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1031 Turns 100

Industry Insights on the DST Market

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Contributors



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Tony Chereso is the President and CEO of the Institute for Portfolio Alternatives (IPA), an industry trade organization which raises awareness of Portfolio Diversifying Investment (PDI) products and provides advocacy and national leadership by bringing together industry professionals dedicated to driving transparency and innovation. Before joining IPA, he served as Director of Capital Markets for UMTH and President and CEO of Factright, LLC.



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Executive Summary

- The investment industry built by Rule 1031 has demonstrated resilience and promise. Despite the pandemic-induced recession, DSTs have held up well; benefiting from lessons learned from the Great Recession, robust investor demand for commercial real estate and the widespread availability of low interest-rate debt financing. DSTs posted \$3.2 billion in sales in 2020 and are projected for \$4.0 billion for 2021. Today, 10-20% of commercial real estate transactions are the result of a 1031 exchange.
 - The lessons learned from 2006 have been invaluable. Better assets, less leverage, a diversified asset mix, strong financial controls and the transition from TICs to DSTs have positioned the industry well for the current environment.
 - The demographic profile of the DST investor is quite unique. DST investors tend to be small-scale individual owners, not billionaires or large corporations. A \$500,000 exchange is typical. Most are main street investors who have bought and held a commercial property and are now looking for passive retirement income.
- ...lessons learned from 2006 have been invaluable. Better assets, less leverage, a diversified asset mix, strong financial controls and the transition from TICs to DSTs have positioned the industry well...**
- The new administration will likely propose some change, but not a full stop to DSTs. Several ideas for reforming 1031s with income caps or deferral limits have been floated.
 - New, enterprise-level market entrants are changing the landscape for the better. This growing number of enterprise entrants to the DST space are responding to demand from wirehouses, broker dealers and RIAs. These sponsors are responding to nine years of impressive growth for an expanding and underserved investor market.
 - Offering-level data illustrates growing investor adoption. Analysis of Phoenix American DST client data shows steadily growing per-day capital raising and shrinking ticket sizes.



With 2021 marking the 100-year anniversary of the tax-deferred, like-kind exchange, the Delaware Statutory Trust (DST), has emerged as a popular tool for investors to leverage its benefits. Showing resilience during economic downturns, DSTs have even taken advantage of the unique economic landscape created by the Covid-19 pandemic.

With investment volumes in 1031 products approaching all-time highs, more sponsors, recognizing the industry's maturity, are entering the space. According to Mountain Dell Consulting, a leading data aggregator for alternative investments, 40 sponsors currently offer 1031 investments which have posted \$3.2 billion in new investment volume in 2020, approaching the record \$3.65 billion in 2006.

While DSTs represent only a small portion of the commercial real estate ecosystem, nine years of steady sales growth have demonstrated their appeal to retiring baby boomers and others interested in the advantages of a 1031 exchange without the rigors of property management.

Intense demand for this investment option from wirehouses, independent broker-dealers and registered investment advisors has driven new DST sponsorship even among the largest real estate firms such as Inland,

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JLL and Passco.

Phoenix American is a fund administration provider for alternative investment funds including DSTs. We have specialized in serving the back-office needs of real estate fund sponsors since 1972. In the past five years, we have observed a rapid trend toward DSTs. A number of new Phoenix American clients are DST program sponsors while several existing clients are entering the DST space. Both startup and large established real estate sponsors are showing interest in DSTs.

This outlook trends report was created in collaboration with industry data provider, Mountain Dell Consulting, which facilitates transparency in the securitized 1031 industry through data compilation and sponsor consulting. Mountain Dell Consulting aggregates and disseminates statistics on all securitized 1031 offerings, including data on asset types, equity raised, active and closed programs and profiles of current sponsors.

We have also taken the pulse of key industry stakeholders and of a variety of active sponsors regarding their perspective on current market dynamics in light of the new administration's potential impact on Rule 1031.

In this paper, we collaboratively analyze current 1031 market trends, the unique profile of the DST investor and the benefits they derive. We examine DSTs' maturation as an industry in terms of investment practices, regulatory changes and legislative progress.



Billionaires and large corporations are not the normal players in the DST space. Typical participants are individual long-term property owners who have actively managed a single-family rental home, small office or a farm. According to the DST sponsor, Inland Real Estate Group, their average DST investment is approximately \$500,000 but can be as low as \$100,000.

A 1031 like-kind exchange into a DST investment allows an investor to defer capital gains taxes on a property held over a long term and receive income to help support them in retirement.

Rather than purchasing another commercial property (and continuing to act as a landlord), the investor can instead turn to a DST offering, which seeks to provide a stream of passive income from a property or portfolio of properties without the burdens of day-to-day management. Because of the relatively low required minimum investment, the investor is able to diversify among a variety of property types, lease durations and geographies, which may reduce the overall risk profile.

Aging baby boomers will continue to make up an increasingly large portion of the DST investor community, as they look to unburden themselves from the demands of active real estate management and defer capital gains taxes while seeking to gain an income stream in retirement to augment their fixed-income. DSTs can also be an attractive wealth transfer strategy, allowing taxes to be deferred as long as gains are invested. At the time of the investor's death, heirs can receive a step-up in basis, thereby eliminating capital gains for tax purposes.

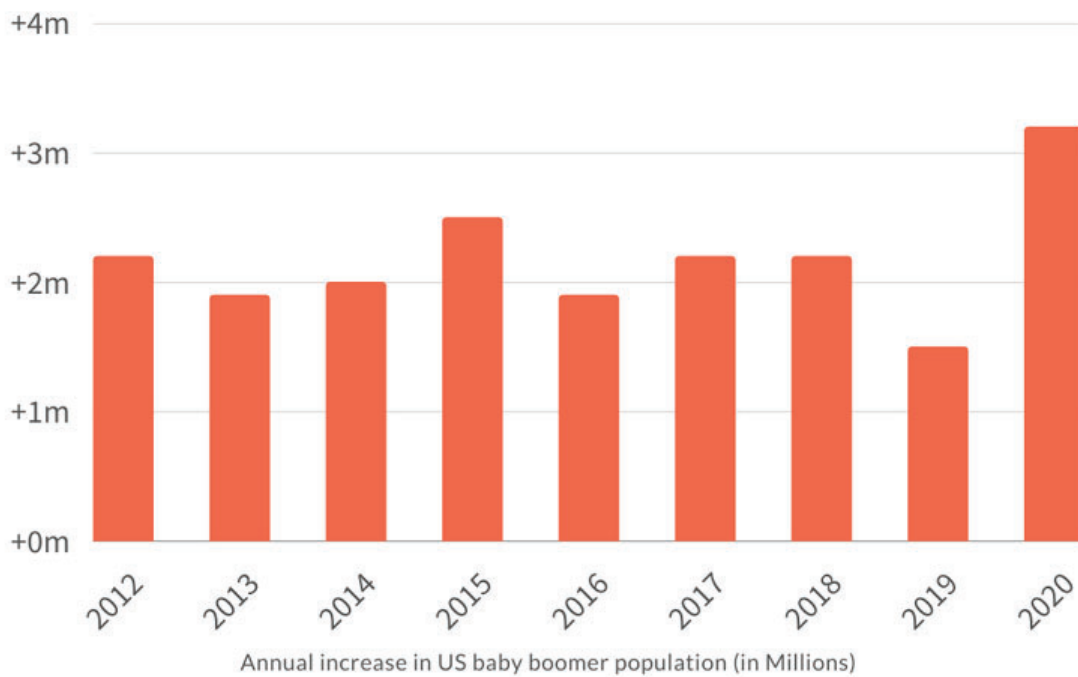
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In terms of the current market size, some 10% to 20% of U.S.-based commercial real estate transactions are the direct result of 1031 exchanges according to a study by Ling and Petrova, *The Economic Impact of Repealing or Limiting Section 1031 Like-Kind Exchanges in Real Estate*.

As more baby boomers progress toward retirement, the future of demand for DSTs appears to be very promising. According to Pew Research’s analysis of monthly labor force data, in Q3 of 2020, approximately 28.6 million baby boomers reported that they were out of the labor force due to retirement. This is 3.2 million more than the 25.4 million who were retired in the same quarter of 2019.

According to *Chase Home Lending’s 2019 Housing Confidence Index* survey, 76% of baby boomers own their own homes and are signaling a continuation of that trend with plans to age in place. More specifically, the overwhelming majority of survey respondents (88%) have plans to renovate and most (66%) believe that their home values are on the rise.

**RETIRED BABY BOOMERS ANNUAL INCREASE
2019 - 2020**



Source: Pew Research Center



Evolution of Exchange Investments

Although the first tax-deferred like-kind exchange was authorized in 1921, these exchanges largely flew under the radar for many decades. Only a very few sophisticated investors were aware of the provision and made any regular use of it. Revisions and clarifications made by Congress in 1990 drew public attention for the first time to what were by then called 1031s. This began a steady growth of volume in exchange transactions.

The 1031 exchange market has since evolved to allow unaffiliated groups of investors to access exchange properties in increasingly efficient methods. IRS guidance surrounding the use of tenant-in-common (TIC) ownership in 2002 allowed unaffiliated parties to invest together in 1031 exchange programs for the first time. TICs gained immense popularity in the following years with the market topping out at \$3.65 billion in sales volume in 2006, according to Mountain Dell Consulting.

However, with the 2008 recession, the weakness of the TIC structure was exposed. The unanimous consent of the investors required for major decisions made agility

particularly difficult in a major downturn. Additionally, the underlying asset type for TICs was largely multi-tenant office and multi-tenant retail, properties more vulnerable to economic shocks, whereas the majority of today's DSTs invest in multi-family and net-leased properties.

After the Great Recession, regulatory changes, the demands of lenders and managing broker dealers (MBDs) and the clear inadequacies of the TIC structure drove the transition to DSTs as the dominant vehicle for 1031 programs.

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TICs featured tenant-in-common ownership requiring unanimous investor consent on major issues and lender underwriting necessary on all the joint tenants. Liability protection required each investor to form a single-purpose limited liability corporation (LLC). A DST is its own legal entity, acting as

a trust. The DST holds title to the portfolio properties, acts as the manager and is the sole borrower on any loans. Investors own an undivided fractional interest in the portfolio property, receiving any distributions and appreciation but having no say in operations. The superiority of the DST structure over TICs and higher quality investments primed the 1031 market to have better resilience to economic downturns along with several industry and regulatory changes:

- **Leverage** - In a move championed both by lenders and broker-dealers worried about the impact of leverage on their investor's portfolios, lower levels of leverage were permitted for DSTs than had been typical of TICs. Today's DST deals come to market with 50-60% leverage, down from 70-75% from the TIC days, according to Mountain Dell Consulting.
- **Minimum investment** - Many TICs required a \$500,000 minimum investment. DSTs can often be accessed with a \$100,000 investment, allowing investors to access several deals with the proceeds of the sale of their original property and diversify across property type, lease duration and geographic location.
- **Litigation protection** - Because a DST is its own legal entity, investors are able to shield their personal assets from litigation under the DST structure without having to set up additional entities (such as LLCs in the case of TICs).
- **Cash flow** - Opportunity zone funds look attractive to some as a tax-advantaged real estate investment. They have the same investor protections as DSTs. However, opportunity zone deals might provide little or no cash flow through the construction and stabilization phase, which could be as long as five years. DST properties are typically fully stabilized and cash flowing before investment. And unlike opportunity zones, DSTs seek to deliver a cash-on-cash return immediately and are not exposed to development risk.
- **Capital reserves** - Current DST practices tend to reserve significant capital upfront for improvements and reserves, which may not maximize tax efficiency but provides an invaluable safety net that has been especially useful in the current pandemic economy.

Considerations at the Federal Level



Despite their many advantages to all parties, misconceptions persist among federal policy makers surrounding 1031 exchanges in general and DSTs in particular. One of the most prevalent concerns DST investors, with many believing these vehicles only serve to enable high-net-worth individuals to sidestep taxation.

Proposals to repeal Rule 1031 by politicians leery of tax-deferral strategies have occurred since its first popularity in the 1990s. Tax-saving strategies tend to invite a chorus of critics, with many viewing them as a way for high-net-worth and ultra-high-net-worth investors to avoid paying their fair share of taxes. With the change in administration in Washington, it becomes more important than ever to educate lawmakers, combating soundbites with facts, to shine a light on the importance of 1031s not only to main street investors but to community development and income tax revenue.

Another misconception of the DST industry is the assumption that the next economic downturn will yield similar effects to those that the industry experienced as a result of the Great Recession. Commercial real estate

plunged 40%, according to the CoStar Commercial Repeat Sale Index, taking the commercial real estate market by storm and TIC investments were not immune.

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It is important to remember, the Great Recession of 07-08, led to a magnified impact on commercial real estate due to a complete lack of financing and liquidity in the overall market. Heading into the pandemic-fueled recession of 2020, some observers worried that investors did not appreciate the risk commercial real estate posed to their portfolios and that the inevitable outcome, history repeating itself, would occur. In fact, the complete opposite has been true.

DSTs were better positioned in 2020 than they were a decade ago especially in comparison with TICs. The result of a maturing market that favors stringent

lending standards, a diversified asset mix and cash-flowing properties. This is due in large part to lessons learned from the TIC deals of the last recession. DSTs today target more stable assets and represent a significant source of capital formation, job growth and income tax generation within the larger commercial real estate industry.

President Biden made tax hikes on high earners a cornerstone of his campaign. Among his proposals are the elimination of the 1031 exchange for high earners or limits on the gains that can be deferred. The tax revenue would be used to finance child and elder care. President Biden also proposes to raise the capital gains tax to ordinary income levels, remove the step-up in cost basis upon death of the investor and collect taxes on deferred gains when property is passed to heirs.

Congress and the new president will have to consider the arguments in favor of the downstream stimulus to tax revenue generated by the current 1031 tax rule

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against the benefits of the immediate tax revenue under the proposed changes to support policy initiatives.

Much has been written on the likelihood and effects of major changes to 1031 exchanges with the consensus being that significant change seems unlikely in the short term with longer term likelihood depending on the composition of Congress.

In any event, regulatory change being what it is and passionate advocacy on both sides in play, any significant alterations can be expected to take more than a year to pass and implement. For the time being, DSTs are well positioned as a strong option for investors looking to invest in institutional-quality real estate as a passive investor.

Perspective Spotlight

Tony Chereso

President & CEO of the Institute for Portfolio Alternatives



Currently, there is a great deal of uncertainty as to what direction the Biden team will take regarding 1031s. Clearly, he's got a lot of priorities on his plate: the pandemic, an economic crisis, as well as mending both social and political dislocation. Nonetheless, everyone in our industry is on heightened alert that the 1031 exchange is certainly a target.

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Upon close examination of the requisite tax law changes, it's going to take considerable time in the midst of everything else Biden is facing. It's not something that's going to happen in the first hundred days. It's most likely not going to happen in the first six months. Looking back, when they repealed 1031 for personal property in 2017, it took about two years to enact. Yet, it's something on the radar and eventually they're going to have to address it because they have to figure a way to pay for some of these programs that they're looking to move forward.

The other element to point out is that, generally speaking, anything that is perceived by Washington to be supportive of large institutional real estate players is subject to some partisan politics. That's a notion that we're going to have to address first hand.

With regards to IPA's activity, the latter portion of 2020 was focused on advocacy, telling members of Congress the specific DST/1031 story. There is a broader coalition that is focused on 1031 and the overarching conversation of its benefits.

When diving into the discrete issues of our industry and our investor segment, i.e., the main street investor, it brings out the real-life case studies of how the DST structure allows the retail client to participate in institutional-grade assets as a strategy for a variety of end goals including asset preservation, diversification, income and retirement.

There is a surprising lack of awareness at the congressional level of our market and how important it is to constituents. Our goal is to continue to build out that story,

unique to our industry, and lean in heavily with the broader coalition on 1031 exchanges. As an industry, we need to do a better job at calling out the unique characteristics of the DST structure and how it serves the specific constituents of congressional members.

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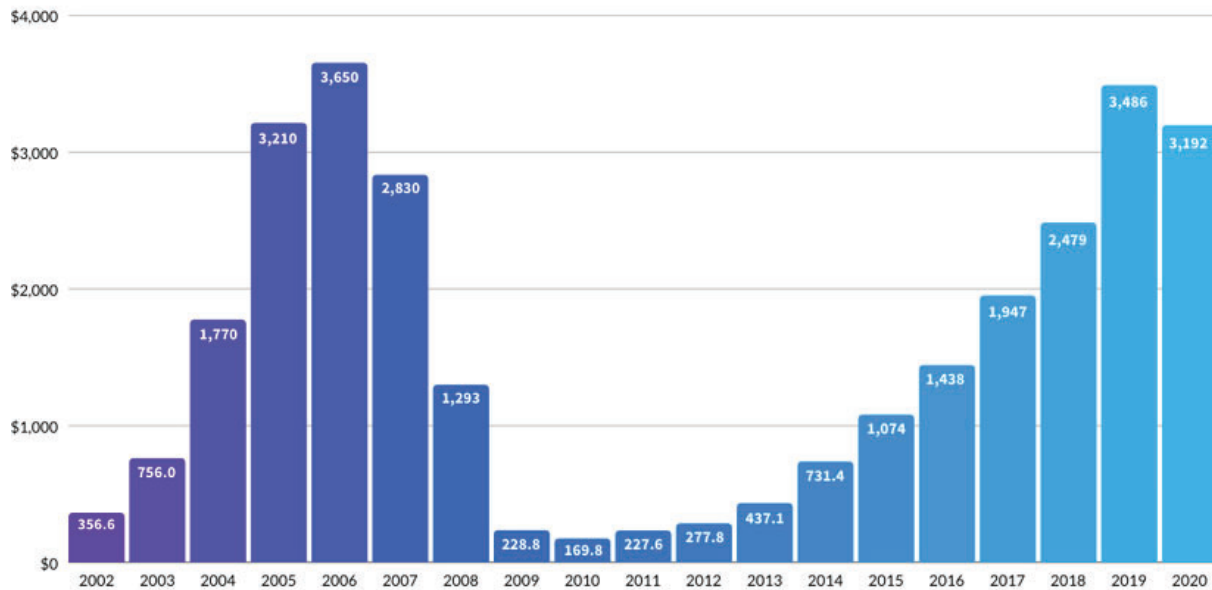


Market Trends

At the 2006 high-water mark for securitized 1031 exchanges, when TICs dominated the market, there were 71 sponsors bringing 341 fully subscribed programs to market. Yet, when the Great Recession hit, and commercial real estate fell by 40%, it dealt a severe blow to 1031 programs. Deal volume declined each year for the next four years as sponsors made a speedy retreat.

Today, DSTs dominate the securitized 1031 market, bringing with them a more stable investor pool. Deal volumes have recovered, inching toward 2006 levels in 2019 and on pace to perform well in 2021 despite the pandemic. Based on January numbers, the 1031 market is pacing toward \$4.0B for 2021.

1031 MARKET SINCE 2002 EQUITY RAISED SINCE 2002 (M)



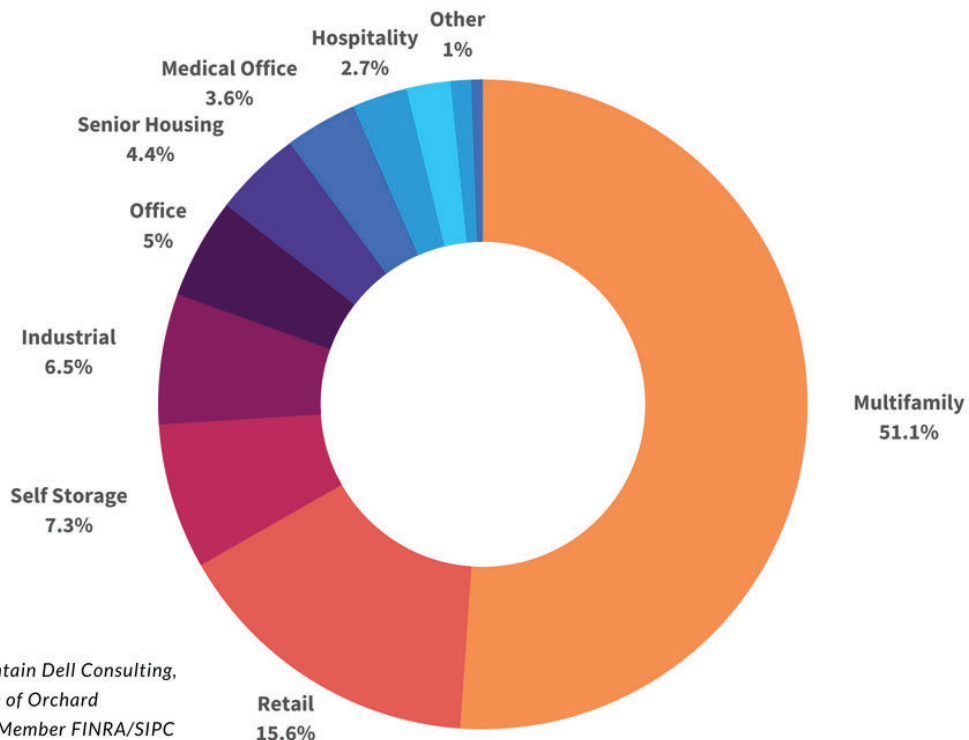
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In the wake of the last downturn, some observers worried about the performance of 1031 products in another economic decline. And it is clear that if sponsors were doing the same things in 2019 as they were in 2006 (TIC programs with their many moving parts, hospitality assets and higher leverage), the industry might be in real trouble today. But a combination of the shift to the DST structure, regulatory changes, stricter lending requirements and a focus on higher quality assets over the past decade has resulted in a very distinct and stable investment product and overall 1031 investment market.

The Covid-19 pandemic was definitely not a real estate correction like the Great Recession but it was a hiccup and illustrative of how DSTs would likely perform in a more severe downturn. The principal difference for today’s 1031 programs is a very different portfolio asset profile from that of 2006.

Going into the 2008 recession, multi-tenant office buildings and hospitality were the dominant property type in the 1031 market. In the years since, there has been a major shift toward multi-family and long-term net lease products. In the pandemic environment, with businesses shuttered

EQUITY RAISED BY ASSET TYPE
DECEMBER 2020



Source: © Mountain Dell Consulting, LLC, an affiliate of Orchard Securities, LLC Member FINRA/SIPC

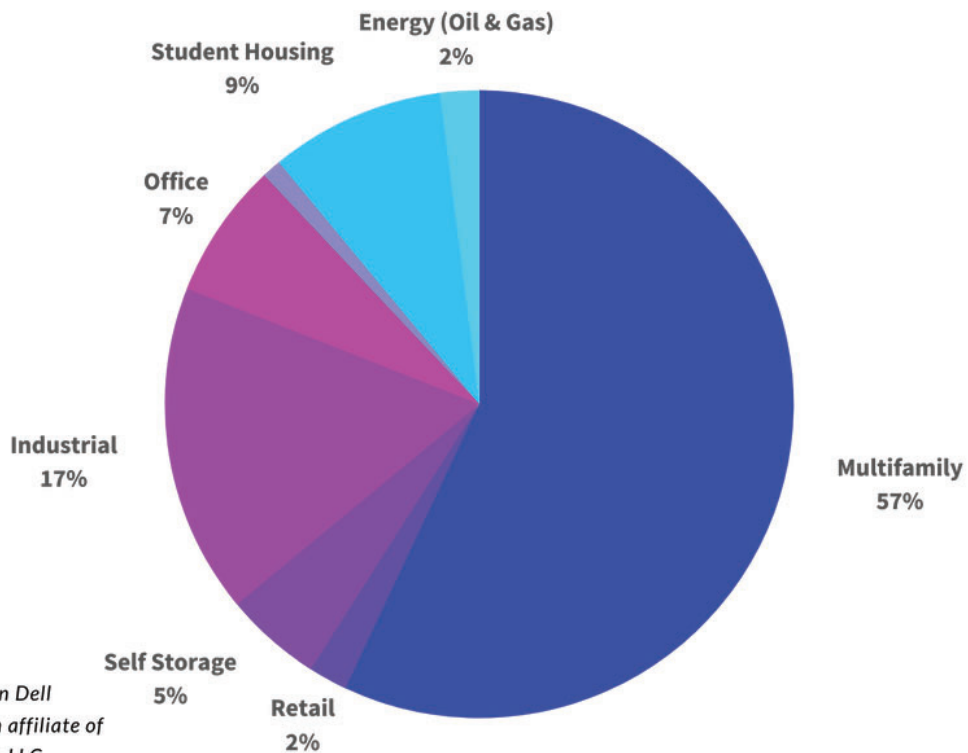
and remote work increasing, office property has suffered greatly. But as the chart below shows, multi-family housing now comprises, by far, the largest component of the 1031 market, accounting for more than half of transactions.

Sponsors going into the pandemic invested very little in hospitality and multi-tenant office space. Most multi-tenant office investments were related to medical office space. Retail properties were much more geared toward single-tenant retail such Walgreens or Dollar General locations. Industrial properties saw increased interest

due to the e-commerce dominance of Amazon and its fulfillment centers which benefited from the coronavirus shutdowns. As a result, the 1031/DST industry weathered the storm during this pandemic.

The multi-family bias positions DSTs positively for the Covid-19 economy and beyond. Continued infection spikes are causing businesses to rethink office spaces and more companies, notably Adobe, Amazon, Google, Microsoft and Facebook, have announced plans to work from home indefinitely. Workers are therefore looking for more residential space to accommodate

AVAILABLE EQUITY BY ASSET TYPE DECEMBER 2020



Source: © Mountain Dell Consulting, LLC, an affiliate of Orchard Securities, LLC Member FINRA/SIPC

remote work. Student housing, which used to be a sizable portion of the apartment building space, has fallen over the past year in light of universities leaning toward remote classes.

For our DST clients, the current atmosphere has clearly been favorable. There is tremendous momentum, for example, for two new entrants into the space, one a large, well-established commercial real estate player, the other a startup having begun selling in 2020.

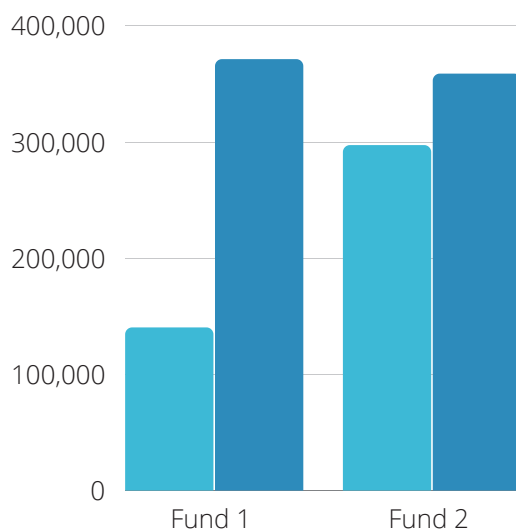
In 2020, the large sponsor, after completing its first offering in May, saw the amount of capital raised on a per-day basis rise 60% with their second offering and another 36% with their third. The smaller sponsor raised two offers in 2020, with 112% more capital

We have seen the capital raised per day for all offerings continue to increase indicating quicker sellouts due to pent-up investor demand

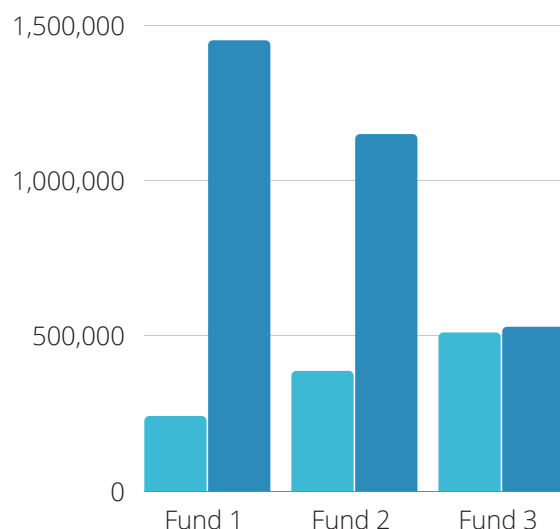
raised on a per-day basis with their second offering than their first. We have seen the capital raised per-day for all offerings continue to increase and with quicker sellouts indicating pent-up investor demand.

Both sponsors demonstrated a decrease in the amount of invested capital per investor from one offering to the next reflecting either growing interest from smaller investors, investment diversification across DSTs or both.

STARTUP SPONSOR



ENTERPRISE SPONSOR



Capital raise per day ■
 Capital per investor ■



A variety of sponsors have entered the DST market attracted by economic conditions and investor demand. The main street investor base, created by the DST, has helped to stabilize sponsors' platforms by enhancing their ability to raise capital during challenging economic conditions. Enterprise real estate firms have dominated fundraising but smaller sponsors are also raising impressive amounts.

Large or small, only certain sponsors are able to participate. Because DSTs complete the purchase of assets before coming to market, they must secure bridge loans before they are able to raise equity. This difference from TICs creates a barrier to entry for DSTs, admitting only those firms with the track record and financial relationships to access mezzanine financing.

1031 SPONSORS BY MARKET SHARE
DECEMBER 2020

Inland Private Capital Corp.	19%	Four Springs TEN31 XCHG	1%	Net Lease Capital Advisors	1%
ExchangeRight Real Estate	12%	Nelson Partners	1%	Valeo Group Americas	1%
Capital Square Realty Advisors	11%	Cunat Inc.	1%	Flatirons Asset Management	1%
Black Creek Group	8%	Griffin Capital	1%	Platform Ventures	1%
Passco Companies	7%	CAI Investments	1%	Syndicated Equities Group	1%
Cantor Fitzgerald Investors	5%	Time Equities	1%	Trilogy Real Estate Group	1%
NexPoint Real Estate Advisors	5%	NB Private Capital	1%	Moody National	<1%
Madison Capital	3%	Resource Royalty	1%	Croatan Investments	<1%
RK Properties	3%	Starboard Realty Advisors	<1%	Senior Living Fund	<1%
BlueRock Real Estate	3%	CORE Pacific Advisor	<1%	InCommercial Property Group	<1%
Carter Exchange	2%	1031 CF Properties	<1%	American Capital Group	<1%
Kingsbarn Realty Trust	2%	Real Estate Value Advisors	<1%	Arrimus Capital Partners	<1%
Livingston Street Capital	2%	Hartman Investment	<1%		
AEI Trust Advisors	2%	Inspired Healthcare Capital	<1%		

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Sponsor Spotlight

Larry Sullivan
President, Passco Companies



As we move forward through 2021, we must all remain vigilant to the constantly evolving tax reform discussions taking place in the White House, Congress and Senate.

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As a market leader in the 1031 exchange market, Passco is committed to participating in and, where appropriate, creating proactive initiatives that have meaningful impact to tax-related legislative actions on Capitol Hill.

To that end, we are actively focused on legislative and regulatory advocacy through our memberships in organizations such as ADISA and NMHC.

We applaud our fellow organizations that have contributed to this timely report and thought it valuable to share the following salient points regarding tax reform and 1031 exchanges as of March 2021.

1) *The Biden Plan for Mobilizing American Talent and Heart to Create a 21st Century Caregiving and Education Workforce* policy proposal states that it will be paid for by rolling back "unproductive and unequal" tax breaks for real estate investors with incomes over \$400,000. President Biden has stated that no individual making less than \$400,000 will see a penny of new taxes.

Recently, however, White House spokespersons have stated that the limitation applies to "families". Yet, the White House has also stated that the \$400,000 is for individuals and a married/filing jointly limitation that will be "shortly announced". It remains to be seen how this aspect will ultimately play out.

2) Tax breaks mentioned or reported upon include capital gains treatment, carried interest, depreciation utilization, 1031 exchanges and deductibility of (real estate) losses, among others.

3) The soon-to-be proposed \$3 trillion spending program has two parts and is currently rumored to have a "pay for" list targeting both corporations and wealthy

taxpayers including raising the corporate tax rate to as high as 28% (from 21%); raising the top individual tax rate back up to 39.6%; adjusting (or limiting) capital gains treatment; lowering trust exclusions and/or eliminating step-up basis and eliminating the special 20% deduction currently in place for certain LLCs.

The soon-to-be proposed \$3 trillion spending program... rumored to have a "pay for" list targeting both corporations and wealthy taxpayers...

So far, there has been no direct mention of 1031s but since a tax "pay for" can pop up at any moment, we must remain vigilant.

4) The consensus opinion on timing of enactment seems to be late summer with August often mentioned but that remains to be seen. Invoking the reconciliation process (requiring only a 50/50 vote with Vice President Harris breaking the tie) could speed things up with a traditional bipartisan majority vote taking longer.

Sponsor Spotlight

Keith Lampi

President & COO, Inland Private Capital Corporation



As a vertically integrated real estate company, Inland has a track record that spans over fifty years and core competencies that run the entire gamut of commercial real estate. During the late 1990s and early 2000s, Inland worked with the U.S. Treasury Department to help clarify how tax deferred exchanges worked in conjunction with multi-owner investment vehicles.

As a founding member of TICA (now ADISA), the industry's first dedicated professional organization, Inland was instrumental in obtaining an IRS revenue ruling which is still used today as a guidepost for sponsors structuring and offering DST investment products throughout the marketplace. Industry growth following this revenue ruling was tremendous.

This growth was largely anchored on demand from investors seeking to monetize actively managed properties, and reinvest into a professionally managed, passive ownership structure.

Following the financial crisis of 2008 and 2009, Inland emerged as the leader in the securitized 1031 industry. The Great

Recession shed a light on the importance of investment sponsorship, and the value of working with a firm like Inland with an track record, commitment to the industry, and the financial wherewithal to stand behind the DST programs it sponsors.

Today, industry-wide transaction volume has reached record levels. Consistent growth in investor demand is being propelled by the aging baby boomer cohort—a trendline we anticipate will continue for many years yet to come.

Consistent growth in investor demand is being propelled by the aging baby boomer cohort—a trendline we anticipate will continue for many years yet to come.

Since that critical IRS ruling, Inland has syndicated more than \$11 billion in DST offerings, and has taken over \$2 billion of program offerings full-cycle, leaving approximately \$9 billion in assets under management across all major commercial real estate asset types.

One of Inland's core strengths has always been our nimble approach toward asset management, allowing our DST product offerings to evolve with changing market conditions. This agility was on full display during 2020 when Inland acquired \$1.3 billion in the economically resilient multi-family, self-storage, and industrial sectors.

The DST structure presents an opportunity for main street investors to invest in assets that would have otherwise only been available to large institutional investors.

When considering the tax deferral aspect of Section 1031, the institutional quality asset selection, debt procurement, and professional property management, DSTs provide a compelling opportunity for commercial real estate owners, investors and financial professionals to consider.

But the industry is not without its challenges. With the changing political landscape on Capitol Hill, Section 1031 will likely be up for legislative review as part of tax reform legislation.

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While Section 1031 has survived many reviews over the last century and has always been found by each administration—regardless of political party—to be a beneficial part of the tax code, it is more important than ever to take an active role in advocating for the preservation of the code. If you want to help preserve this vital provision in our tax code, please visit www.1031.org.

Sponsor Spotlight

Louis Rogers

Founder & CEO, Capital Square Realty Investors, LLC



I am a tax lawyer by training. My first 1031 research project was in the Spring of 1984. After graduating from law school, I was asked to research the meaning of like-kind under Section 1031. From 1984 to date, 1031 projects have been a large part of my professional life. In the early 90's, west coast syndicators started asking for guidance on restructuring a real estate partnership into a tenancy in common (TIC) structure that would qualify for Section 1031 tax-deferred treatment. This led to the development of a large, specialized law firm practice representing TIC sponsors—including the largest one in the nation. One of our first TIC programs in 1990 was successfully sold as a security by independent broker-dealers across the nation and led to a large industry selling TIC interests.

Around 2000, I was part of a group of TIC experts who came together and formed the Tenants in Common Association (TICA), which is now known as the Alternative and Direct Investment Securities Association (ADISA). This was prior to the issuance of IRS Revenue Procedure 2002-22 and the development of Commercial Mortgage-Backed Securities (CMBS) financing, which

financed many TIC investments. In 2004, I left the law firm and became President of Triple Net Properties, the largest TIC sponsor. With an experienced team of real estate professionals, Triple Net grew rapidly and dominated the TIC industry by sponsoring billions of dollars of TIC, LLC and REIT real estate programs.

...multifamily real estate performs extremely well in good times and bad.

Finally, in 2012, a group of real estate professionals who had worked together in other firms came together and formed Capital Square Realty Advisors. In only nine years, Capital Square has become the third largest DST sponsor, having sponsored over 120 properties representing nearly \$3 billion of real estate assets. In addition to DSTs, Capital Square sponsors Opportunity Zone funds, LLC investments, and a Real Estate Investment Trust.

Capital Square is bullish on multifamily investments for stable income and growth. Because housing is a necessity, multifamily real estate performs extremely well in good

times and bad. How did Capital Square's multifamily portfolio perform during the pandemic? Very well. Capital Square collected well over 98% of the rent due on 31 apartment communities (7,736 units) throughout the Southeast during the pandemic.

Section 1031 is good for the US economy. Many jobs are created by the exchange industry and many real estate investors are able to use 1031 to build family wealth over time.

The tax that otherwise would be due is deferred until the replacement property is sold in a taxable transaction, but future 'sales' can be structured as 1031 exchanges. Instead of paying tax, exchangers can defer taxes over and over again, building their family wealth. And when the taxpayer dies, the heirs typically receive a step up in tax basis (essentially converting the deferral into exclusion of gain). We call this "swap till ya' drop" (yes, it is corny).

DSTs afford regular folks the ability to acquire investment-grade real estate they could not acquire on their own and diversify by acquiring multiple replacement properties and reducing the risk of a concentrated investment in a single property.

DST sponsors provide turn-key management and a passive investment. No more "tenants, toilets, and trash". Instead of paying tax,

exchangers can defer taxes over and over again, building their family wealth.

Unfortunately, there is a concern that tax reform could modify or repeal Section 1031. This would be a serious mistake. The real estate industry is driven by 1031 exchanges, with substantial job production and an enormous amount of federal and state income taxes paid by the participants. Most exchangers are 'regular Joe's' and not billionaires and most exchanges subsequently result in taxable sales.

Modifying 1031 would hurt the economy, kill jobs, and create the dreaded "lock in" effect where taxpayers own their property forever.

Local governments would be harmed from reduced transfer taxes and reduced tax assessments. Finally, the static scoring used to estimate the impact of tax legislation is not realistic; it assumes all 1031 exchanges would be competed as taxable sales. This does not reflect human nature—exchangers would simply hold their property for a very long time and not sell on a taxable basis.

Therefore, the economy would be seriously damaged without the desired tax revenue being collected. For all these reasons, the real estate industry is lobbying Congress to show that 1031 is a vital cog in the economy and, further, it would be highly imprudent to modify long-established tax rules in a global pandemic.



After a century, 1031 exchanges have proved their staying power. Yet, many still do not understand the intricate and important role these vehicles play both in communities and in the financial security of individual investors. 1031 exchanges encourage long-term real estate investment, bring much-needed financial activity to communities around the country and provide a stable source of passive income to retirees.

The evolution of the market toward the Delaware Statutory Trust structure in the

last decade has only enhanced these benefits, making an investment in 1031 exchanges easier for a larger number of investors. These investments have met the challenge of the current economic environment and shined. 100 years after their introduction, like-kind exchanges have come a long way.

Rule 1031, enhanced by the DST structure, has proven a robust investment option well positioned for the future of commercial real estate.



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