2026 · CAN I DO A SECTION 1031 EXCHANGE WITH MY RENTAL PROPERTY?

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Do the rental properties you plan to sell and purchase meet the definition of a "like-kind" exchange, and are both properties held for investment, trade, or business purposes under Section 1031?

- No → You likely do not meet the qualifications for a Section 1031 exchange, and the sale of your property may be recognized as a fully taxable event.
- Yes → Have you involved the use of a Qualified Intermediary (QI) to help facilitate the transaction(s) and ensure compliance with the process of implementing a Section 1031 exchange?
  - No → Consider using a QI to mitigate the risk of making any mistakes when implementing a Section 1031 exchange.
  - Yes → Will you be able to clearly identify (and document) a replacement property within 45 days of the date of sale of your relinquished property?
    - No → Consider other replacement property identification strategies (e.g., "up to three properties" rule, 200% rule, 95% exception, etc.) in case your preferred property has issues with closing on time.
      - Will you be able to successfully close on a replacement property within 1) 180 days of the date of sale of your relinquished property, or 2) the due date of your tax return for the tax year in which your property was sold (whichever comes first)?
        - No → You likely do not meet the qualifications for a Section 1031 exchange, and the sale of your property may be recognized as a fully taxable event.
        - Yes → Have you owned the rental property you plan to sell (and do you plan to own the replacement property) for at least two years?
          - No → Be mindful that, depending on your circumstances, the IRS may view this as a house flip due to the short turnaround time, and may disallow the Section 1031 exchange.
          - Yes → Is the exchange value of the property you are buying (i.e., purchase price plus any qualified expenses) greater than or equal to the exchange value of the property you are selling (i.e., gross sale price less any deductible sales costs)?
            - No → This may be a "partial" 1031 exchange. A portion (but not all) of the capital gains and depreciation recapture of your relinquished property may be eligible for tax deferral. The remainder will be taxable.
            - Yes → This may be a full 1031 exchange. The capital gains and depreciation recapture of your relinquished property may be eligible for full tax deferral.
              - Will you receive any "boot" as part of your transaction (e.g., cash proceeds you retain from the sale, "debt relief" due to having a lower mortgage on your new property, receiving non-like-kind property as part of the exchange, etc.)?
                - No → Is the person or entity you are exchanging with considered a "related party" (e.g., sibling, spouse, business in which you have greater than 50% ownership, etc.)?
                  - No → Be mindful of other factors that may affect your situation (e.g., "reverse" exchanges, personal use of property, tax reporting requirements, etc.), and be sure to enlist the help of a professional.
                  - Yes → Both you and the related buyer of your relinquished property must hold your respective properties for two years after the sale to avoid any tax consequences (i.e., retroactive disallowance of the 1031 exchange).
                - Yes → Any "boot" received may be taxable unless you take actions to reduce it (e.g., reinvest all cash into the new property, ensure the mortgage amount on the new property is the same as your old property, etc.).

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