

1031 TAX-DEFERRED EXCHANGE

A 1031 Exchange is the swapping of like-kind investment properties and deferring the capital gains tax to a future date.

Section 1031 of the Internal Revenue Service code states that the properties being exchanged must be “like-kind”. Generally, any piece of real estate can be considered like-kind to any other piece of real estate. This however, does NOT apply to Primary Residences. Properties held for productive use in a trade or business, or held for investment purposes, qualify for a like-kind exchange. The flexibility of going from one type of real property to another (commercial, raw land, rental property, industrial, apartments, etc.) allows an investor to utilize many factors in investment management (leverage, diversification, cash flow, consolidation, management relief, increased depreciation, etc.).

TIME PERIOD

From the day of closing on the property being sold, you have 45 days for the Identification Period, and then a total of 180 days from the date the original property closes, to complete the Total Exchange Period.

TYPES OF EXCHANGES

The most common types of exchanges are Delayed, Simultaneous, and Reverse.

A Reverse Exchange happens when you want to buy the new property before you have sold your old property. You have to carefully structure the purchase of the new property so that you do not take title to it until after you have closed on the sale of your old property. Typically, in a reverse exchange, the qualified intermediary takes title to the new property and holds it for you until your old property closes.

ACQUISITION PROPERTY IDENTIFICATION RULES

1. List a maximum of three properties, regardless of their value.
2. Four or more properties identified cannot have an aggregate value of more than 200% of the sale price of the relinquished property.
3. If more than three are identified, and the value exceeds 200% of the sale price, then you must close escrow on 95% of the values of the identified properties.

**No legal or tax advice is being communicated in this Primer; seek legal or tax advice from your attorney or accountant.