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1031 Exchanges: The Rules, the Clock, and When Not to Bother

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The short answer

A 1031 exchange lets you sell investment real estate and defer the tax by buying other investment real estate. Two deadlines run from the day your sale closes and neither can be extended: 45 days to identify replacement property in writing, and 180 days to close on it. You cannot touch the money in between, which is why a qualified intermediary has to be engaged before the sale closes. The deferral is real but it is not forgiveness, and there are situations where paying the tax now is the better answer.

What qualifies

Only real property held for productive use in a trade or business or for investment qualifies. Equipment, vehicles and other personal property lost their exchange treatment in 2018. Your home does not qualify, though the separate home sale exclusion may cover it. Property held primarily for resale, which is how a flipper holds inventory, does not qualify either.

Within real property, the like-kind standard is broad. Raw land can be exchanged for an apartment building, a retail plaza for farmland, a long-term ground lease for a fee interest. What matters is how the property is held, not what type it is.

The clock

Day	What has to happen
Before closing	Qualified intermediary engaged and exchange documents signed. After closing is too late
Day 0	Your sale closes. The intermediary receives the proceeds, not you
Day 45	Replacement property identified in writing, signed and delivered to the intermediary
Day 180	Purchase of the replacement property completed

The 180 days is not a second window, it runs alongside the 45. There is one more trap: the exchange must close by the due date of your return for the year of the sale, including extensions. A sale late in the year will cut the 180 days short unless you extend the return.

> These deadlines are not extendable for a failed financing, a dead deal or a bad inspection. Identify more than one property.

The three identification rules

- Three-property rule: identify up to three properties, at any value. This is what almost everyone uses
- 200 percent rule: identify any number of properties, as long as their total value is no more than twice what you sold
- 95 percent rule: identify any number at any value, but you must actually acquire at least 95 percent of that value

The identification has to be unambiguous. A street address or legal description, in writing, signed, delivered to the intermediary by midnight of day 45. An email to your agent is not identification.

How tax sneaks back in

To defer the whole gain, two things generally have to be true: you buy property worth at least as much as you sold, and you replace the debt you had, either with new debt or with your own cash.

- Cash boot: any sale proceeds that come back to you are taxable, up to the amount of your gain
- Mortgage boot: if the loan on the new property is smaller than the loan paid off on the old one, the difference is treated as money received and is taxable
- Paying closing costs that are not exchange expenses out of the proceeds can create boot

Partial deferral is a legitimate plan, not a failure. If you want some cash out, take it knowing the number, rather than discovering it in March.

What you carry forward

Your basis follows you. The new property takes the old basis plus whatever additional money you put in, which means your depreciation deductions going forward are usually smaller than the purchase price would suggest. Deferred gain stacks up across exchanges, so by the third property the embedded tax can be larger than the equity.

Two exits remove it. Death gives your heirs a stepped-up basis and the deferred gain disappears, which is why exchanges and estate planning are usually discussed together. The other exit is a year with enough offsetting losses that recognizing the gain costs little.

When not to do it

- The gain is small and the replacement property is a compromise. Never let the tax tail pick the asset
- You have large suspended passive losses on the property, which a sale would release and which may cover much of the gain
- You want out of real estate. Deferral only helps if you are buying more
- Your income this year is unusually low, so the gain would be taxed at rates you will not see again
- The property is inside a C corporation, where the exchange defers only one of the two layers of tax

Reverse exchanges, where you buy first and sell after, and improvement exchanges, where exchange money pays for construction, are both available through an exchange accommodation titleholder. They work, they cost more, and they need to be set up before anything closes.

Frequently asked questions

How long do I have to complete a 1031 exchange?

Forty-five days from closing to identify replacement property in writing, and 180 days from closing to complete the purchase. The 180 days also cannot run past the due date of that year's return, including extensions.

Can I receive the sale proceeds and then buy the next property?

No. Touching the proceeds ends the exchange. A qualified intermediary must hold them, and must be engaged before the sale closes.

Can I exchange a rental for a property I will live in?

Not directly. The replacement property must be held for investment, and converting it to a personal residence later is subject to holding period expectations and separate rules that limit the home sale exclusion.

What is boot?

Anything you receive that is not like-kind property, including cash left over and debt relief that is not replaced. Boot is taxable up to the amount of your gain.

Do I still owe depreciation recapture?

Not at the time of a fully deferred exchange. It carries into the new property along with the basis, and comes due whenever you finally sell without exchanging.

General information based on federal law for tax year 2026, not tax advice for your situation. State rules vary.

Want this applied to your situation? Book a free 30-minute call with Akanchya Acharya, CPA at acharyacpa.com/contact or email akansha@acharyacpa.com.

The latest version of this guide: acharyacpa.com/resources/1031-exchange-rules-timeline · Updated November 15, 2026