

## THE 1031 Exchange Rule

A property transaction can only qualify for a deferred tax exchange if it follows the 1031 exchange rule laid down in the US tax code and the treasury regulations.

The foundation of 1031 exchange rule by the IRS is that the properties involved in the transaction must be "Like Kind" and Both properties must be held for a productive purpose in business or trade, as an investment.

The 1031 exchange rule also lays down a guideline for the proceeds of the sale. The proceeds from the sale must go through the hands of a "qualified intermediary" (QI) and not through your hands or the hands of one of your agents or else all the proceeds will become taxable. The entire cash or monetary proceeds from the original sale has to be reinvested towards acquiring the new real estate property. Any cash proceeds retained from the sale are taxable.

The second fundamental rule is that the 1031 exchange requires that the replacement property must be subject to an equal or greater level of debt than the property sold or as a result the buyer will be forced to pay the tax on the amount of decrease. If not he/she will have to put in additional cash to offset the low debt amount on the newly acquired property.

### 1031 Exchange Rules and Timelines:

There are 2 timelines that anybody going for a 1031 property exchange or (TIC) should abide by and know.

**The Identification Period:** This is the crucial period during which the party selling a property must identify other replacement properties that he proposes or wishes to buy. It is not uncommon to select more than one property. This period is scheduled as exactly 45 days from the day of selling the relinquished property. This 45 days timeline must be followed under any and all circumstances and is not extendable in any way, even if the 45th day falls on a Saturday, Sunday or legal US holiday.

**The Exchange Period:** This is the period within which a person who has sold the relinquished property must receive the replacement property. It is referred to as the Exchange Period under 1031 exchange (IRS) rule. This period ends at exactly 180 days after the date on which the person transfers the property relinquished or the due date for the person's tax return for that taxable year in which the transfer of the relinquished property has occurred, whichever situation is earlier. Now according to the 1031 exchange (IRS) rule, the 180 day timeline has to be adhered to under all circumstances and is not extendable in any situation, even if the 180th day falls on a Saturday, Sunday or legal (US) holiday.

If you have any questions please feel free to call

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