

# 1031 Exchange Basics

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# Today's Outline

- Different types of exchanges
- Benefits of Exchanging
- Exchange Structures
- Qualified Intermediary
- Qualifying Use of Property
- Deadlines
- Identification of Property

# Definition of an exchange

- Section 1031 of the IRC allows you to dispose of certain real or personal property and *defer* your federal, and in most cases, state depreciation recapture and capital gain income tax liabilities by exchanging the real or personal property (relinquished) for qualified use “like kind” property (replacement).

# Types of exchanges

- 1031 Exchange (investment property)
- 1033 Exchange (Involuntary conversion)
- 1034 Exchange (since repealed)
- 121 Exclusion (primary residence)
- 453 Installment Sale (seller carry back)
- 721 Exchange (REIT)

# 1031 Exchange Benefits

- Income Tax Consequences
- Swap Until You Drop
- Step-up in cost basis

# Like kind Property

- Single Family
- Multi-family
- Commercial Office
- Strip Malls
- Retail Centers
- Industrial Warehouse
- Vacant or undeveloped land
- Oil and Gas Interests
- Mineral Rights
- Water Rights
- TIC's
- Vacation rentals

# 1031 Exchange Structures

- Forward 1031 Exchanges
- Delayed 1031 Exchanges
- Reverse 1031 Exchanges
- Improvement (Build-to-suit) Exchanges

# Qualifying Use Property

- Property Must be held for Investment
- Flippers
- Time requirement
- Like Kind vs. Non-Like Kind



# Non-Like Kind

## Personal Use Assets

- Primary residences
- Second Homes
- Vacation Homes (personal use)

## Property Held for Sale

- Development
- Conversion
- Fix up and sell

## Securities

- Cash
- Stocks
- Bonds
- Mutual Funds

## Interest in Entities

- Partnerships
- LLC
- Stock Shares

# Vacation Homes



- You CAN provided:
  1. Held as investment for at least 24 mos.
  2. MUST be rented minimum 14 days each year.
  3. Cannot be used more than 14 days or 10% of the days rented

# Deadlines

- 45 day identification
- 180 day close
- Holidays
  
- Clearly defined to QI
  - Street Address
  - Legal Description
  - Assessor's Parcel Number  
APN



# Identification Requirements

- 3 Property Rule
- 200% FMV Rule
- 95% Identification Exception

# Accessing Your 1031 Funds



- 45 period has expired and you didn't identify any properties
- You purchased one of the identified properties and the 45 days expired
- Your 180 day period expired

# 1031 Exchange Administration

## The Role of the Qualified Intermediary (Accommodator)

1. Prepare the exchange agreements and related docs
2. Receiving, holding, safeguarding the funds
3. Consulting with the exchangor and their advisors to ensure compliance with IRC

# Choosing the QI

1. Technical experience and experience
2. Level of protection provided by E&O
3. Protection of the fidelity bond

# Opportunity Zones

- What is an “Opportunity Zone?”
- Deferred Taxes
- Reduced Taxes