

WHAT IS A §1031 TAX-DEFERRED EXCHANGE?



A §1031 tax-deferred exchange is a transaction which permits an investor to defer the payment of capital gains tax by “exchanging” investment property owned by an investor (“relinquished property”) for another investment property (“replacement property”) of equal or greater value.

The most common type of exchange is a delayed or straightforward exchange. By properly effectuating an exchange the investor is able to defer the realization of capital gains as well as the recapture of depreciation tax on the relinquished property.

CHOOSING THE BEST INTERMEDIARY

An investor should be selective in choosing a Qualified Intermediary (“QI”). Choosing a professional QI with financial strength is paramount to a successful exchange.

EXCHANGE RESOURCES, INC. — YOUR EXCHANGE EXPERT

Exchange Resources, Inc. (“ERI”) is one of the largest independent QI’s in the

nation having served tens of thousands of individual and institutional investors across the country and abroad. ERI enjoys a successful history of assisting investors in tapping the benefits of exchanges.

ERI’s professional staff brings decades of experience to each transaction, many of whom have earned the distinction of Certified Exchange Specialist® from the Federation of Exchange Accommodators. ERI has attorneys on staff who provide personalized attention to complex issues and are available to discuss exchange matters with investors’ tax and legal advisors. Exchange information is also available in Spanish.

ERI’S FINANCIAL STRENGTH

ERI appreciates the paramount importance of securing investors funds and does so by maintaining:

- ▲ Fidelity bond insurance coverage
- ▲ Errors and omissions insurance
- ▲ A Security of Funds agreement with Union Bank of California
- ▲ A separate bank account for each investor

NOTE: ERI cannot and does not provide advice regarding specific tax consequences. Investors considering a §1031 tax-deferred exchange should seek the counsel of their accountant and attorney to obtain professional tax and legal advice.



Member of the Federation of Exchange Accommodators, Affiliate Member of the CEA, and various California Boards of REALTORS®.



Member of the Better Business Bureau.



Certified Exchange Specialists on Staff.



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**§ 1031
TAX-DEFERRED
EXCHANGES**

RELINQUISHED PROPERTY (1ST LEG OR SALE TRANSACTION)

The §1031 exchange process begins prior to the sale of an investment property. The sale property is commonly referred to as the relinquished property. Typically, the taxpayer has already entered into a purchase and sale agreement to sell the relinquished property when ERI is contacted. Prior to the close of escrow, ERI and the investor must enter into an exchange agreement that describes the duties and responsibilities of the parties to the exchange. Additionally, ERI will provide an assignment of the investor's interest to be signed by all parties to the transaction. Once ERI's documents have been signed, escrow can then close and transfer the proceeds to ERI.

REPLACEMENT PROPERTY (2ND LEG OR PURCHASE TRANSACTION)

Once the investor has located and identified a "like-kind" replacement property, ERI will be assigned into the contract/escrow instructions as the buyer. When this transaction is ready to close, funds held by ERI will be deposited into escrow to fund the closing. Should escrow require additional funds to close, the investor can deposit funds directly into escrow.

The replacement property must be acquired on or before the following dates:

- 1) 180 days from the close of the relinquished property, or
 - 2) the date the tax return is due for the tax year in which the relinquished property is transferred, unless an extension is filed.
- Under either scenario the exchange transaction cannot exceed 180 days.

IDENTIFICATION OF REPLACEMENT PROPERTY

An investor has 45 days from the close of escrow on the relinquished property in which to identify replacement property. When identifying replacement property, an investor must comply with one of two rules:

The three-property rule:

An investor may identify a maximum of three (3) properties without regard to fair market value.

The 200% Rule:

When identifying more than three (3) properties, the total aggregate value of all properties identified cannot exceed 200% of the relinquished property value.

**Relinquished property sold for \$400,000
2 x \$400,000 = \$800,000**

**The taxpayer can identify a maximum
of \$800,000 in replacement properties.**

EXAMPLE:	Value
1) 123 Main St., San Diego, CA	\$ 350,000
2) 1031 USA Ave., Bismarck, ND	\$ 95,000
3) 55 Center St., Houston, TX	\$ 70,000
4) 1212 Market, Miami, FL	\$ 280,000
TOTAL VALUE LISTED	\$ 795,000



LIKE-KIND PROPERTY

"Like-kind" property is any real property held for the productive use in a trade or business for investment purposes. An investor can sell a condo and purchase raw land as long as they are both reported to the IRS as investment property. Neither the relinquished property nor the replacement property can be the investor's principal residence. In a personal property exchange the meaning of like-kind is much stricter than with real property. For example: a commercial truck for another commercial truck and dental equipment for dental equipment.

DISBURSEMENT OF EXCHANGE FUNDS

During an exchange, an investor may access exchange funds only in the following situations:

- 1) The investor has purchased all the replacement property identified and the identification period has expired;
- 2) The investor has not identified any

- replacement property within the 45-day identification period; or
- 3) The 180-day exchange period has elapsed.

WHAT LANGUAGE SHOULD I PUT IN THE SALES CONTRACT?

"[Buyer/Seller] hereby acknowledges that it is the intent of the [Buyer/Seller] to affect a §1031 tax-deferred exchange. The [Buyer's/Seller's] rights and obligations under this agreement are hereby assigned to Exchange Resources, Inc. for the purpose of completing a §1031 exchange. [Buyer/Seller] agrees to cooperate, at no additional cost or liability, with [Buyer/Seller] and Exchange Resources, Inc. in a manner necessary to complete the exchange."

Please contact ERI toll-free at (877) 799-1031 with your escrow officer's/closing agent's information. ERI will contact them directly to obtain all the necessary documents. The exchange documents can be sent directly to you or to the closing agent for execution. Remember, **ERI must be assigned into the transaction prior to the close of escrow** on the relinquished property.

