

1031 Tax Exchange

Complete FAQs

HOW LONG DO I HAVE TO IDENTIFY REPLACEMENT PROPERTY?

The replacement properties must be identified within 45 days after the sale of the relinquished property. This requirement is strictly enforced and no extensions are possible. Identification must be in writing, signed and dated and received by a 1031 Tax Exchange company no later than 45 days after the sale of relinquished property. Replacement property must be identified unambiguously. Usually, either a legal description or a mailing address is sufficient.

HOW LONG DO I HAVE TO PURCHASE THE REPLACEMENT PROPERTY?

The replacement property must be purchased within 180 days after the sale of the relinquished property. This requirement is strictly enforced and no extensions are possible. The time period may be shorter if you are required to file a tax return prior to the expiration of the 180 day period and you do not seek an extension to file your return.

AM I LIMITED TO HOW MANY PROPERTIES I MAY IDENTIFY?

The IRS limits the number of properties you may identify. You are basically limited to identifying 3 properties. You may identify more than 3 properties if the combined fair market values of the properties you identify do not exceed two times the sales price of the relinquished property.

WHAT PROPERTY IS LIKE KIND TO MY PROPERTY?

When it comes to real estate, all real estate is basically like kind to all other real estate. For example, an office building could be exchanged for an apartment complex or bare ground could be exchanged for a duplex. The two types of real property that generally don't qualify for 1031 exchange purposes are a person's personal residence or a vacation home.

WHAT MUST I DO TO HAVE A FULLY DEFERRED EXCHANGE?

The general rule in order to have a fully deferred exchange is that the exchangor must trade equal or up in equity and equal or up in fair market value. The effect of this rule is that the exchangor uses the entire net proceeds from the relinquished property on the purchase of the replacement property. Also, the exchangor must replace any mortgage paid off at the sale of the relinquished property with an equal or greater mortgage on the replacement property.

MAY I DO A MULTIPLE PROPERTY EXCHANGE?

Yes. Several relinquished properties may be exchanged for a single replacement property or one relinquished property may be exchanged for several replacement properties.

HOW SHOULD I TAKE TITLE TO THE REPLACEMENT PROPERTY?

Title to the replacement property must be taken in the same name (entity) in which the relinquished property was held.

CAN I USE EXCHANGE FUNDS TO PAY DOWN A MORTGAGE ON PROPERTY I ALREADY OWN?

No. This is not considered a like kind exchange by the IRS.

CAN I USE EXCHANGE FUNDS TO BUILD IMPROVEMENTS ON REPLACEMENT PROPERTY?

Yes, if it is structured correctly. Generally speaking, the best way to accomplish this goal is to have a "Special Purpose Entity" acquire title to the replacement property, have the Special Purpose Entity build the improvements, and have the exchangor acquire the replacement property and improvements from the Special Purpose Entity under the regulations for exchanges.

What is a reverse exchange?

A reverse exchange is an exchange wherein the replacement property is purchased prior to the relinquished property being sold. Reverse Exchanges are complicated and should be discussed with a 1031 Tax Exchange professional to fully understand all of the steps in the transaction.



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