural land.

Median Number of Years Relinquished Property Was Held



Median Years Relinquished Property was Held among Section 1031 Exchange Transactions During 2016-2021 Reported by NAR Commercial Members

	Median Years Property Was Held	(Number of transactions, years relinquished property was held)
Farm	35	2.0
Agricultural land	16	2.0
Single-family	13	31.0
Multifamily	11	53.0
Commercial, not specified	10	3.0
Industrial (warehouse)	10	17.0
Land, type not provided	10	9.0
Office	10	21.0
Residential, property type not provided	10	9.0
Retail	8	23.0
Grand Total	10	170.0

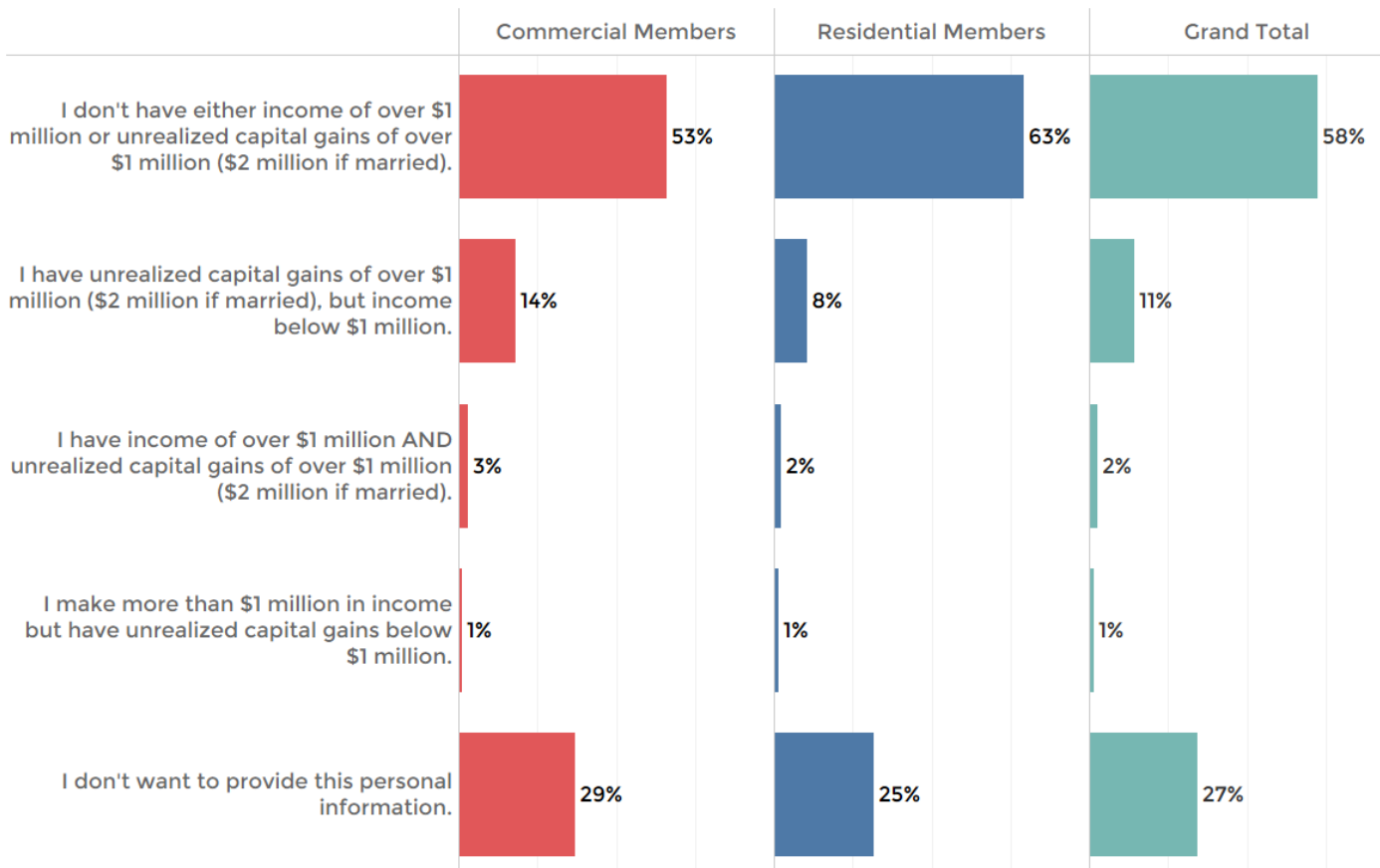
Impact of Capital Gains Tax on Clients and NAR Members



Impact on Realtors®

Among both commercial and residential members, 14% of Realtors® could be impacted by the proposal to tax unrealized capital gains at death or to double the capital gains tax for individuals earning more than \$1 million in income.

How would you be personally impacted by the capital gains tax proposals?

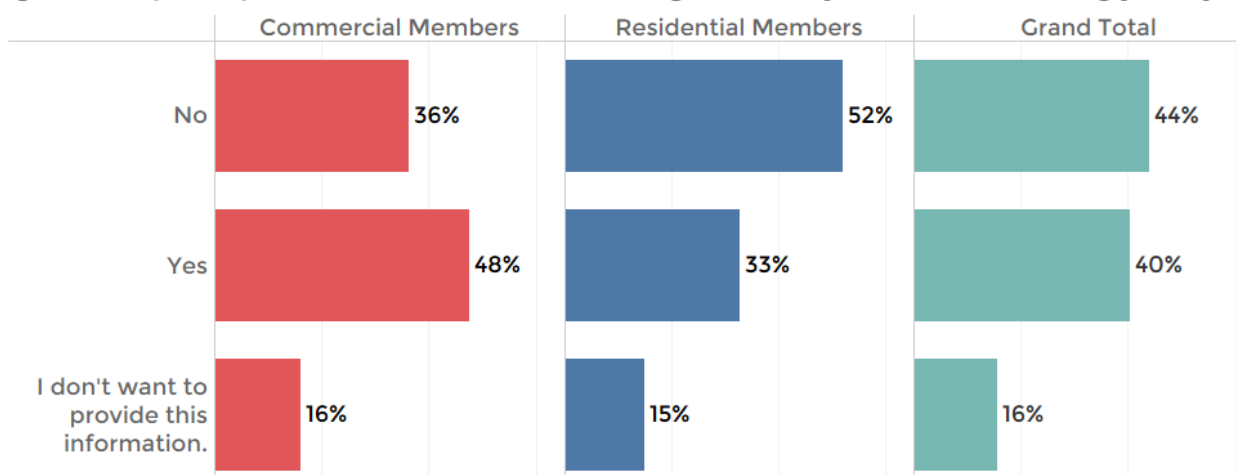


Tax on Unrealized Capital Gains at Death or Capital Gains for \$1M Earners

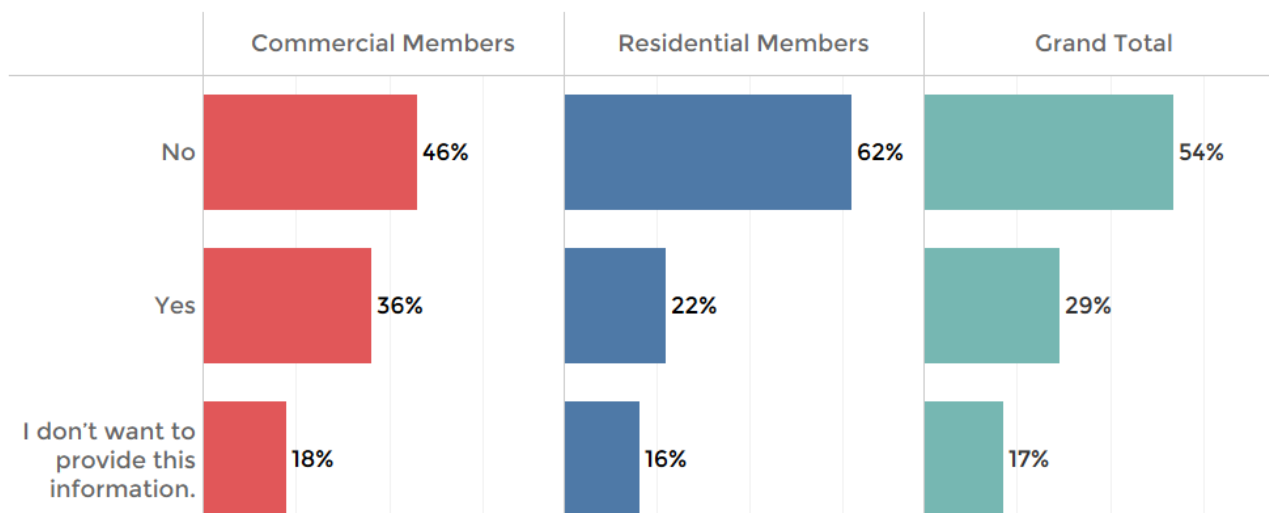
Among both commercial and residential members, 40% reported they are aware of clients who own property with unrealized capital gains of over \$1 million (\$2 million if married), not including the \$250,000 gain on a principal residence (\$500,000 if married filing jointly).

However, only 29% of commercial and residential members reported they have clients with realized capital gains and income of over \$1 million. This indicates that the proposal to tax capital gains upon death of will cut across more individuals than will a capital gains tax rate increase on individuals with realized capital gains who earn over \$1 million.

Are you aware of clients who own property with unrealized capital gains totaling over \$1million (\$2 million if married) -- not including up to \$250,000 of gain in a principal residence (\$500,000 of gain if they are married filing jointly)?



Are you aware of clients who (each year or often) have realized capital gains AND total income of over \$1 million?



A woman with dark hair, wearing large, round, dark-rimmed glasses and a dark blue button-down shirt, is smiling and talking on a black smartphone. She is sitting at a wooden desk with a silver laptop open in front of her. She has several white beaded bracelets on her left wrist. The background is a bright, out-of-focus indoor setting with a white wall and a window. The text "Testimonies of NAR Members on the Impact of Like-kind Exchanges" is overlaid on the left side of the image in a bold, black, sans-serif font.

**Testimonies of NAR
Members on the
Impact of Like-kind
Exchanges**

REALTOR® Testimonies

Economic Impact of Section 1031 Like-kind Exchanges

1031 Exchanges are vital to keep investors reinvesting their funds into the economy and our community.

As a real estate broker 1031 funds motivate owners to keep their money in real estate instead of investing elsewhere. It is extremely important that we don't take this away from our industry.

Most new developments involve 1031 exchanges so building new housing would be hugely impacted.

1031 exchanges are a great opportunities for American taxpayers to continue to invest in real estate assets in America. We need to continue to provide opportunity for relatively small investors to continue investing in their own communities not matter how small that community may be. If we take away the incentive to reinvest, then we will be relegated to the large institutional investor (whether foreign owned or not) to reinvest in our communities and those communities that are out of favor will be starved of investment dollars and capital.

Most of my clients with 1031 exchange needs have accumulated property in lieu of retirement funds. Selling the properties is their retirement plan. Changing the capitol gains structure creates a great likelihood that a large % of their retirement plan will be wiped out.

1031 Exchanges are an excellent vehicle to build generational wealth and help families and economies at the same time. At some point, those taxes are paid.

A large part of our business is building sales of small privately owned business owners. Many of them are baby boomers that have worked hard their whole lives and were looking for the equity in their properties to repurchase an income producing property support their retirement. Any negative change in the 1031 exchange treatment would devastate this market and individual wealth.

Smaller Mom and Pop real estate investors will not be able to build their wealth without tax-deferred exchanges. It will decrease the pool of investors who can or want to buy smaller investment properties.

REALTOR® Testimonies

Economic Impact of Section 1031 Like-kind Exchanges

1031 like-kind exchange not only helps a lot of mom-and-pop property owners to accumulate their wealth and achieve their "American Dreams", the program also helps the real estate industry to maintain a healthy supply of lands and residential/commercial properties. If the property owners can't defer their capital gain while they relinquish their properties, many of them will hold on to their properties in order to avoid the hefty capital gain taxes. This will make our housing more unaffordable.

1031 Exchanges are an extremely valuable part of the real estate industry. The ability to move money from a lower valued property to a higher valued one allows multiple sales to allow buyers to find the lower valued investment property or home, while the seller is able to move upwards. The investment property pays taxes along the way, in personal income tax (depending on state), and property taxes, taxes on maintenance materials, etc., and when the property is traded up in a 1031, those repair and upkeep costs go up as well.Every dollar that is taken out of a transaction by a limit or elimination of the 1031, is a huge impact on the amount of money that can be put into the community, therefore the government tax base.

I have many investors that I work with that prefer real estate holdings over the stock market, especially in light of recent global events. They would rather hold their money in something safer and more tangible, and are leery of the pandemics shutting down or affecting stocks and bond rates. They are investing their hard earned money, already taxed when made, BACK into our local economy, in the United States, and are also providing homes to people that need to rent and cannot buy, due to our extremely low inventory and seller' market (many that need financing cannot buy homes, competing with cash), so they need places to rent. Investors supply and meet that need, but if they are penalized for not doing so, they will take their money elsewhere, further harming and exacerbating the housing crisis.

It is abundantly clear that raising capital gain rates result in less revenue, locks up capital in unproductive ways, vastly slows the free flow of capital and the velocity of real estate transactions. Disallowing exchanges and raising capital gain rates will have exactly the opposite effect that the proposal seeks.

REALTOR® Testimonies

How 1031 Like-kind Exchanges Helped Clients and REALTORS®

Because my family's primary asset is a commercial revenue generating property in the downtown of a small southern town, I am concerned about not being able to diversify our holdings without the ability to do a 1031. We are not a wealthy family, but we depend on our RE asset that we have built and taken care of over 40+ years.

The 1031 exchange is a valuable tax benefit not just for large investment companies but for regular people like me and my husband just looking to invest for our retirement. If this goes away the affect will be devastating to 1000's of people like us that have invested in property for their retirement portfolios.

I have been able to build a new life and pay my bills and live comfortably. If I had to pay taxes on the properties I used to build a retirement, I would never be able to retire I would have to work until I died.

I am a real estate agent with a start up LLC. I buy and sell residential vacant land. I have 50K capital gains.... If I have to pay taxes in all accrued capital gains I would be limited to a much smaller capital gains. In other words, if 1031 exchange is removed I would not be able to reach my goals if I have to pay all that tax.

I am semi-tired at this point, but as a farmer's daughter, I am all too familiar with the impact that changing the rules of the 1031 tax law could have upon a farmer's family upon death. I also have purchased my own personal home through a 1031 tax exchange and the value exceeds \$250,000. Several of my previous clients have owned and exchanged numerous properties for the purpose of investing for retirement. They are not millionaires, and expect to receive the benefit of their wise investments. The ability to buy and sell property should not be penalized or crippled by the federal government.

REALTOR® Testimonies

How 1031 Like-kind Exchanges Helped Clients and REALTORS®

I believe we need to protect the smaller individual investors by maintained the 1031 program. In my personal example we are active working seniors and wanted to liquidate our rental properties. When we sold the first few we did not realize that the gain would trigger IRMAA surcharges on our Medicare premiums, adding several hundred dollars a month to our fees. We subsequently did a 1031 on this last sale to avoid not only capital gains taxes but a higher IRMAA.

In the 1031 exchange transaction I was involved in the client inherited a small apartment building in CA. He sold it and purchased 3 properties he is now renting. Had it not been for the tax benefits of the 1031 exchange he would not have bought the 3 rental properties that are in such demand currently.

I have many investors that I work with that prefer real estate holdings over the stock market, especially in light of recent global events. They would rather hold their money in something safer and more tangible, and are leery of the pandemics shutting down or affecting stocks and bond rates.

This study was conducted by the National Association of Realtors® Research Group for the NAR Advocacy Group and the NAR Member Experience, Engagement and Legal Affairs Group.

NAR Advocacy Group

Helen Devlin
Vice President, Strategy and Advocacy Operations

Evan Liddiard
Director, Federal Taxation

Erin Stackley
Senior Policy Representative, Commercial Issues

NAR Member Experience, Engagement and Legal Affairs

Charlie Dawson
Vice President, Engagement and Advocacy Outreach

Johnny Noon
Director of Engagement, Commercial Real Estate

NAR Research Group

Lawrence Yun, Ph.D.
Chief Economist and Senior Vice President

Jessica Lautz, Dr.RealEst.
Vice President, Demographics and Behavioral Insights

Gay Cororaton, CBE
Senior Economist, Director of Housing and Commercial Research

Meredith Dunn
Research Manager

Anna Schnerre
Research Associate, Business Insights



The National Association of Realtors® thanks its commercial affiliates for reviewing the survey and encouraging their members to participate in the survey.

CCIM® Institute (CCIM®)

Gail Giles Collins
Deputy Chief Executive Officer

Institute of Real Estate Management (IREM®)

Denise LeDuc-Froemming, CAE, MBA, CPA
Chief Executive Officer/Executive Vice President

Realtors® Land Institute (RLI®)

Aubrie Kobernus, MBA, RCE
Chief Executive Officer

Society of Industrial and Office Realtors® (SIOR®)

Robert Thornburgh, SIOR, CCIM, CPM, FRICS
Chief Executive Officer

Counselors of Real Estate (CRE®)

Mary Fleischmann
President and Chief Executive Officer

©2021 National Association of REALTORS®

All Rights Reserved.

May not be reprinted in whole or in part without permission of the National Association of REALTORS®.

For reprint information, contact data@realtors.org.

Meredith Dunn
Research Manager



The National Association of REALTORS® is America's largest trade association, representing more than 1.4 million members, including NAR's institutes, societies and councils, involved in all aspects of the real estate industry. NAR membership includes brokers, salespeople, property managers, appraisers, counselors and others engaged in both residential and commercial real estate. The term REALTOR® is a registered collective membership mark that identifies a real estate professional who is a member of the National Association of REALTORS® and subscribes to its strict Code of Ethics. Working for America's property owners, the National Association provides a facility for professional development, research and exchange of information among its members and to the public and government for the purpose of preserving the free enterprise system and the right to own real property.

NATIONAL ASSOCIATION OF REALTORS® RESEARCH GROUP

The Mission of the NATIONAL ASSOCIATION OF REALTORS® Research Group is to produce timely, data-driven market analysis and authoritative business intelligence to serve members, and inform consumers, policymakers and the media in a professional and accessible manner.

To find out about other products from NAR's Research Group, visit www.nar.realtor/research-and-statistics

500 New Jersey Avenue, NW
Washington, DC 20001
202.383.1000

