

Play ball! What does the tax code have to do with that?

Two of our favorite words: Play ball! Now that the baseball season has officially begun, instead of pondering the infield fly rule, whether real-time review of questionable plays is really worth the time or how to handle that obnoxious, drunken fan of the opposing team sitting two rows ahead of you, think about like-kind exchanges. Why? Because, believe it or not, tax reform has crept in here, too.

What's this got to do with payroll? Well, nothing. But around here, the beginning of the baseball season is practically a holiday (just ask any of my bosses!), and we're mighty concerned about it.

Get 'real'

Like-kind exchanges postpone liability for capital gains taxes. If you've bought a house, sold it and bought another one right away, you're familiar with the concept of like-kind exchanges. You didn't pay capital gains on the profit from the sale because you bought something similar.

Like-kind exchanges of property used in business work in sort of the same way. Until the Tax Cuts and Jobs Act, that is. It's affecting the business of baseball and other professional sports.

You used to be able to, say, trade a baseball player "who can make an impact," but accompanied by a ginormous contract, to a playoff contender team for the proverbial player to be named later. No capital gains (or losses) were assessed on the value of those players' contracts because of the like-kind exchange rule.

The stickier problem is how to even value a transaction like that, but, thankfully, that's not for us.

The TCJA struck the word "property" from IRC § 1031 and substituted the words "real property." So the only swaps that count for like-kind exchanges are exchanges of real property. But my stadium for yours doesn't really work, does it?

It seems that the revision was intentional. The Joint Committee on Taxation scores this as a revenue winner, to the tune of \$31 billion over a 10-year period.

Major League Baseball and even the National Basketball Association have asked the IRS to clarify, but it has yet to step up to the plate. I guess the IRS is going to have to throw those four intentional balls before a player can take first base.

How will all of this play out by the July 31 trade deadline? I guess we'll just have to wait and see.