NORTH CAROLINA GENERAL ASSEMBLY

2025 Session

Legislative Fiscal Note

Short Title: Modify Taxation of 1031 Exchanges.
Bill Number: Senate Bill 461 (First Edition)
Sponsor(s): Sen. Jim Burgin

SUMMARY TABLE

FISCAL IMPACT OF S.B. 461, V.1 ($ in millions)

	FY 2025-26	FY 2026-27	FY 2027-28	FY 2028-29	FY 2029-30
State Impact					
General Fund Revenue	(7.1)	(6.7)	(6.2)	(5.3)	(5.4)
Less Expenditures	-	-	-	-	-
General Fund Impact	**(7.1)**	**(6.7)**	**(6.2)**	**(5.3)**	**(5.4)**
NET STATE IMPACT	**(7.1)**	**(6.7)**	**(6.2)**	**(5.3)**	**(5.4)**

TECHNICAL CONSIDERATIONS: **See Technical Considerations Section**

FISCAL IMPACT SUMMARY

The Fiscal Research Division (FRD) estimates Senate Bill (S.B.) 461 would reduce General Fund revenue by approximately $5.3 to $7.1 million in each of the next five fiscal years.

Under federal tax law, whenever a taxpayer sells business or investment property, taxpayers are allowed to postpone paying tax on potential gains if they reinvest the proceeds or exchange the property for similar, or “like-kind” property. Like-kind property is property of the same nature, character or class. For example, a taxpayer exchanging one parcel of business real property for another would be eligible to defer any potential gain due to the two properties being like-kind. However, in an exchange of two pieces of like-kind property, a taxpayer may also receive cash or other types of property from the other party involved in the exchange. These additional assets that are not similar in nature to the real property exchanged are considered non-like-kind property. Per federal law, gain received from non-like-kind property is taxable after the exchange occurs while gain received from the exchange of like-kind property is tax deferred. North Carolina conforms to federal tax law, taxing gain received from non-like-kind property after these exchanges occur while deferring tax due on gain received from an exchange of like-kind property.

Beginning with the 2025 tax year, S.B. 461 would provide an additional tax benefit for State tax purposes by allowing taxpayers to deduct, for the purposes of corporate and personal income taxation, any gain received from property involved in a 1031 Exchange, as defined by the Internal Revenue Code, that is non-like-kind and does not exceed the taxpayer’s basis in the property sold.

FISCAL ANALYSIS

Executive Summary

A taxpayer executing a 1031 Exchange is responsible for submitting Form 8824 to the Internal Revenue Service (IRS). This form contains information on the taxpayer's 1031 Exchange, including the value of non-like-kind property involved in the exchange. The IRS maintains a public database of business tax statistics with nationwide data aggregated from Form 8824 from 1995 to 2013. FRD used this data, adjusting for growth in the value of non-like-kind property received and the scheduled and forecasted State income tax reductions, to estimate the forgone revenue attributable to the proposed deduction.

IRS Business Tax Statistics

IRS data on 1031 Exchanges indicates that, in 2013, nearly $6 billion of non-like-kind property was involved in transactions nationwide. To account for anticipated growth in the total value of non-like-kind property involved in 1031 Exchanges since 2013, FRD computed the compound annual growth rate for the total value of non-like-kind property involved in 1031 exchanges using Form 8824 data. FRD estimates, historically, approximately 2% more in non-like-kind property value is involved in Section 1031 Exchanges each year when compared with the year immediately prior. FRD applied this 2% growth rate for each year in between 2013 and the final year in the projection period. The table below shows the estimated total value of non-like-kind property involved in 1031 Exchanges, nationwide, by tax year.

Table 1: Estimated Total Value of Nationwide Non-Like-Kind Property Involved in Section 1031 Exchanges Subject to Tax, $ in Billions

Tax Year	Estimated Value of Non-Like-Kind Property
2025	$7.6
2026	$7.7
2027	$7.9
2028	$8.1
2029	$8.3

To apportion the nationwide estimate to North Carolina, FRD multiplied each tax year's estimated total value for non-like-kind property involved in an exchange by 2.8%. This percentage represents North Carolina's share of Gross National Product, and FRD assumes North Carolina's share of the total value of non-like-kind property involved in nationwide 1031 Exchanges will be equivalent to the State's share of Gross National Product. The table below shows the estimated total value of State non-like-kind property involved in an exchange subject to tax.

Table 2: Estimated Total Value of State Non-Like-Kind Property Involved in Section 1031 Exchanges Subject to Tax, $ in Millions

Tax Year	Estimated Value of Non-Like-Kind Property
2025	$212
2026	$217
2027	$222
2028	$226
2029	$231

Using the table estimates above, FRD then determined the share of 1031 Exchanges, involving non-like-kind property, that are conducted by corporations or other business entities. In 2013, IRS data indicates 45% of nationwide 1031 Exchanges involving non-like-kind property were conducted by corporations, and the remaining 55% of exchanges were conducted by individuals or partnerships. FRD assumes this proportion remains consistent over the projection period and multiplied the table 2 estimates by these proportions in each year of the projection period. Table 3 below shows the total estimated value of non-like-kind property apportioned to taxpayers subject to the personal and corporate income tax rates.

Table 3: Estimated Total Value of State Non-Like-Kind Property Subject to Tax by Taxpayer Type, $ in Millions

Tax Year	Corporate Income Tax Rate	Personal Income Tax Rate	Value of Non-Like-Kind Property Received by Corporations	Value of Non-Like-Kind Property Received by Individuals or Partnerships
2025	2.25%	4.25%	$96	$116
2026	2.00%	3.99%	$99	$118
2027	2.00%	3.49%*	$101	$121
2028	1.00%	3.49%*	$103	$123
2029	1.00%	3.49%*	$105	$126

* The February 2025 Consensus Revenue Forecast indicates a revenue trigger will be met in Fiscal Year 2025-26, resulting in the personal income tax rate falling from 3.99% in 2026 to 3.49% in 2027. Future rate reductions are possible in the event another revenue trigger is met.

To estimate the forgone revenue attributable to this deduction in each tax year, FRD multiplied the estimated value of non-like-kind property received by corporations and individuals or partnerships by the tax rates listed in the above table. FRD assumes each taxpayer will deduct these potential gains when filing their returns following the conclusion of their respective tax year.

The table below shows the total estimated forgone revenue attributable to corporate income and personal income taxpayers for the proposed deduction by year.

Table 4: Estimated Total Forgone Revenue, $ in Millions

Tax Year	Estimated Forgone Corporate Income Tax Revenue	Estimated Forgone Personal Income Tax Revenue	Total Estimated Forgone Revenue
2025	$4.9	$2.2	$7.1
2026	$4.7	$2.0	$6.7
2027	$4.2	$2.0	$6.2
2028	$4.3	$1.0	$5.3
2029	$4.4	$1.0	$5.4

TECHNICAL CONSIDERATIONS

Future changes in the personal income tax rate, the economy, or in taxpayer behavior that affect the amount of non-like-kind property involved in an exchange may result in the actual fiscal impact differing from the summary table estimates provided.

DATA SOURCES

Internal Revenue Service Business Tax Statistics Form 8824, Moody's Analytics, and the Consensus Revenue Forecast

LEGISLATIVE FISCAL NOTE – PURPOSE AND LIMITATIONS

This document is an official fiscal analysis prepared pursuant to Chapter 120 of the General Statutes and rules adopted by the Senate and House of Representatives. The estimates in this analysis are based on the data, assumptions, and methodology described in the Fiscal Analysis section of this document. This document only addresses sections of the bill that have projected direct fiscal impacts on State or local governments and does not address sections that have no projected fiscal impacts.

CONTACT INFORMATION

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