

1031 Tax Free Real Estate Exchanges Primer & Current Developments

What You Need to Know About One of the Few Remaining Tax Breaks



PRESENTED BY

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1031 Tax Free Exchanges

INTRODUCTION

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– A tax deferral mechanism

“Under Section 1031(a), no gain or loss is recognized on the exchange of property held for productive use in a trade or business or for investment if such property is exchanged solely for property of like-kind that is to be held either for productive use in a trade or business or for investment.”

– Allows taxpayer to defer paying capital gains tax

– Purpose

- **Administrative convenience**
- **Continuity of investment**

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FOUR (4) REQUIREMENTS

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FOUR (4) REQUIREMENTS:

1. An “exchange”

- **Using QIs**
- **Using qualified escrows**
- **“Boot” – cash, relief from liabilities**

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FOUR (4) REQUIREMENTS contd.:

2. Qualifying property

- **Real estate**
- **Personal property**
- **Not stock; not partnership interests**

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FOUR (4) REQUIREMENTS contd.:

- 3. Replacement property of “like-kind”**
- 4. Property (both relinquished and replacement) must be held for productive use in a trade or business**
 - Not residential property**

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BASIS RULES

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RELATED PARTY RULES

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TAXPAYER CONTINUITY

– Single member LLC

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DEFERRED EXCHANGES

- **45 day rule**
- **180 day rule**

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DEFERRED EXCHANGES contd.

– Identification rules

- **Unambiguous**
- **Done in writing / signed by the taxpayer**
- **Made to a party to the exchange**
- **Most QIs have standard id forms**
- **3 property rule / 200% rule / 95% rule**
- **Changing the identified property**

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- DEFERRED EXCHANGES contd.**
- **Qualified Intermediaries**

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REVERSE EXCHANGES

(Revenue Procedure 2000-37)

- **Use of “EATs”**
- **Safe Harbor vs. non-Safe Harbor transactions**

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TICs **(Revenue Procedure 2002-22)**

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OTHER ISSUES

- **Leverage before or after an exchange**
- **“Drop and Swap” transactions**

Questions ?

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Thank You

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