FLORIDA 1031 EXCHANGE
GUIDE & INVESTMENT STRATEGY

SINGLE-FAMILY • CONDOS • VACATION RENTALS • LONG-TERM RENTALS

Rental Property • Vacation Rentals • Investment Condominiums • Portfolio Repositioning

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A practical guide to Section 1031 like-kind exchange rules, timelines and portfolio strategy for owners of Florida rental homes, vacation-rental condos and investment property.

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Florida 1031 Exchange Guide & Investment Strategy

A Section 1031 Like-Kind Exchange & Investment Strategy Handbook

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A NOTE ON ACCURACY

Information contained in this publication is believed accurate at the time of publication but is subject to change without notice. Section 1031 of the Internal Revenue Code, IRS guidance, Florida Department of Revenue guidance, and related regulations can change. Information cited throughout this guide reflects IRS and Florida Department of Revenue material reviewed through August 2026 and is presented for general orientation only.

Nothing in this publication constitutes tax, legal, accounting, financial, or investment advice. All dollar figures and scenarios are illustrative examples only and are not a guarantee or projection of actual results. Real estate and exchange decisions should be made in consultation with a qualified CPA or tax advisor, a 1031 Qualified Intermediary, and a real estate attorney when appropriate. Readers should independently verify current rules and figures relevant to their own transaction.

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A NOTE ABOUT THIS GUIDE

Portions of the background research, organization, and drafting of this guide were created with the assistance of artificial intelligence tools, including Claude® by Anthropic. These tools were used to help organize ideas, review current IRS and Florida Department of Revenue material, and assist in the research and writing process.

This guide is intended to serve as a helpful resource for owners of Florida rental homes, vacation-rental condominiums and investment property who are considering a Section 1031 exchange. It offers a practical framework for thinking through timelines, qualifying property, identification rules and replacement-property strategy. While every effort has been made to provide accurate and current information, tax law, IRS guidance, and Florida regulations can change over time.

The information contained in this guide is provided for general educational and informational purposes only. It should not be considered legal, financial, tax, accounting, or investment advice. Readers are encouraged to consult with qualified professionals in the appropriate fields to obtain current information and guidance for their specific situation.

My hope is that this guide serves as a valuable starting point — helping you understand how a 1031 exchange works before you ever sit down with your CPA and Qualified Intermediary.

IMPORTANT NOTICE

A Section 1031 exchange can be one of the most powerful tax-deferral strategies available to real estate investors, but it is also highly technical. Before beginning an exchange, investors should consult a qualified:

- CPA or tax professional
- 1031 Qualified Intermediary (QI)
- Real estate attorney when appropriate
- Financial advisor when appropriate
- Experienced real estate professional

The structure of an exchange should be reviewed before the relinquished property closes.

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What Is a 1031 Exchange?

A Section 1031 like-kind exchange allows a qualifying real estate investor to exchange real property held for investment or productive use in a trade or business for other qualifying real property.

Instead of immediately recognizing all of the taxable gain generated by selling the original investment property, the investor may be able to **defer some or potentially all of that gain** by properly completing the exchange.

Think of a 1031 exchange primarily as:

A tax-deferral and portfolio-repositioning strategy — not a tax elimination strategy.

The investor essentially carries the deferred gain and adjusted tax basis forward into the replacement property.

This can allow more investment capital to remain working in real estate rather than being immediately reduced by taxes generated by a conventional taxable sale.

What Florida Real Estate Can Qualify?

The key issue generally isn't whether the properties look alike.

The issue is whether the relinquished and replacement properties constitute qualifying **real property held for investment or productive use in a trade or business.**

Potential examples include:

Single-Family Rental → Single-Family Rental

Sell: Florida rental house
Purchase: Another rental house

Condo → Single-Family Rental

Sell: Vacation-rental condominium
Purchase: Single-family investment property

Condo → Condo

Sell: Older Gulf-front vacation rental
Purchase: Newer vacation-rental condominium

Single-Family → Multiple Condos

Sell: $1.2 million rental property
Purchase: Three $400,000 investment condos

Multiple Properties → One Property

An investor may potentially consolidate several qualifying properties into one larger replacement investment.

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Florida → Another State

A Florida investment property can generally be exchanged for qualifying U.S. investment real estate located in another state.

However, U.S. real property and foreign real property generally are **not considered like-kind** for Section 1031 purposes.

What Generally Does Not Qualify?

Section 1031 is designed for qualifying investment or business real estate.

Generally problematic or nonqualifying property includes:

- Primary residences used solely as personal residences
- Second homes held primarily for personal enjoyment
- Property held primarily for resale
- Fix-and-flip inventory
- Dealer property
- Stocks
- Bonds
- Securities
- Partnership interests
- Most personal property
- Foreign real estate exchanged for U.S. real estate

The distinction between **investment property** and property held primarily for resale can be extremely important.

The Vacation-Rental Question

This is especially important for Florida.

Many investors own:

- Gulf-front condos
- Beach houses
- Airbnb properties
- VRBO properties
- Seasonal vacation rentals
- Second homes that are rented part of the year

A vacation property can potentially qualify for a 1031 exchange, but investors should be careful about excessive personal use.

The IRS provides a particularly useful safe harbor under Revenue Procedure 2008-16.

For the **relinquished dwelling**, the safe harbor generally requires ownership for at least 24 months immediately before the exchange.

During **each** of the two 12-month periods preceding the exchange:

- The property is rented to others at a fair rental for at least **14 days**, and
- Personal use does not exceed the greater of **14 days**, or **10% of the number of days rented at a fair rental.**

Similar requirements apply to a dwelling acquired as replacement property for the 24 months following the exchange.

Example

Suppose an investor owns a Panama City Beach condominium. During one 12-month period: Rental days: 200. 10% of rental days: 20.

Personal-use limitation under the safe harbor would therefore generally be **20 days**, because 20 is greater than 14.

Investors who mix significant personal use with vacation rentals should involve their CPA and Qualified Intermediary early.

The Two Numbers Every Investor Should Remember

45 Days

The investor generally has **45 days after transferring the relinquished property** to identify potential replacement property.

180 Days

The replacement property generally must be acquired by the earlier applicable exchange deadline, commonly described as the **180-day exchange period**, subject to the tax-return due-date rules.

These timelines are extremely important. Missing the required deadline can destroy the intended tax-deferral treatment.

The Qualified Intermediary

A typical delayed 1031 exchange requires the use of a **Qualified Intermediary**, commonly called a QI.

The QI helps facilitate the exchange and holds the proceeds from the relinquished property.

Critical Point

The seller generally should **not receive or control the sales proceeds.** Actual or constructive receipt of the proceeds can cause the transaction to fail to qualify for the intended exchange treatment.

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The QI should therefore normally be selected **before closing the property being sold.**

A typical sequence is:

> **Investor decides to exchange**
> ↓
> **CPA/tax advisor reviews situation**
> ↓
> **Qualified Intermediary is selected**
> ↓
> **Property goes under contract**
> ↓
> **QI exchange documents are prepared**
> ↓
> **Relinquished property closes**
> ↓
> **Exchange funds go to QI**
> ↓
> **45-day identification period**
> ↓
> **Replacement property selected**
> ↓
> **Replacement property closes within applicable deadline**
> ↓
> **Exchange reported to IRS**

Identifying Replacement Property

One of the biggest mistakes investors make is waiting until after their property closes to seriously begin the replacement-property search.

The better strategy is to start researching replacement opportunities **before closing the relinquished property.**

Common identification rules include:

Three-Property Rule

The investor can generally identify up to three potential replacement properties regardless of their values. This is often the easiest strategy for residential investors.

Example:
1. Destin condo — $825,000
2. Panama City Beach condo — $795,000
3. 30A rental home — $950,000

The investor can then perform due diligence before deciding which qualifying property to acquire.

200% Rule

An investor can potentially identify more than three properties when the aggregate fair market value of identified properties does not exceed **200% of the value of the relinquished property**, subject to the applicable regulations. This can be particularly useful for investors trying to diversify.

95% Rule

There is also a less commonly used 95% identification rule. Because it generally requires acquiring at least 95% of the total value of all properties identified, it requires careful planning and professional guidance.

The "Trade Up" Strategy

Investors commonly try to reinvest enough value and equity to avoid creating taxable "boot."

A simplified way to think about a fully deferred exchange is:

Replacement property value

Generally purchase replacement property with sufficient value relative to the relinquished property.

AND

Equity/proceeds

Reinvest the applicable net equity rather than taking cash out.

Debt replacement and liability rules are more complicated than simply "replace the same mortgage," so the exact numbers should be calculated by the investor's CPA/QI.

What Is Boot?

"Boot" generally refers to money or other non-like-kind value received in an exchange that can result in taxable gain.

Example: Investor sells investment property for **$800,000**. After expenses and debt payoff, assume the exchange produces substantial equity. Investor purchases a **$700,000 replacement property** and receives cash remaining from the exchange. That cash may produce taxable gain.

A 1031 exchange does not necessarily have to be all-or-nothing. An investor may intentionally choose a **partial exchange**, receive some cash, pay tax on the applicable recognized gain, and defer the remainder. That can sometimes be a perfectly reasonable strategy.

Why Florida Vacation-Rental Owners Should Consider 1031

Florida investors can accumulate significant appreciation and depreciation over years of ownership.

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Consider a hypothetical vacation-rental condo:

Original purchase: **$350,000**
Current value: **$750,000**

The investor may have significant appreciation, years of depreciation deductions, a relatively low adjusted tax basis, and substantial equity.

Selling conventionally can potentially trigger federal capital-gain consequences and depreciation-related tax consequences.

A properly structured 1031 exchange can potentially defer qualifying gain and allow more capital to remain invested.

The Florida Condo Repositioning Strategy

This is particularly relevant to Florida's coastal markets.

An owner may have a condominium facing:

- Increasing HOA dues
- Large assessments
- Aging building systems
- Insurance increases
- Reserve requirements
- Structural inspection issues
- Rental restrictions
- Reduced rental profitability
- Increased competing inventory

Rather than simply selling and realizing the associated taxable gain, the investor might consider exchanging into another investment.

> **OLD CONDO — High HOA, assessment exposure, aging building, insurance pressure**
> ↓
> **1031 EXCHANGE**
> ↓
> **REPLACEMENT INVESTMENT — Newer condo, OR single-family vacation rental, OR long-term rental, OR multiple rental properties**

This turns the 1031 exchange into more than a tax strategy. It becomes a **portfolio-quality strategy.**

One Property → Multiple Properties

One particularly interesting strategy for Florida investors is diversification.

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Example

Sell: 30A vacation home, value **$1,500,000**

Potential replacement strategy: PCB condo — $500,000, Destin condo — $550,000, Long-term rental — $450,000+

Instead of depending upon one expensive asset, the investor may potentially diversify among multiple income streams.

Potential benefits include: multiple tenants or guests, geographic diversification, different rental strategies, reduced concentration risk, multiple future exit options.

The properties and numbers must satisfy the exchange rules.

Multiple Properties → One Premium Property

The opposite strategy can also work. An investor might sell several smaller rentals and consolidate into one higher-quality asset.

Example: Rental #1 — $325,000, Rental #2 — $375,000, Rental #3 — $400,000 → Replacement property, approximately **$1.1 million+**

Potential objectives: simplified management, fewer roofs and HVAC systems, fewer tenants, better location, higher-quality asset, improved appreciation potential.

Vacation Rental → Long-Term Rental

An owner may eventually become tired of guest turnover, cleaning coordination, furnishing replacement, booking-platform management, seasonality, dynamic pricing, and guest complaints.

A 1031 exchange may allow the investor to move from a qualifying vacation rental into qualifying long-term rental real estate.

This can be useful for investors moving from **high-management / high-gross-income** toward **lower-management / more predictable occupancy.**

Long-Term Rental → Vacation Rental

The strategy can also move in the opposite direction. An investor may sell a traditional rental and purchase a qualifying vacation-rental investment.

Potential motivations include: higher potential gross revenue, personal interest in coastal markets, appreciation potential, different income strategy, portfolio diversification.

However, investors should analyze **net operating performance**, not simply advertised gross rental income.

Analyze the Replacement Property as an Investment

Never buy a mediocre property simply because the 45-day clock is running.

Evaluate:

Purchase Price

Is the investor overpaying simply to complete the exchange?

Gross Rental Revenue

Use realistic historical or market-supported numbers.

HOA Fees

Especially important with Florida condominiums.

Insurance

Analyze current premiums and potential changes.

Property Taxes

Do not assume the seller's current tax bill will equal the buyer's future bill.

Assessments

Review current and proposed assessments.

Reserves

Particularly important for condominiums.

Rental Restrictions

Verify minimum rental period, rental frequency, short-term rental restrictions, HOA rules, local ordinances.

Property Management

Include realistic management expenses.

Maintenance

Vacation rentals generally experience more wear.

Utilities

Determine which expenses are owner-paid.

Furnishings

Furniture and other personal property can create additional tax considerations because Section 1031 generally applies to qualifying real property — not ordinary personal property.

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Florida Short-Term Rental Taxes

Florida investors also need to distinguish **1031 tax treatment** from taxes generated by operating a vacation rental.

Florida generally imposes a **6% state sales tax** on taxable transient accommodations rented for six months or less, plus applicable discretionary sales surtax.

Counties may also impose local tourist-development or other transient-rental taxes.

These taxes can apply to vacation homes, condominiums, single-family homes, apartments, and other transient accommodations. Tax rates and administration can vary by county.

Therefore, a property can be an excellent 1031 replacement candidate while still carrying significant ongoing transient-rental tax obligations.

Florida Documentary Stamp Tax

Florida real-estate transfers can also be subject to documentary stamp tax.

Outside Miami-Dade County, Florida currently generally imposes documentary stamp tax on deeds at **$0.70 per $100 of consideration or portion thereof.**

Miami-Dade has different rates and surtax rules.

A 1031 exchange does **not automatically eliminate Florida transactional taxes and closing expenses.** Investors should budget for normal acquisition and disposition expenses.

Depreciation Doesn't Simply Disappear

One major misconception is:

"I did a 1031, so my old depreciation is gone."

That is not generally how the system works.

The basis of the relinquished property generally carries into the replacement property, subject to applicable adjustments.

That means deferred gain and depreciation-related tax attributes can continue through the investment chain.

This is why investors should have their CPA calculate: original basis, capital improvements, accumulated depreciation, adjusted basis, realized gain, recognized gain, deferred gain, and replacement-property basis.

1031 + Estate Planning

Some long-term real estate investors follow a strategy sometimes summarized as:

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Buy

Acquire investment property.

Hold

Allow appreciation and rental income.

Exchange

Use qualifying 1031 exchanges to reposition investments over time.

Exchange Again

Continue moving capital into potentially stronger assets while deferring qualifying gain.

Estate Planning

Eventually coordinate the portfolio with the investor's estate plan.

Current federal basis rules at death can potentially produce a basis adjustment for inherited property.

Because tax and estate laws can change, this strategy should always be reviewed with qualified tax and estate-planning professionals.

Section 121 + 1031

Certain properties have been used both as investment property and as a principal residence.

In some circumstances, Sections **121 and 1031** can interact.

Section 121 may allow qualifying homeowners to exclude certain gain from the sale of a principal residence, subject to eligibility requirements.

This becomes particularly technical when a property has changed from rental to primary residence, or primary residence to rental.

Do not assume the full Section 121 exclusion automatically applies. Have the property's entire ownership and occupancy history reviewed by a tax professional.

Reverse 1031 Exchange

Sometimes the ideal replacement property appears **before** the investor is ready to sell the existing property.

A reverse exchange may provide a solution.

Simplified concept:

> **Replacement property found first**
>
> ↓
>
> **Exchange Accommodation Titleholder becomes involved**
>
> ↓
>
> **Investor's existing property is sold**

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↓

Exchange completed under specialized rules

Reverse exchanges are considerably more complex than ordinary delayed exchanges and require professional structuring.

They can nevertheless be valuable in competitive Florida markets when an investor does not want to lose an attractive property while waiting for the existing property to sell.

Improvement / Construction Exchange

Another advanced strategy involves using exchange funds toward qualifying improvements to replacement real estate under a properly structured arrangement.

Potential example: Investor sells a **$900,000 vacation rental**. Replacement property costs **$750,000**. Property needs **$150,000+ renovation**.

Under appropriate professional structuring, an improvement exchange may potentially help incorporate qualifying improvements into the replacement-property strategy.

This should never be attempted casually.

Same-Taxpayer Issue

The taxpayer disposing of the relinquished property generally needs to be consistent with the taxpayer acquiring the replacement property, subject to various entity and disregarded-entity rules.

This becomes particularly important when property is owned through LLCs, partnerships, corporations, trusts, married couples, or multiple investors.

Do not change ownership structures immediately before an exchange without professional guidance.

Related-Party Transactions

Special rules apply to exchanges involving related parties.

Related parties can include certain family members, corporations, partnerships, and controlled entities.

A disposition within two years following certain related-party exchanges can cause previously deferred gain to become taxable.

These transactions require specialized tax review.

Furnished Florida Vacation Rentals

Florida vacation properties are frequently sold fully furnished. That creates an important issue.

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The real estate itself may qualify for Section 1031 treatment. But items such as furniture, electronics, appliances in some circumstances, décor, linens, equipment, golf carts, and other personal property may have separate tax treatment.

Purchase contracts and closing allocations should therefore be reviewed carefully by the investor's tax advisor.

Florida Condo Due-Diligence Checklist

Before identifying a condominium as replacement property, investigate:

- HOA dues
- Current assessments
- Proposed assessments
- Reserve funding
- Structural inspection requirements
- Building age
- Insurance
- Master insurance deductible
- Flood exposure
- Rental restrictions
- Minimum rental period
- Pet restrictions
- Parking
- Rental-management requirements
- Historical rental performance
- Current rental bookings
- Management agreements
- Pending litigation
- Recent board minutes
- Financial statements
- Budget
- Special-assessment history
- Upcoming capital projects

A tax-efficient exchange into a financially troubled condominium is still a poor investment.

Single-Family Rental Due Diligence

Analyze:

- Roof age

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- HVAC age
- Electrical system
- Plumbing
- Flood zone
- Insurance availability
- Wind mitigation
- Four-point inspection
- Property taxes
- HOA
- Rental restrictions
- Local STR regulations
- Pool expenses
- Landscaping
- Pest control
- Utilities
- Management fees
- Historical occupancy
- Rental rates
- Maintenance reserves

1031 Replacement Property Scorecard

Before identifying a property, score it from **1–10** in each category:

Category	Score
Location	/10
Purchase Price	/10
Rental Demand	/10
Net Cash Flow	/10
HOA/Operating Costs	/10
Insurance Risk	/10
Assessment Risk	/10
Building/Property Condition	/10

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Category	Score
Appreciation Potential	/10
Resale Liquidity	/10
Management Requirements	/10
Rental Restrictions	/10

Total Score

_____ / 120

The exchange deadline should not replace normal investment discipline.

Before Selling — Build the Strategy

Ideally, planning begins **before the relinquished property is listed.** Determine:

Step 1

Estimated property value.

Step 2

Mortgage payoff.

Step 3

Estimated selling expenses.

Step 4

Original tax basis.

Step 5

Capital improvements.

Step 6

Accumulated depreciation.

Step 7

Estimated adjusted basis.

Step 8

Estimated taxable gain without exchange.

Step 9

Potential replacement-property budget.

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Step 10

Desired investment strategy.

Choose the Objective

A successful 1031 exchange should solve an investment problem. Possible objectives include:

Cash-Flow Strategy

Move equity toward stronger net income.

Appreciation Strategy

Move toward markets with better long-term growth prospects.

Management-Reduction Strategy

Vacation rental → long-term rental.

Condo-Risk Reduction

Older condo → newer building or single-family property.

Diversification

One expensive property → several properties.

Consolidation

Several rentals → one premium asset.

Geographic Repositioning

One Florida market → another Florida or U.S. market.

Retirement Strategy

Move toward easier-to-manage properties.

Example Florida Coastal Strategy

Investor owns a Panama City Beach vacation condo.

Current value: **$650,000**
Adjusted basis: **$275,000**
Mortgage: **$125,000**

The investor is concerned about HOA increases, assessments, aging building, insurance, and seasonal rental income.

Instead of simply selling and taking the proceeds, the investor explores a 1031 exchange.

Potential replacement candidates:

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Option A

Newer PCB condo

Option B

Destin vacation rental

Option C

Single-family rental in Freeport

The investor compares cash flow, appreciation, HOA, insurance, maintenance, rental demand, and resale potential — rather than simply asking "which property lets me complete my 1031?" That distinction matters.

The 1031 Team

A strong exchange typically involves several professionals.

Real Estate Agent

Helps value, market, sell, locate and negotiate qualifying replacement-property candidates.

Qualified Intermediary

Facilitates the exchange and handles exchange funds/documents.

CPA / Tax Advisor

Determines tax consequences and reporting.

Real Estate Attorney

Assists when legal/entity/contract issues require review.

Lender

Coordinates replacement financing.

Insurance Professional

Determines insurability and cost before closing.

Property Manager

Provides realistic rental projections and operating costs.

Common 1031 Mistakes

Avoid these common problems:

1. Closing before engaging a QI.
2. Taking possession of sale proceeds.
3. Missing the 45-day identification deadline.

This guide is for general educational purposes only and is not tax, legal, accounting, or financial advice. Consult a qualified CPA, 1031 Qualified Intermediary, and attorney before proceeding.

4. Missing the applicable exchange completion deadline.
5. Waiting until after closing to search for replacement property.
6. Buying a weak investment solely because of the deadline.
7. Assuming a vacation home automatically qualifies.
8. Excessive personal use.
9. Ignoring debt/liability and boot calculations.
10. Changing ownership/entity structure without tax advice.
11. Ignoring furniture/personal-property allocations.
12. Assuming all closing expenses reduce taxable boot.
13. Ignoring HOA assessments.
14. Using unrealistic vacation-rental projections.
15. Forgetting insurance costs.
16. Failing to examine condo financials.
17. Assuming a 1031 permanently eliminates taxes.
18. Failing to properly report the exchange.

Reporting the Exchange

A qualifying exchange is generally reported to the IRS using:

Form 8824

Like-Kind Exchanges

Additional tax forms may be required depending upon the transaction.

Investors should maintain detailed records concerning: relinquished-property basis, depreciation, capital improvements, closing statements, exchange documents, identification notices, replacement-property purchase, financing, and exchange expenses.

2026–2027 Florida Investor Perspective

For Florida investors, the value of a 1031 exchange isn't limited to tax deferral. It can provide an opportunity to reassess an entire portfolio.

Ask: **Is my equity still invested in the property where it has the best opportunity to work for me?**

An investor sitting on substantial equity in an older vacation rental may discover that the property has lower cash-on-equity returns, higher insurance expenses, higher HOA expenses, increasing assessment exposure, more maintenance, and slower appreciation potential.

The real question may therefore be:

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If I had this equity in cash today, would I buy this same property again?

If the answer is no, a 1031 exchange deserves consideration.

The 1031 Investment Decision

Keep

Continue operating the existing property. Best when: strong cash flow + manageable expenses + good appreciation outlook.

Sell

Sell and recognize the applicable taxes. Best when: liquidity or cash is more valuable than continued real estate exposure.

Exchange

Sell and reposition equity into another qualifying investment. Best when: the investor wants to remain invested in real estate while potentially deferring qualifying gain.

1031 Exchange Roadmap

Before Listing

Property valuation
↓
CPA tax estimate
↓
Equity calculation
↓
1031 strategy
↓
Qualified Intermediary research
↓
Replacement-property research

Under Contract

Notify agent, closing agent, CPA, QI, lender
↓
Finalize exchange documents
↓

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Begin aggressive replacement-property due diligence

Closing Day

Relinquished property closes
↓
Proceeds transferred according to exchange structure
↓
45-DAY CLOCK BEGINS

Days 1–30

Inspect and underwrite replacement candidates.

Before Day 45

Properly identify replacement property.

Exchange Period

Complete due diligence
↓
Obtain financing
↓
Secure insurance
↓
Review HOA/condo documents
↓
Close qualifying replacement property within applicable deadline.

Questions to Ask Before Starting

- How long have I owned the property?
- How has it been used?
- How many personal-use days have I had?
- What is my adjusted tax basis?
- How much depreciation have I taken?
- What would my estimated tax exposure be if I simply sold?
- How much equity will be available?
- What debt exists?
- Do I want more cash flow?
- Do I want appreciation?
- Do I want less management?

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- Do I want to diversify?
- Do I want to consolidate?
- Am I comfortable owning another vacation rental?
- Would a long-term rental make more sense?
- Are there major condo assessments coming?
- What will replacement-property insurance cost?
- What is my desired holding period?

Final Strategy

A 1031 exchange should never be viewed simply as:

SELL → BUY SOMETHING → AVOID TAX

A better approach is:

ANALYZE
Understand current equity and tax position.

↓

REPOSITION
Identify where that equity could potentially perform better.

↓

EXCHANGE
Structure the transaction correctly with qualified professionals.

↓

IMPROVE
Seek better cash flow, asset quality, location, diversification or management efficiency.

↓

REPEAT WHEN APPROPRIATE
Continue optimizing the portfolio as investment objectives change.

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The Bottom Line

For owners of Florida rental homes, vacation properties and investment condominiums, a properly structured Section 1031 exchange can be an exceptionally useful tool.

It may allow an investor to move from **one investment property** to **a potentially stronger investment property** while deferring qualifying taxable gain.

For Florida coastal investors in particular, it can provide an opportunity to move away from aging buildings, rising HOA expenses, assessment exposure or underperforming rentals and into assets that better match today's investment goals.

The tax savings should not dictate the investment. **The investment should make sense first.** Then the 1031 exchange can help determine the most tax-efficient way to get there.

Thinking through a potential 1031 exchange on a Florida rental home, vacation-rental condo, or investment property? I work with out-of-area owners across the Florida Panhandle every day — identifying qualifying replacement property, running the numbers, and coordinating with your CPA and Qualified Intermediary.

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PCB • 30A • Destin • Florida Panhandle

Investment Property | 1031 Exchanges | Vacation Rentals | Gulf-Front Condos | Second Homes | Buyer Representation | New Construction

Important Disclaimer

This guide is provided solely for general educational and informational purposes. Real estate, tax and investment circumstances differ for every owner. Tax laws, IRS guidance, Florida laws, local regulations and condominium requirements can change. Nothing contained in this guide should be considered tax, legal, accounting, investment or financial advice. Before entering into a Section 1031 exchange, consult an experienced Qualified Intermediary, CPA/tax advisor, attorney and other appropriate professionals. Reviewed against current IRS and Florida Department of Revenue guidance as of August 2026 (see IRS.gov, About Form 8824 — Like-Kind Exchanges). **Never wait until after the relinquished property has closed to determine whether you want to complete a 1031 exchange.**

ADDITIONAL RESOURCE

Recommended Qualified Intermediary

Every 1031 exchange requires a Qualified Intermediary to hold exchange funds and prepare exchange documents. The QI should be selected before the relinquished property closes. I regularly work with the exchange team below on client transactions across the Florida Panhandle.

QUALIFIED INTERMEDIARY

Janet L. Schaum

Vice President & Regional Sales Executive — Old Republic Exchange Company

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This contact is provided as a courtesy and convenience. You are free to select any Qualified Intermediary of your choosing — your CPA or attorney can also recommend one. Old Republic Exchange Company is not affiliated with Kinsey Haddock or Coldwell Banker Realty, and this is not an endorsement of tax or legal outcomes.

OLD REPUBLIC EXCHANGE

OLD REPUBLIC EXCHANGE

Our Mission IS SIMPLE

To provide our clients the best IRC §1031 exchange consulting, expert service and unparalleled financial security.

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Your PEACE OF MIND

Your first and last concern in a 1031 exchange transaction should be security and integrity. *Are your funds secure and will your transaction be processed accurately* are the two most important questions you should pose to the Qualified Intermediary ("QI") handling your exchange transaction. Unfortunately, there are no federal regulations for the QI industry. And, because it is fairly easy to become a QI, it is imperative that you place your exchange funds with a QI that will protect your assets.

Added Security for your Exchange:

- $60 million/$120 million aggregate in fidelity bond
- $50 million errors & omissions insurance
- Letter of Guaranty from corporate parent

The Old Republic Advantage – Strength in Numbers

When you choose Old Republic Exchange (ORE), a wholly-owned subsidiary of one of the nation's premier title insurers, Old Republic Title, you have the confidence of knowing our financial strength preserves the integrity and security of your transaction. Old Republic Exchange is a member of the Old Republic Title Insurance Group, which is a wholly-owned subsidiary of Old Republic International Corporation (NYSE: ORI), a multi-billion dollar corporation, which ranks among the nation's 50 largest publicly-held insurance organizations. Since 1992, no other title insurer has received higher overall financial ratings than Old Republic Title.

Personal and Professional Service

Our knowledgeable and professional staff of qualified account managers and experienced attorneys understand your individual needs in the IRC §1031 property exchange process and will assist you with each step in that process. When necessary, Old Republic Exchange provides complete and concise exchange documentation within hours.

The Industry Leader

Old Republic Exchange has facilitated thousands of 1031 transactions. We are the unparalleled leader in the exchange business. Our national team consists of qualified, experienced professionals who will assist you in structuring and managing your transaction — be it the simple delayed or simultaneous exchange, or the complicated reverse, build-to-suit or multi-site commercial transaction. Old Republic Exchange is your national 1031 exchange services solution.

*Underwriters for Old Republic Title are Old Republic National Title Insurance Company and American Guaranty Title Insurance Company.

Old Republic Exchange *is with you* EVERY STEP OF THE WAY

What is a 1031 Exchange?

The Internal Revenue Code provides that a taxpayer may sell real property and defer payment of capital gains tax, if that taxpayer uses the proceeds to acquire a like-kind replacement property.

IRC §1031 provides that neither gain nor loss is recognized if property held for investment or productive use in trade of business is exchanged for property held for investment or productive use in a trade or business.

Why Exchange?

- Capital gains tax is significant;
- Reinvestment into replacement property allows taxpayer to leverage dollars that would otherwise be spent on taxes;
- Allows for non-income producing property to be replaced with income-producing property; and
- Allows taxpayer to diversify portfolio and minimize risk.

What We Do

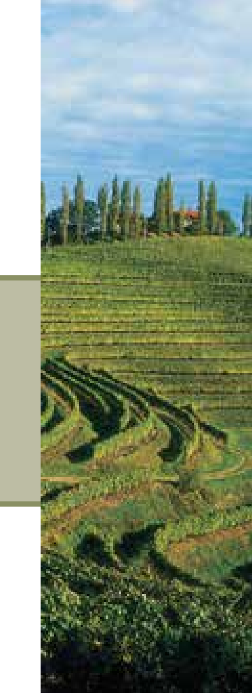
- Act as Qualified Intermediary (QI), as required by the Treasury Regulations;
- Prepare all documents required for the exchange;
- Consult with your tax advisor;
- Execute closing documents;
- Hold the exchange proceeds to avoid constructive receipt of funds; and
- Coordinate with the closing agents, real estate professional, and tax and legal advisors.

Always consult with your tax advisors. Their advice is essential to a successful tax-deferred exchange. Your tax professional will establish values, allocate sales and purchase price, and recommend the appropriate structure for your transaction. Old Republic Exchange does not provide tax or legal advice.

Like-Kind

A WORLD OF REAL POSSIBILITIES

The fundamental advantages of a tax-deferred exchange may be utilized to diversify, consolidate or leverage your investment portfolio. The broad definition of like-kind provides investors with numerous options to accomplish their investment goals.



3 Requirements to Defer Capital Gains Tax Under Section 1031:

(1) The property disposed of and the property received must be held for productive use in a trade or business or for investment.

Property held primarily for sale does not qualify. An example of this is real property held for sale to customers in the ordinary course of a trade or business, commonly referred to as "dealer property".

(2) The property disposed of and the property received must be of "like-kind".

Like-Kind Real Property. Like-kind does not mean that the property sold and the property acquired must share the same physical characteristics. Instead, "like-kind" simply refers to the requirement that property "held for investment or for productive use in a trade or business" must be exchanged for other property that also is "held for investment or for productive use in a trade or business". In other words, an apartment building need not be exchanged for another apartment building. It can be exchanged for raw land, a farm, a duplex, retail property, industrial property, a perpetual conservation easement, a leasehold of 30 years or more, etc.

(3) There must be an "exchange" as distinguished from a "purchase and sale".

A sale of property and a reinvestment of the proceeds into another property will not qualify as an exchange under section 1031. The essence of a sale is the receipt of cash for property; whereas the essence of an exchange is the transfer of property between owners, where each party to the exchange gives up a property interest in return for a new or additional property interest.

There are four methods of exchanging: simultaneous exchange, delayed exchange, reverse exchange and construction/improvement exchange (see pages 5-8 for methods of exchanging).

Examples of Like-Kind Real Property

- Commercial building for a ranch or farm
- A leasehold interest of 30 years or more for a fee interest
- Rental house for farmland
- Improved real property for unimproved real property
- Conservation easement in one farm for fee interest in another farm
- A utility easement for a utility easement

Old Republic Exchange *Gives You*

4 WAYS TO EXCHANGE

1. The Delayed Exchange The most commonly utilized tax-planning strategy available to investors is the delayed exchange. A delayed exchange results when there is a delay between the sale of the relinquished property and the purchase of the replacement property. [A delayed exchange is also referred to as a "Starker exchange" because of the landmark 1979 federal case entitled *Starker v. U.S.*, 602 F2d 1341 (9th Cir. 1979), wherein the court substantiated the validity of the delayed exchange process. Prior to the *Starker* case, §1031 of the Internal Revenue Code authorized tax-free exchanges of property.] Thereafter, Congress in the 1984 Tax Reform Act, adopted subsection 1031 (a)(3), which created the 45-day identification period and the 180-day exchange period. Finally, on April 25, 1991; the IRS promulgated the final regulations under section 1.1031(a)-1, *et. seq.,* which provide specific rules for deferred like-kind exchanges.

The delayed exchange provides investors up to 180 days to purchase a replacement property after the relinquished property is sold. The use of a QI or other safe harbor is required to facilitate a valid delayed exchange. The delayed exchange occurs in three fundamental steps:

STEP ONE: *Sale of the Relinquished Property:* Before closing on the sale of the relinquished property, the exchanger retains a QI, such as Old Republic Exchange. Old Republic Exchange prepares an exchange agreement, an assignment of the sales contract and the closing instructions to the escrow-closing agent. Old Republic Exchange instructs the escrow/closing agent to deed the relinquished property direct to the buyer and to deliver sales proceeds directly to Old Republic Exchange—thereby preventing the exchanger from having actual or constructive receipt of the funds. Once the funds are delivered to Old Republic Exchange, access to the funds is restricted for the remainder of the exchange period. IRC §1031 provides strict rules pertaining to the release of funds to the exchanger, even when the exchanger decides not to proceed with the exchange.

STEP TWO: *Identification of the Replacement Property:* The exchanger must identify a replacement property within 45 calendar days after the close of the relinquished property. The identification is proper only if the replacement property is designated as a replacement property in a written document signed by the exchanger and hand-delivered, mailed, telecopied or otherwise sent to the person obligated to transfer the replacement property to the exchanger (i.e. the seller of the replacement property) or to any other person involved in the exchange (such as the QI), other than the exchanger or a disqualified person. Three identification rules apply, which limit the number of properties the exchanger may identify:

3-PROPERTY RULE: Three properties, no matter what the fair market value; or

200-PERCENT RULE: Any number of properties, as long as the aggregate fair market value does not exceed 200% (2x) of the fair market value of all the relinquished properties; or

95-PERCENT RULE: Any number of properties with-out regard to value—provided 95% of the value of the identified properties is acquired.

STEP THREE: *Purchase of Replacement Property:* Within 180 calendar days after the sale of the relinquished property or the exchanger's tax filing date, whichever is earlier, the exchanger must acquire a like-kind replacement property. The property acquired must be one or more of the previously identified replacement properties. The exchanger again assigns the purchase and sale contract to Old Republic Exchange, which purchases the replacement property with the exchange proceeds and causes the seller to deed the replacement property direct to the exchanger.

2. The Reverse Exchange A reverse exchange results when the replacement property is acquired prior to the sale of the relinquished property. The IRS formally acknowledged reverse exchanges effective September 15, 2000 (see Rev. Proc. 2000-37). With the help of a QI, the exchanger utilizes an Exchange Accommodation Titleholder (EAT) to purchase either the relinquished property or the replacement property. As with delayed exchanges, the reverse exchange must be completed within 180 days.

TWO DIFFERENT PARKING METHODS FOR REVERSE EXCHANGES:

(A) Exchange Last, aka "Park Title" to the Replacement Property. In this parking arrangement, the EAT acquires title to the replacement property with funds loaned by the exchanger. The EAT then holds that property until the exchanger finds a buyer for the relinquished property. After a buyer is found, the QI sells the relinquished property to the buyer and uses the exchange proceeds to purchase the replacement property from the EAT. The EAT uses the sale proceeds to repay the loan from the exchanger. Thus, the exchange occurs at the end of the transaction.

(B) Exchange First, aka "Park Title" to the Relinquished Property. In this parking arrangement, the QI sells the relinquished property to the EAT. The EAT then purchases the relinquished property with the funds loaned from the exchanger. Concurrent therewith, the QI uses the proceeds to purchase the replacement property and causes the seller to convey title directly to the exchanger. Thus, the exchange occurs at the beginning of the transaction. Thereafter, the EAT continues to hold title to the relinquished property until the exchanger finds a buyer. After a buyer is found, the EAT sells the relinquished property to the buyer and uses the proceeds to repay its loan from the exchanger.

In either scenario, the EAT will enter into a management agreement and a lease with the exchanger, in order to allow the exchanger management responsibilities over the property for the duration of the parking period. Additionally, the EAT will require hazard and liability insurance during the holding period. And, in a transaction involving financing, the EAT may become the borrower under a non-recourse loan. Upon the expiration of the exchange period or the sale of the replacement property to the exchanger, the exchanger assumes the loan.

Timeline: No later than five business days after the EAT acquires its ownership interest in the parked property, the EAT and the exchanger must enter into a written Qualified Exchange Accommodation Agreement (QEAA). If it is the replacement property that is parked, the exchanger then has 45 days to identify one or more relinquished properties. Written identification of the relinquished properties must be delivered to the EAT or to another party involved in the exchange. The exchange must be completed within 180 days (i.e., relinquished property must be conveyed to third-party buyer and replacement property must be conveyed to the exchanger), after the EAT's acquisition of title.

DELAYED EXCHANGE TIMELINE

0 Days	45 Days	180 Days
Close of Relinquished Property	End of Identification Period	Close of Replacement Property

REVERSE EXCHANGE TIMELINE

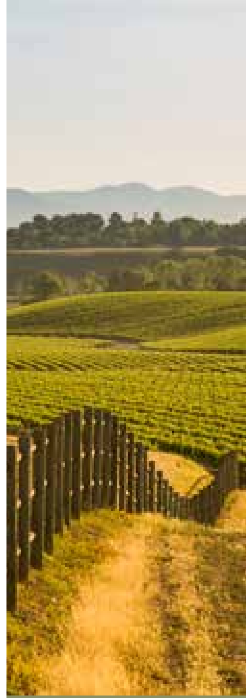
0 Days	45 Days	180 Days
Title acquired by EAT	End of Identification Period	Close of Relinquished Property to buyer

Old Republic Exchange *Gives You*

3. The Simultaneous Exchange

A simultaneous exchange occurs when the relinquished and replacement properties close at the same time. The use, however, of a QI, such as Old Republic Exchange, is still required and assures the exchanger that he does not have constructive receipt of his funds, thus ensuring the preservation of safe harbor treatment under the Treasury Regulations.

4 WAYS TO EXCHANGE



4. The Improvement Exchange

An improvement, construction or build-to-suit exchange occurs when the exchanger wishes to use exchange proceeds to make capital improvements to the replacement property. However, improvements made to land already owned by the exchanger will not qualify as like-kind replacement property. Additionally, exchange proceeds cannot be used to pre-pay for improvements to be made after the exchange. Because of these rules, exchangers are required to use an accommodation parking structure – as used in reverse exchanges – and as permitted under Revenue Procedure 2000-37 whereby an EAT acquires the replacement property and holds title while the improvements are made.

The improvement exchange can occur in the context of a delayed or reverse exchange. In the context of delayed exchange, the exchanger sells the relinquished property using a QI. The exchanger has 45 days after the closing to identify both the replacement property and the improvements to be made. The identification requirement is satisfied if a legal description is provided for the underlying land and as many details as practical are provided regarding construction of the improvements when the identification is made. The exchanger enters into a purchase and sale agreement to acquire the replacement property along with a QEAA with an Exchange Accommodation Titleholder. The Exchange Accommodation Titleholder agrees to acquire title to the Replacement property and park title while the improvements are being made. The EAT uses the exchange proceeds to acquire the replacement property and pay for the identified improvements. Within 180 calendar days after the sale of the relinquished property or the exchanger's tax filing date, whichever is earlier, the exchanger must acquire the newly improved replacement property. It is critical that the exchanger receives property that is substantially the same as the improvements and property identified. Additionally, only proceeds spent on improvements that are substantially complete within the exchange period will qualify for non-recognition.

Old Republic Exchange does not provide tax or legal advice. Consult with your tax advisor to determine whether an exchange is appropriate for your circumstances.

DON'T SELL YOUR INCOME OR INVESTMENT PROPERTY

Until You

Do the Math

Taxes are paid on capital gain, not equity or profit. It is possible to sell property without realizing much profit and still owe substantial capital gains tax. Capital gain is simply the difference between the sales price and the adjusted basis (i.e., what you paid for the property, plus amounts spent on capital improvements, less depreciation taken), less any closing costs associated with the sale.

To calculate your estimated capital gain: First, subtract the adjusted basis from the sales price. Next, subtract the customary closing costs of your transaction, such as commission, fees, transfer tax, etc. Finally, multiply the capital gain by your combined tax rates (federal and state) to determine your estimated capital gain tax.

		Example
1. Calculate Net-Adjusted Basis:		
Original Purchase Price	____________	$400,000
Plus Capital Improvements	____________	$25,000
Minus Depreciation Taken	(____________)	($175,000)
Equals Adjusted Basis	____________	$250,000
2. Calculate Capital Gain:		
Current Sales Price	____________	$600,000
Minus Customary Closing Costs	(____________)	($30,000)
Minus Adjusted Basis	(____________)	($250,000)
Equals Capital Gain	____________	$320,000
3. Calculate Capital Gain Tax:		
Gain Attributable to Depreciation ($175,000 x 25% = depreciation)	____________	$43,750
Plus Federal Capital Gain Tax ($320,000-$175,000 = $145,000 x 20%)	____________	$29,000
Plus State Capital Gain Tax (e.g. CA approx. 10% x $320,000 [cap. Gain])	____________	$32,000
Plus 3.8% Surtax* (3.8% x $320,000)	____________	$12,160
= Combined Tax Due	____________	$116,910

* If your modified adjusted gross income (MAGI) is equal to or less than the threshold amounts specified in IRC 1411, you will not be subject to the 3.8% tax. If your MAGI is above the specified threshold amounts, you will pay 3.8% tax on either your investment income or the excess MAGI over the specified threshold, whichever amount is less.

Filing status	Threshold amount
Married filing jointly	$250,000
Married filing separately	$125,000
All other individual taxpayers	$200,000
Trusts and Estates	$12,500 (for 2017)

The formula set forth above is provided to help you determine your approximate gain and the sums that you may wish to defer through your exchange transaction. Consult with your tax advisor to determine the correct values and whether an exchange is appropriate for your circumstances. Old Republic Exchange does not provide tax or legal advice.

100% Deferral—to fully defer state and federal capital gains taxes, the exchanger must reinvest all exchange proceeds and either acquire property with equal or greater debt, or reinvest additional cash equal to the debt relief. The following worksheet is a useful tool for determining the amount of cash and debt that should go into the replacement property.

RELINQUISHED PROPERTY	Example	REPLACEMENT PROPERTY	Example
Sale Price:____________	$400,000	Purchase Price:____________	$600,000
Minus Existing Loans:____________	$150,000	Minus New Loans:____________	$375,000
Minus Exchange Expenses:____	$25,000	Equals Minimum Down:________	$225,000
Equals Net Proceeds:__________	$225,000		

Your minimum down payment for the replacement property should be equal to or greater than the net proceeds from the sale of your relinquished property, otherwise, you may have boot in the form of cash.

Determining the Proper Vesting

The taxpayer who disposes of the relinquished property must be the same taxpayer who acquires title to the replacement property. Problems arise when title to the relinquished property is held differently than title to the replacement property. For example, a husband and wife dispose of property and acquire new property to which only the husband is on the title. Or, partnership ABC disposes of property and partner A individually acquires replacement property with the title in A's individual name. Or, ABC Irrevocable Trust disposes of property and A acquires the title to the replacement property individually.

The following scenarios are disallowed:

- Husband relinquishes, and husband and wife acquire property of equal value.
- ABC Corporation relinquishes and XYZ Corporation acquires.
- ABC Partnership relinquishes and partners acquire as individuals.
- ABC Partnership relinquishes and XYZ Partnership acquires.
- Multi-member LLC relinquishes and members acquire as individuals.
- ABC multi-member LLC relinquishes and XYZ multi-member LLC acquires.

Exceptions to the "same vesting" rule: The replacement property may be acquired by a "disregarded entity" that is wholly-owned by the taxpayer who disposed of the relinquished property. This is because a disregarded entity is ignored for federal tax purposes. Instead, the owner of the entity is deemed the taxpayer for federal tax purposes. Examples of disregarded entities include:

- A LLC with one owner that does not elect to be classified as a corporation;
- A revocable living trust;
- An Illinois land trust;
- A Delaware Statutory Trusts (under certain circumstances - See Rev. Ruling 2004-86)

Examples of scenarios which are allowed using different entities:

- Individual relinquishes and an LLC, which individual is sole member of, completes the acquisition.
- Husband and wife are trustees of a revocable living trust, which is a true pass-through trust; relinquish, and husband and wife acquire as individuals.
- Single-member LLC relinquishes and sole member acquires as an individual.
- Individual relinquishes and individual's estate acquires due to the death of the individual.

The Exchange Contract Addenda

When exchanging, insert this language into your purchase and sale contract or call Old Republic Exchange for a personalized exchange contract addendum:

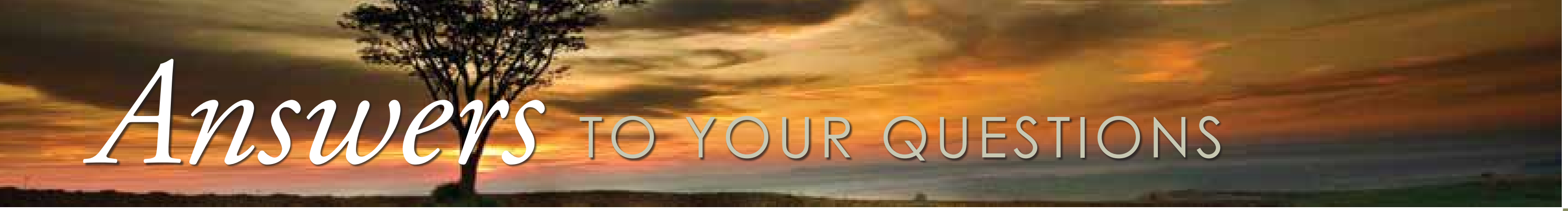
CONTRACT FOR THE SALE OF RELINQUISHED PROPERTY

Buyer acknowledges that it is the intention of Seller to effect an IRC §1031 tax-deferred exchange, which will neither delay the closing, nor cause additional expense or liability to the Buyer. Buyer further acknowledges that Seller's rights but not its obligations under this agreement may be assigned to Old Republic Exchange, a QI, to facilitate the exchange. Buyer agrees to cooperate with Seller and Old Republic Exchange to enable Seller to complete the exchange.

CONTRACT FOR THE ACQUISITION OF REPLACEMENT PROPERTY

Seller acknowledges that it is the intention of Buyer to complete an IRC §1031 tax-deferred exchange, which will neither delay the closing nor cause additional expense to Seller. Seller further acknowledges that Buyer's rights but not its obligations under this agreement may be assigned to Old Republic Exchange, a QI, for the purpose of completing the exchange. Seller agrees to cooperate with Buyer and Old Republic Exchange in a manner necessary to enable Buyer to complete this exchange.

Old Republic Exchange does not provide tax or legal advice. Consult with your tax advisor to determine whether or not an exchange is appropriate for your circumstances.



Answers TO YOUR QUESTIONS

What does the term 1031 refer to? 1031 is the number assigned to the Internal Revenue Code Section that provides for the tax-deferred exchange of real property.

What are "safe harbors"? This term refers to the rules established by the 1991 Treasury Regulations for tax-deferred exchanges, which provide that, if followed, the IRS will allow the exchange to qualify.

What is a Qualified Intermediary (QI)? An individual or business entity that provides the following functions/services in a 1031 exchange: (1) acquires the relinquished property from the exchanger and causes it to be transferred to the buyer; (2) holds the exchange proceeds to avoid exchanger's actual or constructive receipt of funds; and (3) acquires the replacement property and causes it to be transferred to the exchanger.

Why use a QI? Use of a QI is sanctioned as a safe harbor by the IRS.

What is Like-Kind? "Like-Kind" does not mean that the property sold and the property acquired must share the same physical characteristics. In other words, an apartment building need not be exchanged for another apartment building. It can be exchanged for: raw land, a farm, a duplex, rental property, industrial property, a perpetual conservation easement, a leasehold of 30 years or more, etc.

Instead, "Like-Kind" simply refers to the requirement that property that is "held for investment or for productive use in a trade or business" must be exchanged for other property that also is "held for investment or for productive use in a trade or business."

How do I properly identify my replacement property? Property that is intended as replacement property must be unambiguously described in a written document signed by the exchanger and sent to the QI or any other person "involved in the exchange", other than the exchanger or a disqualified person under Treasury Regulation 1.1031(k)-1(k).

The exchanger must identify the replacement property on or before the 45th calendar day* after the transfer of the relinquished property. The taxpayer has the burden of proof to show timely and proper identification. Backdating documents or otherwise dishonestly alleging that a proper identification was made may result in federal/civil and/or criminal penalties and fines. See IRC §§7201, 7207. See also Dobrich v. Commissioner (9th Cir 1999) 188 F3d 512, wherein the 9th circuit affirmed the Tax Court's penalty of 75 percent of the underpayment of taxes against the taxpayer, who backdated documents to make it appear that he had timely identified replacement property. The taxpayer paid over $1,000,000 in back taxes, plus a $774,307 civil fraud penalty for his efforts.

The Treasury Regulations do not permit exchange proceeds to be used to purchase property that has not been properly identified.

What are the exchange deadlines?
Identification period: The 45 calendar day* period within which the exchanger must identify – in writing – properties they intend to purchase as replacement property in the exchange. The identification must be sent to the QI or any other person involved in the exchange other than the exchanger or a disqualified person under Treasury Regulation 1.1031(k)-1(k) on or before 45 calendar days* after the transfer of the relinquished property. The property or properties listed on the identification notice must be unambiguously described by a legal description, street address or distinguishable name and the written identification notice must signed by the exchanger.

Exchange period: The period within which the exchanger must complete the acquisition of the identified replacement property(ies). This period ends the earlier of 180th calendar day* after the transfer of the relinquished property or the due date of the exchanger's tax return for the year in which the relinquished property was transferred.

Is there any way to get an extension on the 45 calendar day* or 180 calendar day* deadlines? No extensions are allowed on the 45 calendar day* deadline with respect to the exchange period. However, if the 180 exchange period is cut short by the earlier occurrence of your tax filing date, you may file for an extension, in order to get the full 180 calendar day* exchange period.

What is Boot? Broadly defined, boot is anything given or received by the taxpayer that is not like-kind or does not qualify under section 1031. Boot may be in the form of cash or a promissory note (i.e., **cash boot**), or it may be in the form of debt (i.e., **mortgage boot**). Any boot received by the taxpayer in connection with the disposition of the relinquished property which is not offset by boot given on the acquisition of the replacement property, is gain that must be recognized, i.e., taxed. Thus, it is important to understand the boot-netting rules.

Boot-netting rules:

1. Cash paid on the acquisition of the replacement property offsets cash received on the disposition of relinquished property;
2. Cash paid on the acquisition of replacement property offsets debt relief on the disposition of relinquished property; and
3. Debt acquired/assumed on the replacement property offsets debt relief on the disposition of relinquished property.

Caveat: Debt assumed on the acquisition of the replacement property will NOT offset cash received on the disposition of the relinquished property.

If I own a property with another investor, can I exchange my interest if s/he doesn't want to? Yes. You should clearly allocate each investor's interest in the property before you sell. The investor who wishes to exchange may do so and the other investor may receive cash (taxable). It is, however, very important that the investors be clear on their intentions before entering into an exchange agreement with a QI.

What is a partial tax exchange? If the equity on your investment property is $150,000, and you want to use only $100,000 to purchase your replacement property and take $50,000 out to buy a new car, you will have a partially tax-deferred exchange. The $50,000 cash you took to purchase the car is considered taxable cash boot.

May I take out my basis and reinvest only the gain?
No. Both basis and gain must be reinvested to defer taxes. The IRS does not allow you to allocate a portion of the money as basis and a portion as gain. Any money received by the exchanger will be considered boot and taxed at capital gain rate.

**If the 45th or 180th calendar day ends on a weekend or holiday, no extension of the time frame to the next business day is allowed under any circumstances*

What is the exchange value of the property? Simply stated, the exchange value is your sales price, less your closing costs. The exchanger is responsible for reinvesting the exchange value (i.e., the cash and loan amount) when they purchase the replacement property. (See section on boot.)

How is a seller carry-back note handled in an exchange? The note and deed of trust must be drawn in the QI's name. During the exchange period, the note must be converted to cash, which is then added to the exchange proceeds to be applied to the purchase of the replacement property in one of the following three ways:

1. Sell the note to a third party for cash that is then added to the exchange proceeds; or
2. Obtain the agreement of the replacement property seller to accept the note as part of the purchase price of the replacement property; or
3. Accept only a short-term note that will be paid in full prior to the acquisition of the replacement property.

I own a piece of property that includes my primary residence and a rental unit. Would it still qualify for an exchange? Yes, as to the rental portion of the property, so long as you remain consistent with your past tax returns. Consult with your tax advisor to determine the percentage value of the property you have attributed to investment. You may exchange that portion of the value. See Revenue Procedure 2005-14 for guidance.

Can I defer capital gains tax when I sell my primary residence? No. However, you can exclude up to $250,000 of gain from taxation (or $500,000, if you are married) under IRC §121.

Caveat: If you originally acquired your residence as investment property, you must have owned it for a total of five years and you must have resided in it for at least two of the last five years, in order to take advantage of the $250,000/$500,000 exclusion.

Further, the normal $250,000 or $500,000 amount will be reduced based upon the prorated amount of time the property was used for investment purposes.

If I sell an investment property that I previously used as a principal residence, can I exclude gain under the §121 primary residence exclusion and defer investment gain under §1031? Yes. Revenue Procedure 2005-14 establishes the following rules for applying both sections:

1. §121 applied before §1031; and
2. Gain from depreciation may not be excluded under §121, but can be deferred under §1031; and
3. Boot will be taxed, but only to the extent it exceeds the §121 exclusion.

Can I exchange with a related party? You can exchange with a related party subject to certain restrictions. ***If you buy your replacement property from a related party or swap with a related party,*** the related party also must do an exchange and both of you must hold your replacement property for two years. ***If you sell to a related party,*** the related party must hold the property for two years and you must hold your replacement property for two years.

Caveat: If a related party transaction or series of transactions was designed to avoid the application of the related party rules, the exchange will be disallowed.

Related parties include: brothers and sisters (whole or half blood), spouses, children, parents and any other ancestors, any lineal descendents, and corporations or other business entities; in which you own more than 50% either directly or indirectly through your family members. Related parties also include certain fiduciary relationships described in IRC §267(b).

Do I have access to my money during the exchange? No. The Treasury Regulations governing exchanges prohibit you from having actual or constructive receipt of the exchange funds during the exchange period. Only if you fail to identify the replacement property in writing within the 45-day identification period may you have your funds on the 46th day following your disposition. Otherwise, you must wait until you complete your exchange or until the expiration of the 180-day exchange period before you receive exchange funds. See Treasury Regulation 1.1031(k)-1(g)(6), commonly referred to as the "g6" restrictions or limitations.

Exchange expenses: Exchange expenses are certain customary closing costs incurred in connection with selling property that reduce the amount the taxpayer is required to reinvest because paying for these costs reduces the taxpayer's gain. The use of proceeds to pay some closing costs, however, may result in boot. Revenue Ruling 72-456 provides that brokerage commissions reduce the taxpayer's gain and increase the basis of the replacement property. Technical Advice Memorandum 8328011 implies that other transactional expenses should be allowed (i.e., reduce gain) if paid from the proceeds in connection with the exchange. These allowable expenses are referred to as "exchange expenses" in IRS Tax Form 8824, but are not specifically listed anywhere. Most tax practitioners consider the following exchange expenses to be allowable for purposes of reducing realized gain and recognized gain: real estate commissions, exchange fees, legal fees, title and escrow fees, and transfer taxes.

Glossary OF TERMS

ACCOMMODATOR OR QUALIFIED INTERMEDIARY (QI) OR FACILITATOR – A person or other entity who assists the exchanger to effect a tax-deferred exchange by holding the exchange proceeds, and acting as the principal in the sale of the relinquished property and the purchase of the replacement property. The accommodator/QI/facilitator cannot be the taxpayer, a related party or an agent of the taxpayer.

ADJUSTED BASIS – In most cases, the adjusted basis is equal to the purchase price, plus capital improvements, less depreciation. Transactions involving exchanges, gifts, probates and trust distributions may impact the property's adjusted basis. The exchanger's tax or legal advisor is the proper party to determine adjusted basis.

BASIS – In general, basis is the original cost of the property. This is the starting point for determining gain or loss in any transaction.

BOOT – Boot is any type of property received in an exchange that is not like-kind, such as cash, mortgage notes or stock. The exchanger pays taxes on boot (i.e., recognizes) to the extent of realized gain. In an exchange, funds not used to purchase the replacement property are taxable boot.

CAPITAL GAIN – Capital gain is the difference between the selling price and the adjusted basis of the property.

CONSTRUCTIVE RECEIPT – The exchanger is considered to be in "constructive receipt" of money at the time the money is credited to them, set aside for them or otherwise made available so that they may draw upon it an any time or at any time notice of intention to draw upon it is given. The taxpayer may not pledge, borrow or otherwise hypothecate the exchange proceeds. In addition, actual or constructive receipt of money by an agent of the taxpayer is deemed actual or constructive receipt by the exchanger (Reg 1.1031(k)-1(f)(2). To avoid constructive receipt, the exchanger must be subject to the substantial restrictions set forth in the safe harbors in the Treasury Regulations under § 1.1031(k)-1(g).

DEFERRAL – Payment of capital gains tax is deferred until the exchanger sells the replacement property (unless the exchanger engages in another exchange).

DIRECT DEEDING – Direct deeding occurs when title to the relinquished property is conveyed direct from the exchanger to the buyer without an intervening deed to the QI and when title to the replacement property is conveyed directly from the seller to the exchanger without an intervening deed to the QI.

EXCHANGE ACCOMMODATION TITLEHOLDER (EAT) – The entity that holds title to either the relinquished property or the replacement property in connection with a reverse exchange or holds the replacement property in an improvement exchange. In most cases, the EAT is affiliated with the QI handling the exchange.

EXCHANGE PERIOD – The time allowed for the exchanger to acquire the replacement property in a delayed exchange or the time allowed to dispose of the relinquished property in a reverse exchange. In a delayed exchange, the exchange period starts on the day the relinquished property is transferred and ends on the earlier of the 180th day thereafter or the due date of the exchanger's tax return. In a reverse exchange, the exchange period starts on the day the property is acquired by the EAT and ends 180 calendar days thereafter.

IDENTIFICATION PERIOD – The 45 calendar day time period within which the exchanger must identify – in writing – properties they intend to purchase as replacement property in the exchange. The exchanger is restricted as to the number of properties they are allowed to list on their identification notice. (The identification notice must be in a writing, signed by the exchanger and sent to the QI or someone else involved in the exchange, who is not disqualified, on or before the expiration of the 45 calendar days.)

Identification rules restricting the number of properties an exchanger may identify:

- **3-property rule:** the exchanger may identify a total of three properties of any value; or
- **200% rule:** the exchanger may identify any number of properties, as long as the total fair market value of all of the properties identified does not exceed 200% of the value of the relinquished property; or
- **95% exception rule:** the exchanger may identify any number of properties, as long as they actually acquire 95% of the value of the properties identified.

QUALIFIED EXCHANGE ACCOMMODATION AGREEMENT (QEAA) – A written agreement whereby the EAT agrees to purchase and hold title in a reverse or improved exchange.

REALIZED GAIN – Gain that is not yet taxed. In a successful exchange, the gain is realized but not recognized, i.e., not taxed.

RECOGNIZED GAIN – Refers to the amount of gain that is subject to tax.

RELATED PARTY – IRC §267(b) and 707(b)(1) defines related party as any person or entity bearing a relationship to the exchanger, such as: members of a family, including brothers, sisters, spouse, ancestors and lineal descendants; a grantor or fiduciary of any trust; two corporations which are members of the same controlled group or individuals; and corporations and partnerships, if the same person owns more than 50% of the stock, capital or profits in these entities.

RELINQUISHED PROPERTY (property sold) – The property disposed of by the exchanger.

REPLACEMENT PROPERTY (property purchased) – The property acquired by the exchanger.

TRANSFER TAX – A tax assessed by a city, county or state on the transfer of property.

YOUR NATIONAL *1031 Exchange* EXPERTS

Unfortunately, there is no federal regulation of the Qualified Intermediary industry. Because it is fairly easy to become a Qualified Intermediary, it is imperative that you place your exchange funds with a Qualified Intermediary that can protect your assets.

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We hope this information is useful to you, so that you can have a meaningful conversation with your tax advisors. If you have additional questions, please call one of our regional offices, which are located throughout the United States or visit our website for up-to-date information and resources at www.orexco1031.com.

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