

1031 TAX DEFERRED EXCHANGES

"AN OVERVIEW OF SEVERAL REQUIREMENTS FOR TAX DEFERRAL"



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WHAT IS IRC SECTION 1031?

Section 1031 of the Internal Revenue Code allows an owner of investment property to exchange property and defer paying federal and state capital gain taxes (15% or 20% Federal, 25% depreciation recapture and applicable state taxes) if they purchase a "like-kind" property following the rules and regulations of the Internal Revenue Code. This allows investors to use all of the sale proceeds to leverage into more valuable real estate, increase cash flow, diversify into other properties, reduce management or consolidate holdings.

WHAT IS "LIKE-KIND" PROPERTY?

There is some confusion regarding what type of property qualifies for a §1031 tax deferred exchange. The Internal Revenue Code Section 1031 states that "no gain or loss shall be 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 which is to be held either for productive use in a trade or business or for investment." "Like-kind" property can include, but is not limited to, any of the following, provided it is held for investment:

- Single Family Rental
- Duplex
- Apartment
- Commercial Property
- Raw Land

For example, raw land can be exchanged for a single family rental, or apartments or a commercial building. Properties can be exchanged anywhere within the United States.

DOES AN EXCHANGE NEED TO BE SIMULTANEOUS?

No, contrary to what some property owners envision, a §1031 tax deferred exchange is rarely a two-party swap. Most exchanges are delayed exchanges, whereby the Exchanger has 180 days between the sale of the relinquished property and the closing of the replacement property. They must identify the potential replacement property (or properties) within 45 calendar days from closing on the relinquished property.

WHEN IS A §1031 EXCHANGE APPLICABLE?

It is applicable whenever a property owner intends to SELL any property that is not their primary residence (and falls under the definition of "like-kind") and plans to BUY another "like-kind" property within 180 calendar days following the closing of the relinquished property.

Paramount to any exchange is a competent and experienced Qualified Intermediary. Asset Preservation is the entity which structures, guides and documents the exchange



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