

1031

***Tax Free
Strategies, LLC***
1031 Exchanges

Handbook to 1031 Exchanges

Written by **Dave Owens, CPA, CES***, and
Theresa Knower, CES*

*Certified Exchange Specialist
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Phone: (239)333-1031
Toll Free: (866)839-0429
www.1031company.com

Table of Contents

Topic	Page
About 1031	3
Why 1031 and What is a 1031 Exchange?	4
Key Advantages of Exchanging	5
1031 Example	6
60 Second Guide to 1031 Exchanges	7
Key Terms and The Picture Perfect Exchange	8
What Real Estate Qualifies for 1031	9-10
Escrow Funds and Multiple Exchanges	11
Closing Costs	12
1031 for Realtors and Brokers	13
Reverse Exchanges	14
Steps to Complete an Exchange	15
Frequently Asked Questions	16
Information Sheet	17

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About 1031 Tax Free Strategies, LLC



Dave Owens, CPA is the Managing Member of 1031 Tax Free Strategies, LLC. He has been a real estate accountant for 20 years. He is well-versed in the tax code regarding Section 1031. He is also a member of the Federation of Exchange Accommodators (FEA) and is a Certified Exchange Specialist (CES).



Theresa Knower, is a the Chief Operating Officer for 1031 Tax Free Strategies, LLC. She is a 10 year real estate veteran specializing in 1031 tax exchanges the last five years. Theresa is well respected member of the South Florida real estate market and known for her unparalleled customer service.

1031 Tax Free Strategies, LLC works with real estate professionals and individual investors in order to help them successfully complete 1031 exchanges. We have offices in Southwest Florida, Gainesville/Ocala, Chicago/Loop. We can perform 1031 Exchanges nationwide.

Why Choose Us?

- We are the best. When it comes to customer service and experience, we are second to none. We have served as QI in hundreds of 1031 exchanges each year.
- We are fully bonded and insured. For Exchanges over \$500,000, funds are placed in a Qualified Escrow Account that are administered by an independent bank.

Call us anytime with any questions that you might have. Our consultations are always free!

MAIN OFFICE

1520 Royal Palm Sq. Blvd. #320

Fort Myers, FL 33919

Phone: (239)333-1031 Fax: (239)466-5496

Toll Free: 866-839-0429

www.1031company.com

Gainesville/Ocala

4850 SW 91st Terrace P102

Haile Village

Gainesville, FL 32608

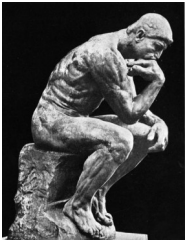
Phone: (352)378-7833

Chicago/Loop
135 South LaSalle, Suite
4000
Chicago, IL 60603
Phone 312-756-6387

**Check out our free 1031 videos on our website at
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Getting Started with 1031 Exchanges

All Consultations are Free, please call with any questions 239-333-1031



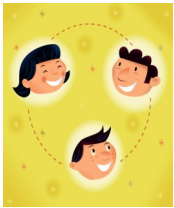
Why would I do a 1031 Exchange?

If your real estate qualifies for 1031 exchange treatment, **there are no federal or state capital gain or income taxes on the sale of the property.** These taxes also include alternative minimum tax and depreciation recapture taxes. There is a tremendous opportunity to build wealth by not giving away 15/20/25% of your hard earned gain. There is no other section of tax code like 1031.



What is a 1031 Exchange?

Section 1031 of the Internal Revenue Code provides that no gain or loss will be recognized on the exchange of any type of business use or investment property for any other business use or investment property. Simply put, if you sell a piece of investment real estate, and purchase another piece of investment real estate of equal or greater value, you will defer all capital gains taxes.



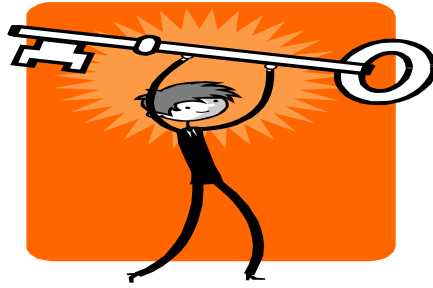
Who Should Consider a 1031 Exchange?

Anyone who is thinking about selling a business use or investment real estate should consider affecting a 1031 exchange. An exchange offers the astute investor an opportunity to reinvest the federal capital gains that would normally be handed over to the IRS, and put that money to work for him or herself. You work too hard to simply pay the tax without carefully considering this reinvestment option. Essentially, a 1031 exchange should be thought of as interest free loan from the IRS; one in which the principal may be increased through subsequent exchanges and may never require repayment, IF YOU PLAN PROPERLY.

Misconceptions About Exchanging



1. You must “swap” properties. Although this was required in the original code, this is rarely done in present times. 1031 exchanges now enable one to sell their property to someone totally unrelated to the person from whom they are purchasing their replacement property.
2. Only investors of large commercial properties can utilize the benefits of section 1031. 1031 Exchanges apply to ALL investment properties, large and small. It works the same way for a corporation selling a large shopping center as it would for an individual selling a rental property in a vacation area.
3. You must purchase the same type of property as the one sold. While 1031 exchanges are known as “like-kind” exchanges, like-kind simply refers to real property held for business use or investment. Therefore, an investor may sell raw land and acquire a five-unit apartment building, or sell a warehouse and acquire raw land. Virtually any type of real property used for business use or investment will qualify.
4. 1031 Exchanges are complicated and not worth doing. When you work with a Qualified Intermediary who specializes in 1031 exchanges, the process is very simple. The QI will keep you aware of the deadlines, as well as ensure that everything is done in compliance with the IRS regulations.



Key Advantages of Exchanging

There are many advantages to doing a 1031 Exchange. Here are just a few of them:

- **Buying Power** - not only does the exchange defer capital gains taxes, but it also defers the depreciation recapture tax (25%) and if applicable, the state tax. This additional equity to reinvest will make the Exchanger a more solid buyer.
- **Selling Power** - the Exchanger does not have to inflate the sales price in order to cover some of the capital gains that would normally be due upon the sale of the investment property. It allows for more flexibility.
- Investors can do exchange after exchange to create a pyramiding effect. This tax liability is forgiven upon the death of the investor. The heirs get a stepped up basis on the inherited property.
- The Exchanger can acquire a replacement property with greater income potential. He can sell raw land and acquire income-producing property. For example, he could purchase a building with additional units, or in an easier to rent location.
- The Exchanger has the opportunity to consolidate several hard to manage properties into one that is easily managed, or diversify several small properties into one large property. It also provides the investor an excellent opportunity to relocate or expand a current business or investment.

All of the above culminates into one significant power - the ability to create pyramiding wealth accumulation in real estate ownership.

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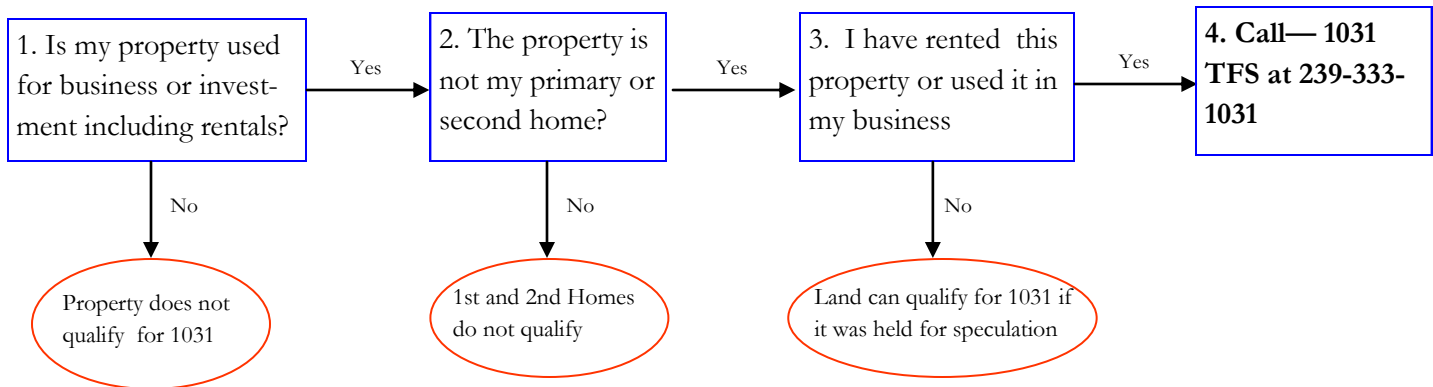
1031 Example—This is a real life example of an actual exchange performed in 2006

Sales Price Rental House	\$750,000.00	
Less: Closing Costs(Commissions/title/fees)	<u>-\$60,000.00</u>	
Net Sales Price	\$690,000.00	
Less: Basis of House Sold	<u>-\$400,000.00</u>	
Potential Taxable Gain	\$290,000.00	
Tax Due if no Exchange (based on 2009 tax rates)		\$48,500.00
Dep. Recapture (25%)	\$12,500.00	
Capital Gains Tax	\$36,000.00	

This taxpayer purchased a rental fourplex for \$800,000, since the purchase price of the replacement property was greater than the Net Selling Price (see above), the taxes due are ZERO. This is a good 1031 exchange.

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The 1031 Tax Free Strategies 60 Second Guide to 1031 Exchanges



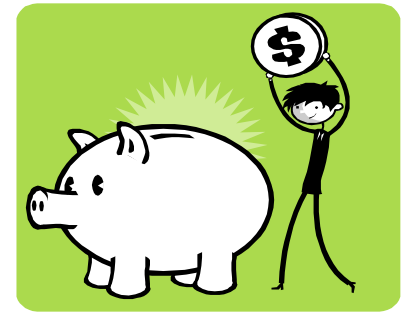
The Five Most Important Facts for an Easy 1031 Exchange

(If you know these five points you will have a good understanding of 1031 exchange)

1. **Net Selling Price** - to avoid ALL of the capital gains on the sale of your relinquished property, you must spend (purchase replacement properties) an amount equal to your Net Selling Price. (NSP = Selling Price less Closing Costs). If your replacement properties is less than your NSP, you will have to pay taxes on the difference.
2. **What Properties Qualify** - All real estate is interchangeable and must be used for business or investment purposes. Both property must have a deed. Sell a Deed and Purchase a new Deed
3. **You must use a Qualified Intermediary (QI)** - The tax regulation requires that you use a QI to facilitate your exchange. You will see your QI do 3 main things for you: Prepare the Exchange Agreement, Escrow the Proceeds, and Coordinate the Exchange with the closing agents. The QI must be contacted to start the exchange before closing.
4. **45 Day Rule** - You have 45 days from the date of the sale of the relinquished property to identify 3 replacement properties. If you know what you want to buy when you close on the relinquished property, you can complete the purchase the same day as the relinquished sale or as quick as the closing can occur. This purchase does not count towards your identified properties if you want to buy more than one.
5. **180 Day Rule** - You must close on all identified replacement properties within 180 days of closing on the sale of your relinquished property.

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Key Terms

Relinquished Property - the business use or investment property that the Exchanger wants to sell via the 1031 Exchange.

Replacement Property - the business use or investment property that the Exchanger wants to acquire to complete the 1031 Exchange.

Exchanger - the taxpayer who is electing to defer the capital gains by affecting a 1031 Exchange.

Seller - the person who owns the property that the Exchanger wishes to acquire as a replacement property.

Buyer - the person who wants to purchase the property that the Exchanger is selling.

Intermediary - the independent third party required by the IRS who acts as the middleman in both the sale and purchase.

A Picture Perfect Exchange

AJ Smith sold a rental condo for \$250,000.00 on Sanibel Island, and bought a new condo for \$475,000.00. The mortgage on the property sold was \$80,000.00, and the mortgage on the new property was \$305,000.00. The equity in the property sold was \$170,000.00, which was rolled into the purchase. Both these rental condos were at Sundial Condotel. The units were in a rental pool and rented by management association by the day or week. The reason the client did the exchange, was to upgrade from 1 bedroom unit, to 3 bedroom unit with a view of the Gulf of Mexico. This exchange worked well was because the client was able to roll their existing equity to a new, bigger and more valuable unit. Transaction fees like title / state transfer taxes / and commissions were the only cost. The tax savings on the unit more than offset these transaction costs. This was a beneficial and worthwhile 1031 Exchange.

Why is this a picture perfect exchange?

- Investor purchased a property of equal or greater value to the property sold. One can purchase a property of lesser value and still have some tax advantage. They just won't defer all of the gain.
- The debt on the new property was equal to or greater than that of the debt on the property sold. If the investor acquired a mortgage of lesser value on the new property, the difference would be taxed as mortgage boot.
- The same amount of equity remained in the investment. Any cash taken out of the transaction would be considered cash boot, and thus taxable.
- Vacation Rental will qualify if they meet the rules of Revenue Procedure 2008-16
 - Property must be rented two years (24 months) before sale
 - Property must be rented two years after purchase of replacement property
 - Personal use can not exceed 10 days or 10% of the days rented during this 4 years period

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What Real Estate Qualifies for Exchange - Example Investments for a 1031 Exchange

Often, many people think that if they sell a condo or vacant land, in order to do an exchange, they must buy the exact same type of property. That is not the case at all! Listed below are some examples of what an investor could do a 1031



Rental Properties - An investor could sell vacant land and purchase residential property, such as a house or condo. The investor could hold the rental for a one to two years and rent it out. After that year, he or she could move into the property, and convert the property into his or her primary home. This is a great example of how a little planning can go a long way.



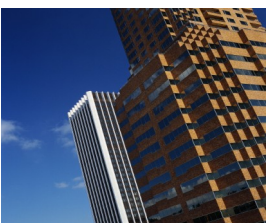
Owner Occupied Business Property—This is one of the most common 1031 exchanges. Business owners can expand company headquarters or factories by purchasing a large building to suit their needs



Multi-Family Properties - An investor could sell their existing shopping center in exchange for an apartment building. Multifamily properties can be very good investments especially in times of low interest rates.



Commercial Properties or Triple Net Leases - An investor could sell an existing residential rental building, and roll the proceeds into a Triple Net Lease (NNN) like a commercial property. The investor, as landlord, collects the net rental income after the monthly mortgage payment. The advantage to this type of investment is the fact that the tenant pays all of the operating expenses, property taxes, utilities, insurance premiums, repairs and maintenance. This type of investment is an attractive option for the investor who is looking to move away from the management-intensive properties, and invest in something that requires less energy.



Tenancy in Common (TIC) - This type of investment allows unrelated co-owners to own an undivided fee interest in a TIC property. Examples of TIC properties include retail centers, malls, office buildings and other large commercial buildings that have tenants. This is another option for those investors who are looking to move away from properties that are more management-intensive. This option also provides a means of investing exactly what is needed in order to defer all of the gain. A lot of times, it is difficult to find a replacement property with a purchase price that matches exactly what the investor needs to spend.

More Examples of 1031 Exchange Investments



Condo-Hotels - These investments are private units that are owned by individuals, and are then rented out to guests. Many investors find this option appealing because they are able to avoid all of the maintenance costs of the traditional vacation home, while still being able to offer all of the amenities that come with the hotel.

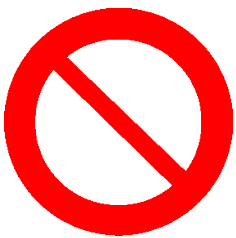


Oil and Gas - Many people are unaware of the fact that there are numerous oil and gas programs that are recognized as “like-kind” to all other 1031 exchange property. Why? Real estate ownership can include mineral rights at a fractional interest of a long term lease. This type of investment has several attractive qualities, including potential returns, lack of maintenance and unwavering demand for these products.



Raw Land - Many investors purchase undeveloped land in the hopes of eventually building on it, whether for personal or business use. Some hold the property for 10 to 20 years as a retirement project, while others develop the land sooner with a business or strip mall. The opportunities are endless when one purchases vacant land. The key to remember is that it is all in the planning and what was your intent with the property.

What type of real estate does not qualify for 1031?



- Primary residences (covered under IRC Section 121)
- Second Homes with no rental history
- Second Homes with very little rental history
- Property with no intent for business or investment use

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The Security of Your Escrow Funds



When you are performing a 1031 Exchange, one of the most important elements is that the Exchanger (you the client) cannot have access or hold your own escrow funds. These funds must be put in to a bank account for your benefit.

The security of these funds is our number one priority. All escrow funds held by 1031 Tax Free Strategies are held in segregated escrow accounts for your benefit. Funds are never commingled and you have the right to verify funds at any time. These funds are never invested, they are placed in to a separate money market account with an FDIC insured institution. Your second signature on the account can be added for additional security.

All exchanges where the escrow is greater than \$500,000, the funds will be held in a qualified escrow trust. This trust is different because the bank is hired to be the Trustee of the fund to guarantee security. There is an additional fee of \$250 for this service.

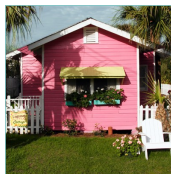


Please note there are unique rules for 1031 escrow funds. Some of those rules include once your funds are placed into escrow, they can only be used to purchased replacement property. Should you decide not to continue with your exchange your fund will need to stay in the escrow account for at least the first 45 days.

Yes, You Can Do Multiple Property Exchanges



PLUS



EQUALS



1031 Exchanges are extremely flexible. You are allowed to sell one piece of property and purchase 2 or more properties with the funds. The principles are the same. The value of the replacement properties must be greater than the value of the relinquished property to defer all taxes. You can also sell multiple properties and combine the funds to purchase one replacement property.

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Allowed 1031 Exchange Expenses for Closing Costs



Many people are unsure as to what expenses/settlement costs are allowed, and can be paid for with exchange proceeds. Listed below are expenses that most tax advisors/practitioners consider allowable expenses for either a sale or purchase.

1. Broker's Commissions
2. 1031 Exchange Fees and/or Escrow Fees
3. Transfer Taxes (State and Local)
4. Recording fees, Discharging Fees, and Lien Certificates
5. Professional Fees, Legal Fees, Accounting, Engineering, Inspection, Etc.
6. Certain title insurance premiums (Buyer's portion)

There are a number of expenses that most practitioners would consider non-allowable exchange expenses for the use of exchange funds, and possibly taxable.

1. Fees associated with acquiring a mortgage and/or costs required by the lender
2. Property tax and utility adjustments
3. Prorated rental adjustments and security deposits
4. Insurance payments
5. Security deposits for tenants or property
6. Condo Fees
7. Paying off credit cards

Please note that every situation is unique, and carries its own tax implications. These are merely examples intended to serve as a guide.

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Contract Language—Important information for Real Estate Professionals



When considering a 1031 exchange, it is important that all contracts involved in the transaction be assignable, and reflect the intention to do an exchange. Listed below are examples of what can be included in the contracts for the sale and purchase.

For the Sale of the Relinquished Property - *Buyer understands that this transaction is one part of a tax-deferred exchange as recognized under IRS Code Section 1031 and Buyer agrees to cooperate with Seller regarding this Exchange. There will be no additional cost to Buyer and no delay to closing.*

For the Purchase of the Replacement Property - *Buyer intends to do a Tax Deferred Exchange as recognized under IRS Code Section 1031. Seller agrees to cooperate with the Buyer regarding this Exchange. There will be no additional cost to the Seller, and no delay to closing.*



****A majority of the time, the exchange is entered into at the last minute. Therefore, the contract will not reflect the language regarding the 1031 exchange. In order to ensure that all necessary parties are given adequate notification of the Exchanger's intent to do an exchange, the Exchange Agreement between the QI and the Exchanger includes an assignment for the relinquished property and for the replacement property. In the assignment for the relinquished property, the Exchanger gives the QI the right to acquire the relinquished property from the Exchanger, and convey it to the Buyer. A copy of this assignment is provided to the Buyer at prior to or at closing. The assignment for the replacement property gives the QI the right to acquire the replacement property from the Seller, and then convey it to the Exchanger. A copy of this assignment is provided to the Seller prior to or at closing. These assignments serve as sufficient notification to the Seller and Buyer of the Exchanger's intent to take part in a 1031 exchange.**

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Buy Now, Sell Later: The Reverse Exchange



What happens if you find the perfect replacement property before you even have a buyer for your existing property? This situation comes up quite a bit, and all too often, people do not realize that they can do a Reverse 1031 Exchange. This type of exchange is geared for the investor who already knows what they want to purchase, and knows that they cannot wait until their existing property sells. Effective September 15, 2000, the IRS issued its Revenue Procedure 2000-37. With this law, for the first time, the IRS sanctioned the Reverse Exchange with the “safe harbor” rule. Essentially, the IRS has approved a parking arrangement. If a real estate seller cannot sell their property in a timely enough fashion to perform a standard 1031 exchange, they can now use a Exchange Accommodation Titleholder (EAT) to hold title on the property that the Exchanger wishes to acquire. The Qualified Intermediary will be the EAT. The Reverse Exchange essentially buys the Exchanger 180 days to sell their existing property, and exchange into the new property. The Exchange does not actually take place until the relinquished property is sold, and the replacement property is transferred to the Exchanger.

The highlights of the Reverse Exchange are as follows:

1. Reverse Exchange must be completed in 180 days. The 180 day period starts from the date that the Intermediary purchases the replacement property for the taxpayer.
2. Within 45 days of purchasing the parked property, an identification form must be completed that identifies the relinquished property(s) to be sold.
3. A new document called the “Qualified Exchange Accommodation Agreement” must be completed by the Qualified Intermediary and the taxpayer.
4. The most in most important question to ask is how the replacement property will be paid for. Even though the Exchange Accommodation Titleholder is buying the property, the client will pay for the property either by cash purchase or by financing. Financing rules have changed in the last year, so it is important the banker is informed of this transaction in advance.
5. While the EAT owns the property the client does have complete access to the property and is allowed remodel, repair or rent their property. They will also be responsible to pay all expense for new property including insurance and real estate taxes.
6. Reverse exchanges are very popular and not as difficult as they may sound. The only downside of the reverse exchange is that if the client does not sell the relinquish property with in 180 days, they will not be allowed to do the exchange on these specific two properties. An exchange can be performed on a new replacement property. It is important during a reverse exchange that the client is serious about selling the relinquished property and that it is priced according to the market. Please feel free call 1031 Tax Free Strategies to discuss your specific transaction.

Steps for a 1031 Exchange

If you decided to do a regular 1031 Exchange, where you sell first and then you purchase, here is how the transaction would flow:

1. You go under contract to sell your existing property.
2. Complete the 1031 information sheet on the back page. You forward this with a copy of the contract and the contact information of the closing agent company handling the sale.
3. We will draw up the 1031 exchange documents for you to review and sign, and we draw up closing instructions for the title company.
4. Prior to closing on your sale, the title company will forward a copy of the settlement statement to us for review to ensure that everything has been done according to our instructions. We sign the HUD as well as our clients.
5. On the day of closing, your proceed will be wire to your 1031 escrow account. We then transfer the funds into an interest-bearing money market account that we have set up under your name. The funds will be held in that account until the time comes for you to close on your replacement property. These funds can be used for a down payment.
6. You have 180 days from the relinquished closing to complete the purchase of your replacement property. Within the first 45 days, we must have your written identification of any possible purchases that you intend to make. (We provide a form for you to complete). You can identify up to 3 properties of any value. If you decide to identify more than 3 properties, the total sum of those identified properties cannot exceed 200% of the value of the relinquished property.
7. Once you are under contract for your purchase (s), we will need a copy of the contract(s) and the contact information of the closing agent handling this closing so that we can draw up the remaining exchange documents for you to sign and instructions for the title company.
8. Once it is time to close on your purchase, we will review and sign a copy of the settlement statement. Once we have approved and signed the settlement statement, we will wire the proceeds to the title company. Once you close on all intended purchases, your exchange is complete.

Steps for a Reverse 1031 Exchange

If it looks like your purchase is going to close before your sale, then your only option is to do a Reverse 1031 Exchange. Here is how that type of transaction would flow.

1. You go under contract for the property you wish to purchase.
2. You forward a copy of the contract for your purchase along with the name and contact information of the title company handling the closing to us.
3. If there will be a mortgage on the property, we will need to know the name and contact information of your lender, along with the amount of the loan that will be taken. You will need to contact your lender immediately and advise them of your decision to do a Reverse exchange on this particular property. (The reason for this is because all loan and closing documents will need to be in the name of the LLC that we establish for the exchange). ***If you own your existing property outright, then we could park that property in the LLC rather than parking the new property. This might be helpful and easier, especially if there will be financing on the new property. This will only work if you own your existing property outright.
4. If you are parking the new property in the LLC, we would set up an LLC that will purchase the property. We would be the managing member, and we would designate you as Special Agent of the LLC. This designation is what will allow you to sign all closing and loan documents.
5. You would close on your purchase, and the property would be deeded directly in the name of the LLC. ***If you park your existing property in the LLC, then you would close on the new property in your name and the loan would be in your name.
6. We would then “park” the property in the LLC until you close on your sale. Technically, we would own the property until you sell your existing property. You go under contract for your sale, and you forward a copy to us along with the name and contact information of the title company handling the closing.
7. We draw up the exchange documents pertaining to your sale, and forward closing instructions to the title company. You would proceed with closing, and the title company would wire the proceeds directly to us. We would then pay down any loans on your new property. Any remaining funds would be disbursed to you. Once you close on your sale, we would assign full membership in the LLC over to you, thus making you the owner of the property.

1031—Frequently Asked Questions

Can I avoid paying taxes forever?

Yes, you can. By simply following the 1031 exchange rules every time you sell one or more properties and buy replacement properties, when you die, your estate escapes all the capital gains taxes forever!

Can I get money out of the exchange tax free?

Yes. Complete your exchange first, and then refinance the new property. Just be sure that you wait until the exchange is complete before you begin the process of refinancing.

Can I carry back a partial loan on the property I am selling and still have a tax free exchange?

Yes. If the payments come to you, they are taxed as you receive them, on an installment sale basis. The balance of your equity is exchange tax free. If you want the loan payments to be part of the exchange, it can be structured so that the payments are made directly to the QI. Keep in mind that you will want to make sure that the loan is paid in full within the 180 days and prior to closing on your replacement if you want those funds to be part of the exchange. Any portion that is not paid within the 180 days is not part of the 1031 exchange will be subject to tax.

Can I pay for my 1031 Exchange out of my sales proceeds?

Yes, your 1031 fees can be paid out of relinquish property proceeds.

If I close on my Relinquished Property with out a QI can I still do a 1031 exchange?

No, you must hire a QI in advance of closing on the relinquished property and all documents must be in place.

So how do I get started with 1031 Tax Free Strategies?

This manual has outlined all of the information that you need to know in order to become more familiar with the 1031 Exchange process. You are not expected to be an expert; that's our job! We just wanted you to have a better understanding of what is involved so that you can make informed decisions. Here are some key things to keep in mind when considering a 1031 Exchange:

1. Consult with your CPA or Tax Advisor! They know better than anyone else whether or not this is the best choice for you. We cannot provide any legal or tax advice. Our role is to facilitate the exchange. Therefore, it is very important that you keep all necessary members of your financial team in the loop. The Qualified Intermediary is not allowed to give tax advice.
2. Whether or not you choose our company, make sure that your QI has taken the proper security with your escrow funds. Your money is of the utmost importance for you and us.
3. It is never too early to get the process started. If you know that you are going to do a 1031 exchange, you can get everything in ahead of time. While we can do exchanges at the last minute, having everything in place ahead of time will make it a lot easier on all parties handling the transaction. We do not collect any fees until the actual closing, so setting everything up ahead of time will not cost you anything.
4. Once you are ready to proceed, fill out the Client Information Sheet on the next page, and fax to us along with a copy of the contract(s). We take it from there, and we guide our clients every step of the way. We make the exchange process as simple as possible for our clients.

1031 Information Sheet

Please fax a copy of all real estate contracts with this form to 239-466-5496

Name on Title / Client: _____

Street Address: _____

City: _____ State: _____ Zip: _____

Email: _____

Telephone: _____ Fax: _____

Seller's Federal ID (social security) # _____ Date of Birth: _____

RELINQUISHED PROPERTY

Date of Closing: _____ Selling Price of Property: _____

Closing Agent & Contact Phone #: _____

Relinquished Property Street Address: _____

City: _____ State: _____ Zip: _____

Realtor: _____

REPLACEMENT PROPERTY (if identified at time of sale of relinquished property)

Date of Closing: _____ Purchase Price of Property: _____

Closing Agent & Contact Phone #: _____

Replacement Property Street Address: _____

City: _____ State: _____ Zip: _____

Other Comments: _____
