REAL ESTATE EDUCATION SERIES

RE/MAX Properties

1031 Exchange Basics

Reinvest in qualifying real estate while deferring eligible gain

Doug Petersen, Broker Associate
RE/MAX Properties | Colorado Springs

A Section 1031 exchange can postpone recognition of taxable gain when qualifying investment or business real estate is exchanged for other qualifying real estate. This guide describes a typical delayed exchange; it is not simply a sale followed by a purchase.

1 Understand the benefit and the tradeoff

A properly structured exchange can keep more capital invested rather than paying tax on all eligible gain immediately. The tax is generally deferred, not erased. Fees, deadlines, property risks, and the tax basis carried into the replacement property all affect whether an exchange fits your goals.

2 Use qualifying investment or business property

Both the property given up and the property received must be held for investment or productive use in a trade or business. A personal residence and property held primarily for resale generally do not qualify. Mixed personal/rental use, vacation homes, and conversions need specialized tax review.

3 Know what like-kind means

Qualifying real estate does not have to be identical. For example, investment land may be exchanged for a rental building if the requirements are met. U.S. real property is not like-kind to foreign real property. Personal property and ordinary partnership interests are not substitutes for qualifying real estate.

4 Arrange the exchange before the sale closes

A qualified intermediary (QI) is commonly used to document a delayed exchange and hold proceeds under an exchange agreement. Taking actual or constructive receipt of sale proceeds can defeat the intended treatment. Coordinate with the QI, tax adviser, broker, and closing team before transferring the property.

5 Identify replacement property within 45 days

The identification period starts when you transfer the relinquished property. Identify replacement property in a signed written document delivered to the proper exchange recipient by the deadline. Rules limit the number or total value of properties you may identify. Have the QI review the identification requirements.

The clock starts with the transfer of the property you give up

Identify within 45 days. Receive the replacement property within 180 days or by your tax-return due date, including extensions, whichever comes first. The periods run together: you do not get another 180 days after identification. Have your advisers calendar the exact dates.

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Manage the closing, the proceeds, and the tax reporting

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Begin researching replacement property and financing before your sale closes. A good exchange plan needs a workable acquisition, not just the desire to postpone tax.

6 Complete the exchange by the applicable deadline

Acquire the identified replacement property within the exchange period. A tax-return extension may be needed to preserve the full 180 days for a late-year sale. Do not assume weekends, financing delays, or a failed contract extend the deadlines; ask about any applicable IRS relief.

7 Plan for cash, debt, and potentially taxable boot

Cash or non-like-kind property received, and some net debt relief, can create taxable gain, often called boot. Full deferral generally calls for reinvesting exchange equity and acquiring sufficient replacement value, with debt replaced by debt or additional cash as needed. Have your tax adviser calculate the result, including closing costs.

8 Review the property and the intermediary

Evaluate condition, leases, operating costs, title, financing, and investment suitability before committing. Ask about the QI's qualifications, fund safeguards, fees, and disqualified-person rules. An intermediary is not a substitute for independent tax advice, and deadline pressure should not replace property due diligence.

9 Coordinate ownership, basis, and reporting

The taxpayer giving up the property generally must be the taxpayer acquiring the replacement; entity and title changes need advance review. The replacement property usually carries deferred gain through its tax basis. Report the exchange on IRS Form 8824 and retain exchange, identification, closing, and basis records.

10 Get help for special situations

Related-party exchanges, reverse exchanges, construction exchanges, and residence conversions involve additional rules. Speak with a CPA or tax attorney and an experienced QI before signing or closing. Ask Doug Petersen to help coordinate the property search and transaction timetable.

Simple example: sale proceeds are not the same as profit

Sell for $500,000 and pay off a $200,000 loan: $300,000 remains before costs. Buy qualifying replacement property for $550,000 using that $300,000 plus a $250,000 loan. This illustrates reinvestment only; actual gain and deferral depend on adjusted tax basis, costs, and all exchange requirements.

Official sources: IRS like-kind exchange overview; Publication 544; Form 8824 instructions. Reviewed October 30, 2026. Educational summary; federal and state tax results depend on the transaction. Obtain individual tax and legal advice.

Doug Petersen | 970-290-3000 | douglas.petersen@remax.net
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