Independently Owned and Operated

1031 Exchange Specialists, Inc (1031 ESI)
1155 Asbury Avenue
Ocean City, New Jersey 08226
609-398-1031
Toll Free: 877-513-1031
Fax: 609-398-0500

www.1031esi.com
info@1031esi.com

1031 Exchange Specialists, Inc.

So much more than a Qualified Intermediary.

When you're structuring your next 1031 exchange,
there's no room for guesswork.

Peerless strategy, masterful interpretations, and
insightful analysis are just a few of the advantages
we bring to your exchange. As your Qualified
Intermediary, you'll find us indispensable.

Whether exchanging a rental cottage at the shore,
a commercial warehouse, or an airplane, we stand
ready to help you save tax dollars.

Your Tax Savings is Our Business!!!

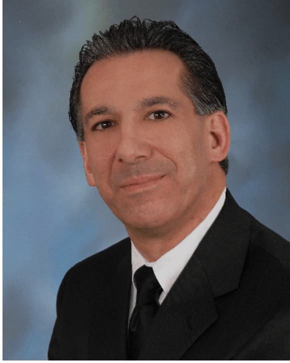
Join us on Facebook

WWW.FACEBOOK/1031ESI

1031 Exchange Specialists, Inc. - 1155 Asbury Avenue - Ocean City - New Jersey - Phone (609) 398-1031
Toll Free: (877) 513-1031 - Fax (609) 398-0500
Email: info@1031esi.com
1031 Exchange Specialists, Inc is not engaged in rendering legal, tax, or accounting services. If legal, tax, or accounting advice is required, the services of an independent professional should be sought.

1031 Exchange Specialists, Inc.

ABOUT US



George M. Christofely
President
Notary Public

William T. Steffens
Executive V.P.
Notary Public
Licensed by NJDOBI

Your tax savings is our business!!!

Quality

The quality of the documentation and consulting services provided during your Tax Deferred Exchange are critical to its success. To ensure the highest level of service as a National "Qualified Intermediary" under Internal Revenue Code Section 1031, the principals of 1031 Exchange Specialists, Inc., George M. Christofely, CPA* and William T. Steffens, are proud to have exchanged over 6000 properties aggregating over $2.5 billion throughout the United States and U.S. Virgin Islands during the last 17 years.

Safety

To ensure the safety of your exchange funds, 1031 Exchange Specialists, Inc. only deposits 1031 funds with FDIC insured institutions in segregated escrow accounts, in a manner that provides liquidity and preservation of principal.

Attributes

Expert * Trusted * Knowledgeable * Experienced * Professional * Ethical

These are just some of the words used by Attorneys, Accountants, Realtors and others to describe George M. Christofely, CPA* and William T. Steffens in their role as "Qualified Intermediary" of 1031 Like-Kind Exchanges.

George M. Christofely, President/Owner of 1031 Exchange Specialists, Inc., is a 1978 graduate of Saint John's University in New York. Mr. Christofely went on to earn his Certified Public Accountant license in New York and New Jersey. Mr. Christofely held a fellowship in the American Institute of Certified Public Accountants and the New Jersey Society of Certified Public Accountants for over 25 years.

Mr. Christofely's background included a position with Price Waterhouse and Fortune 500 companies: Xerox Financial Services, The Hertz Corporation, and Prudential Real Estate. He was a founding partner of the regional New Jersey CPA firm of Ruane, Christofely & Associates. Mr. Christofely began serving as Qualified Intermediary for I.R.C. Like-Kind Exchanges approximately 16 years ago and later became Vice President and General Manager of Jersey Realty Exchange Corporation.

Mr. Christofely has published numerous articles and conducted seminars on I.R.C. 1031 Like-Kind Exchanges. Mr. Christofely serves as Qualified Intermediary throughout the United States, District of Columbia and the U.S. Virgin Islands.

1031 Exchange Specialists, Inc.

The Exchange Process

History of Exchanges

The non-recognition of gain or loss on the exchange of property was first introduced in 1921, some three years after the imposition of income taxes, on the basis of continuity of investment or liquidity and administrative convenience. The early exchanges were direct simultaneous exchanges between two and three property owners.

In 1979, the famous Starker case became the legal basis for the non-simultaneous exchange.

In 1984, Congress established time limits for a non-simultaneous exchange, requiring the Exchangor to identify replacement properties within 45 days and settlement on the replacement property(s) within 180 days following the date the first property relinquished. The ineligibility of exchanging partnership interests was also introduced in the 1984 amendments.

In 1989, new rules for exchanges between related persons were added.

In 1991, the IRS issued regulations addressing the role of the Qualified Intermediary, safe harbor rules, assignments of contracts, security of exchange funds, identification requirements, treatment of interest and disqualified parties.

In 1997, the Internal Revenue Code provided that personal property used predominantly within the United States was not "like kind" to the personal property used predominantly outside the United States.

In 2000, the IRS issued Revenue Procedure 2000-37 providing safe harbors for reverse parking arrangements.

In 2005, the I.R.S. issued Revenue Procedures 2005-7 and 2005-14 clarifying the exclusion of tax on properties used both for business/investment use and as a principal residence, thus combining the tax savings of Sections 1031 and 121.

In 2008, the I.R.S. issued Revenue Procedure 2008-16 providing safe harbor guidelines for 1031 exchanges of vacation homes.

The Process is Simple!

1. Enter into a Contract of Sale with a Buyer

2. Execute an Exchange Agreement and other exchange documents with 1031 Exchange Specialists, Inc., as Qualified Intermediary

3. Schedule settlement of your relinquish property and provide 1031 Exchange Specialists, Inc. with the Settlement Agent's contact information

4. Relinquish the benefits and burdens of ownership to the Buyer

5. Identify your replacement property(s) to 1031 Exchange Specialists, Inc. by the 45th day

6. Enter into a Contract of Sale with the Seller

7. Where applicable, apply for mortgage monies, complete inspections, etc.

8. Assign your replacement property contract rights to 1031 Exchange Specialists, Inc., as Qualified Intermediary

9. Schedule settlement of the replacement property and provide 1031 Exchange Specialists, Inc. with the Settlement Agent's contact information

10. Assume the benefits and burdens of ownership from the Seller by the 180th day, or tax return due date, whichever comes first.

The Exchange Documents

A. Exchange Agreement, is a written contract between 1031 Exchange Specialists, Inc. and you. It is the basis by which we act as your Qualified Intermediary for the sale of the above property, as well as the acquisition of your replacement property(s).

B. Assignments of Relinquished and Replacement Property Purchase and Sale Agreement, documents your assignment of contract rights, title and interest in, and to the subject property to 1031 Exchange Specialists, Inc., as Qualified Intermediary.

C. Addendum to Relinquished and Replacement Property Purchase and Sale Agreement, adds 1031 language to the contract between you and your purchaser.

D. Notice of Assignment of Relinquished and Replacement Property Purchase and Sale Agreement, formally notifies buyer of relinquished property and seller of replacement property that you have assigned to 1031 Exchange Specialists, Inc., as Qualified Intermediary all rights but not obligations under the Agreement of sale, 1031 Exchange Specialists, Inc., as Qualified Intermediary have accepted the assignment.

E. Direction Letter, instructs a seller of replacement property to execute a deed whereby conveying legal title directly from Seller to you, as Exchangor.

F. The W-9 Form, serves as verification of your tax identification number for bank and I.R.S. usage.

G. I.R.C. 1031 Advisory, addresses areas of importance when completing a 1031 exchange.

The Identification Rules

There are three (3) methods used to designate replacement properties. You should choose the one method that is most applicable to your situation. The property address and/or legal description are required for each of the following categories.

1. The Three Property Rule - You may designate any three properties without restriction as to value or any requirement to acquire more than one of those designated. You may exchange for one, two, or all three. (Most commonly used rule.)

2. The 200% Rule - You may designate any number of replacement properties as long as their aggregate fair market value does not exceed twice that of the relinquished property. You may acquire any number of these designated properties through this exchange. Your identification must also include the fair market value of each property.

3. The 95% Rule - Where the number of properties exceeds 3 and the aggregate fair market value exceeds 200% of the relinquish property value, you may designate any number of properties of any value as long as you acquire 95% of all properties designated as part of this exchange.

You may identify any type of investment or business property - single family, duplex, apartment building, hotel, office building, warehouse, commercial building, vacant land, etc.

You may identify property in any state of the United States. Your identification must be specific as to what you intend to purchase. For example, if you intend to purchase only a percentage interest in a piece of property, you must identify it as "__% interest or $__________ interest in replacement property." There are restrictions on acquiring property from related persons. If you plan to do so, please call 1031 Exchange Specialists, Inc.

This identification must be signed, dated and RECEIVED by 1031 Exchange Specialists, Inc. no later than midnight on the 45th day. According to the 1031 regulations, there can be NO changes to your identification after the 45th day. Property substitutions may only occur within the 45 day identification period. All substitutions must also be in writing, signed, dated, received by 1031 Exchange Specialists, Inc. by midnight on the 45th day and include a notice of withdrawal of any previously identified properties.

Please note, the replacement property must be taken in the same name(s) as the relinquished property previously sold. Closing on all of the replacement properties must be completed by the 180th day after closing on the relinquished property, or by the filing deadline of your federal income tax return for the year in which the exchange began, whichever comes first. (You may find it necessary to have your tax advisor extend your tax return filing date to accommodate the closing of your replacement property)

Items to Consider

As Exchangor, it is very important for you to review the following with your tax attorney and/or accountant:

- Applicability of an I.R.C. 1031 exchange for your specific situation.
- State recognition of I.R.C. 1031 exchanges.
- Deductibility of expenses incidental to the acquisition and disposition of property.
- Special provisions for selling to or purchasing from a related person.
- Tax reporting requirements of an I.R.C. 1031 exchange.
- Rules and time frames for completing an I.R.C. 1031 exchange.
- Requirements for identifying replacement property under the 45-day rule.
- Requirements for personal property incidental to the exchange. (e.g. furniture and furnishings)
- Purchasing a replacement property of lesser value than the property relinquished.
- Increasing/decreasing mortgages in an I.R.C. 1031 exchange.
- Safe Harbors for holding 1031 funds.
- Rules for returning funds to you during the exchange or upon completion.
- Consistency in title for relinquished and replacement properties.
- Reporting interest income earned on exchange escrow funds in the proper tax year.

1031 Exchange Specialists, Inc is not engaged in rendering legal, tax, or accounting services. If legal, tax, or accounting advice is required, the services of an independent professional should be sought.

1031 Exchange Specialists, Inc.

1031 Update

The principals of 1031 Exchange Specialists, Inc. have provided 1031 consulting services and documentation to real estate investors, their accountants and tax attorneys for over 16 years. They have helped investors exchange over 5,000 properties, totaling more than two billion dollars of real estate, saving them vast sums of capital gains taxes. The more significant changes to the 1031 exchange rules are summarized below.

Capital Gains Rates

Beginning in 2013, under the American Taxpayer Relief Act, H.R.8, long-term capital gains rates have been tiered to income tax brackets. Individuals in the 10% and 15% income tax brackets will benefit from a zero long-term capital gains rate; individuals in the 25%, 28%, 33% and 35% income tax brackets will be subject to a 15% long-term capital gains rate; and individuals in the 39.6% income tax bracket will be subject to a 20% long-term capital gains rate. Property held for less than one year is subject to the ordinary income tax rates of 10% to 39.6% upon sale. A Section 1031 Like-Kind exchange is a better alternative to paying taxes.

Net Investment Income Tax (NIT 3.8%)

Effective January 1, 2013, Section 1411 of the Internal Revenue Code applies a rate of 3.8% to the lesser of certain net investment income or adjusted gross income (AGI) of individuals, estates and trusts that have income above established threshold amounts. A Section 1031 Like-Kind exchange will also defer Section 1411 taxes.

Qualifying Exchanges of Vacation Homes

Effective March 10, 2008, the IRS issued a Revenue Procedure providing a safe harbor under which an exchange of a vacation home will not be challenged. The highlights of this safe harbor are: (1) The taxpayer owns the relinquish and replacement properties for at least 24 months immediately before/after the exchange and; (a) The taxpayer does not use the property for pleasure more than 14 days per year (or 10% of rental period, whichever is greater) in each of the two years before/after the exchange (repairs and maintenance days do not count towards personal use days) and; (b) the property is rented to an unrelated party for at least 14 days per year in each of the two years before/after the exchange. (Rentals to related parties are permitted if the related party utilizes the property as a principal residence and pays a fair market value rent.) An exchange falling outside the parameters of this safe harbor may still be granted tax deferment under Section 1031 based on the taxpayer's specific facts and circumstances.

Housing Assistance Tax Act of 2008

The Housing Assistance Tax Act of 2008 includes a modification to the primary home exclusion ($250,000 for individuals and $500,000 for married couples) when a property is converted from vacation/investment ("nonqualified") use to primary ("qualified") use after December 31, 2008. The gain on the sale of the property will be allocated between the periods of "nonqualified" use and "qualified" use. The $250,000/$500,000 exclusion will be applied to the "qualified" use period only, hence, making the "nonqualified" use period taxable. The nonqualified use prior to January 1, 2009 does not negatively impact the calculation. Conversions from primary use to vacation/investment use do not have the same tax implications and may be afforded 1031 tax deferment.

Disregarded Entities

In a Private Letter Ruling, the IRS ruled the acquisition of a membership interest of a single member disregarded entity did not violate the 1031 prohibition of exchanging into partnership interests. The State of New Hampshire has imposed stricter rules for disregarded entities and may disallow tax deferment at the state tax level.

Related Party Exchanges

Within the 1031 regulations, a taxpayer may sell property to a related party as long as both parties comply with a two-year holding period. A 2002 IRS Revenue Procedure indicated a taxpayer may not buy replacement property from a related party. The more recent IRS PLRs have resulted in favorable outcomes for property disposed of within the two year period and for taxpayers wishing to purchase replacement property from a related party. Although PLRs have no basis in law, it appears the IRS is allowing exceptions to the related party rules where it is evident the parties are not "cashing out" or "basis shifting". (Related parties include linear relatives and entities in which the Taxpayer owns more than a 50 percent interest. Not related are aunts, uncles, in-laws, cousins, nephews, nieces and ex-spouses.)

Mixed Use Property

In 2005, the IRS issued a Revenue Procedure clarifying the exclusion of tax on properties used for both business/investment use (Section 1031) and as a principal residence (Section 121). The procedure provided guidance and examples for mixed use properties consisting of (a) two separate structures used concurrently, e.g. Duplex, (b) single structure used concurrently, e.g. Boarding house, and (c) single structure used consecutively, e.g. converting a principal residence to a rental property.

State Tax Issues

Nonresident Withholding Tax - Several states collect an estimated state income/capital gains tax at the time of settlement from nonresident individuals selling a property in their state unless an exemption is requested. Most states grant a partial or full withholding exemption for 1031 exchanges. The states that impose a nonresident withholding tax are: Alabama, California, Georgia, Hawaii, Maine, Maryland, New Jersey, New York, Oregon, Rhode Island, South Carolina, Vermont and West Virginia.

New Jersey Deed Transfers - In September 2006, the New Jersey Administrative Code was amended to state: "A deed transferring real property from one legal entity to another legal entity that has common ownership is subject to the realty transfer fee." Taxpayers wishing to convey property to/from an LLC, Sub-chapter S-Corporation, Partnership, etc. may find themselves subject to a significant transfer tax.

New Jersey Bulk Sales Transfer Act – In September 2011, the NJ Bulk Sales Transfer Act was amended retroactively to August 2007 to exempt bulk sale notification requirements for one and two family dwellings, a unit in a housing cooperative, a unit in a condominium and a seasonal rental unit owned by an individual, estate or trust. Business use property and ownership not covered in the exemption must adhere to the bulk sale notification requirements but may be granted an escrow exemption if the property is being transferred as part of a 1031 Like-Kind exchange.

Pennsylvania – All taxpayers domiciled in Pennsylvania, except C-Corporations, who exchange real and personal property within the fifty states, must recognize gain on the sale of the property on their Pennsylvania tax return. The deferral of gain under Section 1031 still applies for federal taxes and the remaining forty-nine states.

State "Claw-back" Provisions – A 1031 Like-Kind exchange of a California, Massachusetts, Montana or Oregon property for an out-of-state property is subject to a "claw-back" provision whereby, a tax is due the originating state upon the final sale of the property in the replacement state. This may result in double taxation if both the originating state and the replacement state impose an income tax.

Consumer Protection Qualified Intermediary (QI) Legislation – Several states have enacted legislation to protect consumers from the mishandling of 1031 funds by Qualified Intermediaries. These states include: California, Colorado, Idaho, Maine, Nevada, Virginia, Oregon and Washington.

1031 Exchange Specialists, Inc is not engaged in rendering legal, tax, or accounting services. If legal, tax, or accounting advice is required, the services of an independent professional should be sought.

1031 Exchange Specialists, Inc.

1031 Myths

Real Estate Investors

Let us show you how to avoid

$1,000's in Capital Gains Taxes...

and

Increase Your Wealth-Building Power!

Important Information:

An Exchange benefits you even more than the taxes saved... It's a Wealth Building Tool!

Consider the case of two investors each with $200,000 appreciated equity in their properties.

• Investor A sells without an exchange, pays $40,000 in capital gains taxes and uses $160,000 remaining as a 25% down payment on a $640,000 office building.

• Investor B exchanges free of taxes and uses the full $200,000 equity as a 25% down payment to acquire an $800,000 office building.

• That means Investor B has acquired $160,000 more income producing property. So not only has the astute investor saved $40,000 in taxes...the tax savings are available to leverage into even greater income growth!

A Section 1031 Deferred Exchange CAN SAVE YOU BIG BUCKS!

Selling business or investment property normally requires payment of capital gains taxes. Depending on the property's appreciation in value and the length of time depreciated, that tax bill can be heavy... heavy enough to stop many individuals from selling the property.

However, under provisions of Internal Revenue Service Code Section 1031, these capital gains taxes can be deferred (or even avoided) if you "exchange" the property through a "Qualified Intermediary."

Let's Clear Up the Myths!

Many misconceptions exist about exchanges... 1031 Exchange Specialists, Inc. is leading the way in changing that...simplifying and clearing away the confusion to reveal what is truly one of the most powerful tax-savings, wealth-building tools available to today's real estate investor.

Myth: "I have to 'swap' properties with another investor."

Fact: Two party exchanges are rare. Most often, it happens like this:

Taxpayer finds a buyer and sells the property through a Quality Intermediary.

Taxpayer then finds another business or investment property (anywhere in the country) that fits the taxpayer's needs.

Taxpayer buys replacement property - again through the intermediary. "Exchange" isn't the best word to describe this transaction. It's really a rollover of equity. The parties don't know each other and their properties can be in different states.

Myth: "This 'Like-Kind' rule is too restrictive. I don't want to exchange for the same kind of property."

Fact: "Like-Kind" means "other real property"... not necessarily the same type of property that you're selling. So you can sell your vacant land in New Jersey and buy an apartment building in Florida... sell your motel and buy an office building...sell your rental condo and buy a duplex.

Myth: "I have to find a new property to buy before settlement so that title can pass simultaneously at settlement."

Fact: The properties don't have to close at the same time. The taxpayer has 45 days after the settlement to identify replacement property(s) and 180 days (or before taxes are due for that year) to settle on the replacement property(s). You can identify up to 3 replacement properties of any value...or identify more than 3 as long as the fair market value of all the properties totals no more than 200% of the fair market value of the relinquished property. You can buy as many properties as you wish.

Myth: My brother-in-law, attorney or my Realtor can be the Intermediary."

Fact: Regulations specifically exclude the taxpayer's agent, broker, attorney, accountant, most family members, and others with a business relationship with the taxpayer from serving as an intermediary. You want an Intermediary that is financially strong so your assets are fully protected during the exchange... with knowledgeable pros who can make your exchange hassle-free and worry-free... that's why selecting 1031 Exchange Specialists, Inc. is a smart move.

Myth: "I'll have to pay taxes eventually. I might as well do it now."

Fact: Who knows what capital gains rules will be in future years?" However, the wealth-building power of using the equity you save by not paying taxes now can be used to buy more investment property... and, when your heirs inherit your investment property, they take it over at its then-current market value (or stepped-up-basis). So any tax liability will be limited to the gains in value from the date of their acquisition, not during the years of your ownership. In other words, those taxes you're saving now would never be paid!

Every aspect of the exchange program is managed by knowledgeable professionals to achieve full compliance with IRS regulations. Whom you select as your Qualified Intermediary does make a difference. Select the exchange professionals.... 1031 Exchange Specialists, Inc.

The Biggest Rewards Go To The Most Informed!!

1031 Exchange Specialists, Inc is not engaged in rendering legal, tax, or accounting services. If legal, tax, or accounting advice is required, the services of an independent professional should be sought.

1031 Exchange Specialists, Inc.

Reverse Exchanges

Reverse Like-Kind Exchanges: How Do They Work?

Occasionally, investors are presented with an opportunity to acquire a replacement property prior to selling or passing title to the property they currently hold as an investment.

Can an investor acquire a property before they sell their current property and still be able to defer the taxable gain on their property?

In September 2000 the IRS published Revenue Procedure 2000-37 providing "safe harbors" or guidelines for those wishing to perform a like-kind exchange in reverse. Although Revenue Procedures are not regulation, the reverse exchange will be permitted if the Revenue Procedure is followed to the letter.

What are the general requirements of a reverse exchange?

(1) A third-party Exchange Accommodation Titleholder (EAT) takes title or "such other indicia of ownership" to the replacement or relinquish property (called "parking"). The EAT cannot be a disqualified party (an agent or related party of the taxpayer). 1031 Exchange Specialists, Inc. is permitted under IRS regulations to serve as an E.A.T. and Qualified Intermediary in the same transaction.

(2) The taxpayer must have a bona fide intent to complete an exchange.

(3) A Qualified Exchange Accommodation Agreement must be executed between the taxpayer and the EAT.

(4) Replacement or relinquish property identifications must be made by the 45th day following the acquisition of the property by the EAT.

(5) The EAT must transfer title to the taxpayer (replacement property parked) or a third party buyer (relinquish property parked) by the 180th day following the acquisition.

How are reverse exchanges different from forward exchanges?

Unlike a forward exchange, a reverse exchange requires the EAT to take legal title to the property or "such other indicia of ownership." The EAT is treated as the beneficial owner of the property for federal income tax purposes and file federal tax returns as necessary.

Why are reverse exchanges more costly than forward exchanges?

Reverse exchanges are more costly than forward exchanges because the EAT, as owner of the parked property, has greater risks and liability associated with the burdens of ownership. In addition, in order to isolate the liability of the individual properties owned by the EAT, a separate single member LLC is formed for each property. The EAT is also responsible for maintaining accurate books and records for the property and reporting the activity on federal tax returns while in ownership. In addition to the costs passed to the taxpayer by the EAT, other costs incurred by the taxpayer when completing a reverse exchange may include bank fees, state and local transfer taxes, closing fees and title insurance.

Why are reverse exchanges difficult to finance?

Reverse exchanges tend to be difficult to finance as the taxpayer, who is the applicant for the financing and personal guarantor of the loan, will not be the title holder while the property is owned by the EAT. This generally eliminates most traditional government backed mortgages. In order to provide sufficient funds to the EAT to purchase the parked property, the reverse exchange process generally requires a commercial loan, equity from other properties, funding from related parties or cash availability.

Are there alternatives to reverse exchanges?

Given the added exchange costs and difficulties obtaining financing, reverse exchanges should be viewed as an alternative, but only after all other avenues have been exhausted. The taxpayers first approach should be to re-negotiate the settlement dates of both the relinquish and replacement properties so they occur in a forward order.

For FREE information on "Like-Kind" exchanges or discuss how "Like-Kind" exchanges relate to your real estate investments, please contact 1031 Exchange Specialists, Inc.

1031 Exchange Specialists, Inc. - 1155 Asbury Avenue - Ocean City - New Jersey - Phone (609) 398-1031

Toll Free: (877) 513-1031 - Fax (609) 398-0500

Email: info@1031esi.com

1031 Exchange Specialists, Inc is not engaged in rendering legal, tax, or accounting services. If legal, tax, or accounting advice is required, the services of an independent professional should be sought.

1031 Exchange Specialists, Inc.

Mixed Use Property

THE "GREAT" REAL ESTATE TAX BREAK

Combining a 1031 Like Kind Exchange

and the Principal Residence Exclusion

In the Taxpayer Relief Act of 1997, Congress passed a major tax break for everyone who owns their home. When the like-kind exchange rules and the homeowner exclusion rules are both used, taxpayers can achieve a very significant tax break.

Q. What is the principal residence exclusion rule?

A. Married couples filing jointly can exclude up to $500,000 of gain when they sell their principal residence. Single taxpayers can exclude up to $250,000 of their gain. To qualify for the exclusion, you must have owned and used the home as a principal residence for an aggregate of two years during the five years preceding the sale.

Q. Can I exchange my current investment property for another investment property, then convert the investment property to my new principal residence?

A. Yes. This approach will maximize your tax savings. When you transfer your current investment property as part of a like kind exchange , you defer the tax on the gain. When you sell your current principal residence, you exclude up to $500,000 of gain. Then after you convert your investment property to your new principal residence, you become eligible once again after two years of occupancy and five years of ownership for an exclusion of gain. Properties converted from investment or vacation use to a principal residence after December 1, 2008 may not receive a full exclusion of gain.

Q. When can I convert my investment property to personal use?

A. You can convert an investment property to personal use at any time you desire without paying tax at that time. If you just acquired the property doing a like kind exchange, you must hold and utilize the property as an investment property for two years to meet the IRS guidelines.

Q. If we convert our investment property to our principal residence, how long must we live there before selling it and claiming the exclusion once again?

A. The rule is similar to the above, whereby you must live in the property for two years. However, the ownership period is extended to five years. You can then sell the property and exclude a portion of your gain. Tax will be due only on any depreciation taken after May 6, 1997. Properties converted from investment or vacation use to a principal residence after December 31, 2008 may not receive a full exclusion of gain.

Q. Must you buy another property to get the exclusion?

A. No. The previous law (IRC 1034), which required you to purchase another property to "rollover?" your gain, was abolished in 1997.

Q. Can you combine the principal residence exclusion and like kind exchange on the same property?

A. Yes. If you own a property, part of which you use as your principal residence and the remaining part as an investment property, you may use both the principal residence exclusion and a 1031 like kind exchange. An easy-to-understand example is when you sell a duplex in which you lived in one-half as your principal residence and you rented out the other half as an investment property. The gain on the portion in which you lived can be excluded and the gain on the part you rented out can be deferred using a like kind exchange. The combination of the principal residence exclusion and like kind exchange applies to both the consecutive and concurrent uses of the property.

Q. Are there any exceptions to the principal residence two year rule?

A. Yes. You may get a reduced exclusion if you must sell due to a job location change that qualifies for the moving expense tax deduction, health reasons, and unforeseen circumstances or if you convert an investment property to a principal residence after December 31, 2008, as defined in IRS Publication 523.

Q. How old must you be to claim the exclusion?

A. There is no age restriction. The previous requirement to be 55 or older to get a "once in a lifetime"exclusion of $125,000 was also abolished in 1997.

Q. Do both married taxpayers have to own the property to exclude up to $500,000 of gain?

A. No. Only one spouse may own the property, but both must have lived in the property for two years and file a joint tax return for the year of sale to claim up to the $500,000 exclusion.

Q. How often can you sell your principal residence and exclude the gain?

A. Once every two years. To exclude up to $500,000 of the gain, neither spouse can have excluded the gain from the sale of a principal residence during the past two years.

Q. May the time we were away from our principal residence on vacation still be counted toward the two years we must live in the house to qualify for the exclusion?

A. Yes. Short temporary absences for vacations and other seasonal absences, even if you rent out the property during the absences, are counted as periods of use.

Q. If I use part of my principal residence for rental or business purposes, such as my garage, may I still exclude the gain on that part of the property?

A. Yes. You may exclude the gain on that part of the property, except for the depreciation taken.

Q. Where can I get more information?

A. Get a free copy of IRS Publication 523, Selling Your Home, by going to www.irs.gov.

Call 1031 Exchange Specialists, Inc. at (609) 398-1031 for a free copy of our information package on Tax Deferred Exchanges and contact your tax advisor.

1031 Exchange Specialists, Inc is not engaged in rendering legal, tax, or accounting services. If legal, tax, or accounting advice is required, the services of an independent professional should be sought.

1031 Exchange Specialists, Inc.

Short Sales & Foreclosures

A Sale Without Cash May Not Be A Sale Without Gain

In a market where Short Sales and Foreclosures have become the norm, many taxpayers are unaware of the potential tax liability on gains resulting from depreciation deductions and "cash-out" refinances.

The taxpayer may be "forgiven" the unpaid debt with the Mortgagee, but is faced with a capital gains tax when the property is sold for more than the depreciated basis, even though no cash is received by the taxpayer.

The taxpayer will be forced to use personal funds to satisfy the tax liability arising from the sale of their investment property. Those personal funds would be better utilized invested in a new property with appreciation potential.

Cash from the "sold" property is not required to complete a 1031 exchange. An I.R.C. Section 1031 Like-Kind Exchange can be utilized to defer a capital gains tax liability by rolling forward debt from a short sale or foreclosed property, and/or by adding personal funds to a "new" property. This great tax saving tool helps the taxpayer avoid a tax liability and continue to meet their personal goal of building wealth.

When structuring a 1031 exchange, there's no room for guesswork. Peerless strategy, masterful interpretations, and insightful analysis are just a few of the advantages we bring to the exchange. You'll find 1031 Exchange Specialists, Inc. indispensable.

Whether exchanging a rental cottage at the shore or a commercial warehouse in Philadelphia, your client's tax savings is our business. Call 1031 Exchange Specialists, Inc.

1031 Exchange Specialists, Inc. - 1155 Asbury Avenue - Ocean City - New Jersey - Phone (609) 398-1031

Toll Free: (877) 513-1031 - Fax (609) 398-0500
Email: info@1031esi.com
1031 Exchange Specialists, Inc is not engaged in rendering legal, tax, or accounting services. If legal, tax, or accounting advice is required, the services of an independent professional should be sought.

1031 Exchange Specialists, Inc.

Frequently Asked Questions (FAQs)

1. What is a 1031 exchange?

2. Why would someone choose to do a 1031 exchange versus just paying taxes?

3. What taxes are imposed on a person when they sell an investment property?

4. How do the individual states tax 1031 exchanges?

5. Are 1031 exchanges just for real estate?

6. What is the role of the Qualified Intermediary in a 1031 exchange?

7. Do you need a Qualified Intermediary in each state that you sell or purchase property?

8. How is the taxpayer's money protected while held by the Qualified Intermediary?

9. What are the time restrictions of a 1031 exchange?

10. What are some of the complex areas of 1031 exchanges? e.g. Partnerships, dealers, seller financing, vacation homes, related parties, partial exchanges?

11. Can a person buy a property before they sell their property in a 1031 exchange"(reverse exchange)"?

12. A 1031 exchange is a deferral of taxes. Are there strategies for eventually eliminating the taxes that were deferred?

13. Can a 1031 exchange and a primary home exclusion be combined to maximize tax savings?

1. What is a 1031 exchange?

The numbers "1031" refer to a section of the Internal Revenue Code entitled: "Exchange of property held for productive use or investment". Section 1031 provides that gain or loss is not recognize when property held for productive use in a trade or business, or for investment, is exchanged for like-kind property to be held for productive use in a trade or business, or for investment. Section 1031 exchanges are often referred to as "Like-Kind" exchanges, "Tax-Deferred" exchanges, "Starker" exchanges, "Tax-Free" exchanges and "Swaps". Although not referenced as "Section 1031" when first enacted in 1921, the rationale used as justification for not recognizing gain or loss on the exchange of property was similar to the "economic stimulus packages" of today, whereby, continuity of investment and administrative convenience will, in the long run, result in economic growth. The principals of 1031 Exchange Specialists, Inc. (1031 ESI) have helped investors exchange over two billion dollars of real estate in 41 states and the US Virgin Islands.

2. Why would someone choose to do a 1031 exchange versus just paying taxes?

No one enjoys paying taxes! Putting emotions aside, there are several practical financial reasons for choosing to complete a 1031 exchange, such as; (1) consolidation or diversification of investments; (2) greater appreciation and leverage opportunities; (3) increased cash flow; (4) relocation of investments; and (5) exchanging low basis property for high basis property. A taxpayer should consider the money they are not paying in taxes as an interest free loan from the government to help them build wealth. 1031 Exchange Specialists, Inc. (1031 ESI) can provide expert guidance when deciding whether a 1031 exchange is the best tax savings tool for the taxpayer.

3. What taxes are imposed on a person when they sell an investment property?

A taxpayer who chooses not to complete a Section 1031 exchange may be subject to numerous federal, state and local taxes. If the property being sold is held less than one year, the gain on the sale of the property is taxed federally at ordinary income tax rates, and although constantly changing, may potentially fall in the high thirty percentile. If the property is held more than one year, the gain on the sale of the property is taxed at the federal capital gains rate. If the property being sold was a depreciable property, the portion of the gain resulting from the depreciation deduction is federally taxed at a twenty-five percent rate or at ordinary income tax rates, depending on the asset. In many instances, the sale of a property may affect the calculation of Alternate Minimum Taxes (AMT) for a taxpayer Let's also not forget our State and local governments, who, for the most part, do not have fixed capital gains rates and impose taxes at their respective ordinary income tax rates. 1031 Exchange Specialists, Inc. (1031 ESI) can assist the taxpayer in evaluating their tax liability when a 1031 exchange is not utilized.

4. How do the individual states tax 1031 exchanges?

Most states follow the federal 1031 law and also allow the deferment of state taxes. Several states, have a "claw-back" provision requiring the payment of tax on the sale of a replacement property, even if the replacement property is located in another state. Some states impose a non-resident withholding tax on the sale of property within the state by individuals domiciled outside the state. However, exemptions to the withholding tax are generally granted to persons completing a 1031 exchange and to property owned by corporations, partnerships and LLC's. Some non-resident withholding states require several weeks time before sale to grant the withholding exemption. An experienced Qualified Intermediary will be able to advise you of the individual state tax requirements. 1031 Exchange Specialists, Inc. (1031 ESI) can readily identify individual state tax requirements both in and outside the use of the 1031 exchange.

5. Are 1031 exchanges just for real estate?
Section 1031 of the Internal Revenue Code applies to real property, personal property, certain intangibles and other non-depreciable personal property. Some examples of "like-kind" real estate may include 30 year leases, cell towers, conservation easements, oil, gas and mineral interests, timber, water rights, improvements to be constructed, options, and more. Personal property exchanges are more restrictive. The IRS has issued "like-class" provisions for personal property but only as a safe-harbor. An exchange may still be "like-kind" and meet the requirements of a Section 1031 exchange, even if not "like-class". 1031 Exchange Specialists, Inc. (1031 ESI) can advise the taxpayer on the "like-kind" requirements of real and personal property exchanges.

6. What is the role of the Qualified Intermediary in a 1031 exchange?
The role of the Qualified Intermediary, as provided in the Regulations, cannot be that of a disqualified person or an agent of the taxpayer for purposes of a tax-deferred exchange. A disqualified person or agent is one who has acted as the taxpayer's employee, attorney, accountant, investment banker or broker, or real estate agent or broker in the two years prior to the exchange, related parties and other beneficial interests. In order to meet the requirements of the Regulation and have a successful exchange, the Qualified Intermediary must (1) enter into an Exchange Agreement with the taxpayer whereby the taxpayer's rights to receive, pledge, borrow, or otherwise obtain the benefits of money or other property are expressly limited; (2) be assigned the sales and purchase agreements for the relinquished property and replacement property, with written notification of the assignment to all parties to those agreements; and (3) hold the net sale proceeds in its account or with a qualified escrow or trust. 1031 Exchange Specialists, Inc. (1031 ESI) will ensure every aspect of the taxpayer's 1031 exchange meets the requirements of the regulation.

7. Do you need a Qualified Intermediary in each state that you sell or purchase property?
The Qualified Intermediary you choose will remain in the transaction from the sale of your relinquished property(s) to the acquisition of your replacement property(s), or the termination of the exchange, whichever comes first, regardless of which state either transaction occurs.

8. How is the taxpayer's money protected while held by the Qualified Intermediary?
There are safeguards a taxpayer should consider when selecting a Qualified Intermediary. These safeguards include: (1) depositing the taxpayer's funds in FDIC insured accounts; (2) depositing taxpayer funds in accounts that are principal preserved and liquid; (3) depositing taxpayer funds in segregated accounts under the client's name and federal identification number; (3) requiring dual signatures within the Qualified Intermediary company and, where practical, the signature of the taxpayer for any withdrawals; (4) ensure the proper wording is contained in the Exchange Agreement to protect the taxpayer's funds from a Qualified Intermediary bankruptcy; (5) the use of a Qualified Escrow and Trust Agreement; (6) the use of a Security or Guarantee Arrangement; and/or (7) deposit taxpayer funds in a financial institution selected by the taxpayer. The most important safeguard for a taxpayer is to rely on the referrals of their accountants, attorneys, Realtors and former clients of the Qualified Intermediary. 1031 Exchange Specialists, Inc. (1031 ESI) utilizes various safeguards to ensure liquidity and preservation of principal for the taxpayer's funds.

9. What are the time restrictions of a 1031 exchange?
Various time restrictions are included throughout the 1031 Regulations and Revenue Procedures. The most critical of these time restrictions are the 45 Day Identification period and the 180 Day exchange period, which apply to forward, reverse and build-to-suit exchanges. These time restrictions may be impacted by something as significant as federally declared natural disasters, or as insignificant as the filing deadline of the taxpayer's income tax return. Secondarily, time restrictions relating to holding periods of two years and 24 months, respectively, are required when exchanging with a related party or suggested when qualifying a property. Additional time restrictions relating to minimum rental periods and maximum personal use periods are also provided in the safe harbors of a 1031 exchange. A competent Qualified Intermediary will guide you through these time-frames. 1031 Exchange Specialists, Inc. (1031 ESI) can advise the taxpayer of the time-frames within the regulations and Revenue Procedures and ensure the time-frames are adhered to for a successful 1031 exchange.

10. What are some of the complex areas of 1031 exchanges' e.g. Partnerships, dealers, seller financing, vacation homes, related parties, partial exchanges?
Although the vast majority of 1031 exchange transactions are straight-forward, one-for-one exchanges, with little or no complications, a competent experienced Qualified Intermediary can also guide the taxpayer, their accountant, attorney and Realtor through the very complex transactions, as listed above. A Qualified Intermediary's familiarity with the Regulations, Revenue Procedures and Private Letter Rulings (PLR) will prove beneficial to the taxpayer when deciding whether the 1031 exchange is a viable tax saving and wealth building tool for their transaction. Please contact 1031 Exchange Specialists, Inc. (1031 ESI) to discuss your specific circumstances and goals.

11. Can a person buy a property before they sell their property in a 1031 exchange"(reverse exchange)?"
In 2000, the Internal Revenue Service issued a Revenue Procedure providing a safe harbor permitting an Exchange Accommodation Titleholder ("EAT") to acquire, with all of the benefits and burdens of ownership, the relinquished property or the replacement property in an exchange and hold it for up to 180 days while the taxpayer attempts to sell the relinquished property and/or improve the replacement property. Please see 1031 Exchange Specialists, Inc. (1031 ESI) web page entitled "Reverse Exchanges" for additional details about reverse and build-to-suit exchanges.

12. A 1031 exchange is a deferral of taxes. Are there strategies for eventually eliminating the taxes that were deferred?"
A taxpayer has several options available to avoid or eliminate being taxed on the sale of their investment property. The first option is to continue taking advantage of Section 1031 of the tax code, without limitation, when an investment property is sold. This strategy affords the taxpayer use of additional equity, which otherwise would have been paid in taxes, to leverage into higher priced property and build wealth. The taxpayer is also utilizing the unpaid tax dollars interest free from the government. The second option is to convert a 1031 replacement property into a primary home and take advantage of the primary home exclusion. Lastly, if the taxpayer holds the 1031 replacement property until death, the taxpayer's heirs receive the property at a "stepped-up" basis or fair market value on the date of death, whereby, the gain becomes part of the taxpayer's estate, potentially exempt from taxation, and not passed along to the heirs. The principals of 1031 Exchange Specialists, Inc. (1031 ESI) are in their 12th year of providing consulting services and documentation to real estate investors, their accountants, and tax attorneys ensuring individual goals are attained.

13. Can a 1031 exchange and a primary home exclusion be combined to maximize tax savings?

A taxpayer has several options available to maximize tax savings when combining a 1031 exchange and a primary home exclusion. The first option is when a taxpayer has two separate structures used concurrently, such as a Duplex, whereby, part of the property is used for business or investment and the other part is the taxpayer's primary residence. Since the usage of the property is clearly defined and distinguishable between personal and business use, the taxpayer can apply the primary home exclusion to the portion lived in and complete a 1031 exchange on the business portion. The second option is available for a single structure used concurrently, such as, a Boarding house. Since the usage is not clearly definable, the taxpayer would first apply the primary home exclusion to the entire gain and complete a 1031 exchange for the balance of the gain. The third option is available when a single structure is used consecutively, such as, when a principal residence is converted to a business or investment property. The tax application is similar to the Boarding house example above; however, time restrictions are imposed on the taxpayer. Please see 1031 Exchange Specialists, Inc. (1031 ESI) web page entitled "Mixed Use Property" for further information.

Independently Owned and Operated

1031 Exchange Specialists, Inc (1031 ESI)
1155 Asbury Avenue
Ocean City, New Jersey 08226
609-398-1031
Toll Free: 877-513-1031
Fax: 609-398-0500

www.1031esi.com
info@1031esi.com