Normally when selling a commercial or investment property, capital gains taxes must be paid on the sale. However, Section 1031 of the Internal Revenue Code provides an exception which allows a seller to defer paying tax on the sale proceeds if they reinvest the earnings in similar property, known colloquially as a “like-kind exchange”.

In order to qualify as a like-kind exchange, the properties exchanged do not need to close at the same time: the replacement property must be identified within 45 days and acquired within 180 days from the sale of the relinquished property. However, such transactions are complicated and typically include four (4) parties: the primary seller, the buyer of the relinquished property, the seller of the replacement property and a qualified intermediary to hold the sale proceeds pending the purchase of the replacement property.

Like-kind exchanges are governed by strict rules and require strategic and careful planning in order to be successful. If done correctly, they can provide significant savings on the sale of property and can even be combined with the Section 121 primary residence exemption under appropriate circumstances. If you are looking to buy or sell real estate and/or are interested in learning more about 1031 exchanges, please contact Tom MacNeely (tmacneely@rjglaw.com) or one of the other attorneys in our Real Estate Department (570-826-5678).