THE AGENCY

THE OSTERMAN TEAM

1031 EXCHANGE GUIDE

KNOW THE RULES

KNOW THE DEADLINES

KNOW YOUR OPTIONS

AVOID THE COMMON MISTAKES

MARK AND KELLI OSTERMAN | OKLAHOMA CITY AND EDMOND



WHAT A 1031 EXCHANGE IS

If you own a rental or other investment property and plan to sell it, a 1031 exchange may let you put the sale money into another investment property without paying tax on the gain right away. It is named for Section 1031 of the federal tax code, and it is also called a like-kind exchange.

The tax is put off, not erased. It can come due later if you sell without exchanging again. The rules are strict, and the clock starts the day your sale closes, so the planning has to start before you list.

> **TWO WORDS YOU WILL HEAR**
>
> The property you sell is the **relinquished property**. The property you buy is the **replacement property**.

THREE REQUIREMENTS

1 LIKE-KIND PROPERTY

Both properties must be real estate held for investment or for use in a business. A home you live in as your main residence generally does not qualify. A property bought to fix up and resell quickly is usually treated as inventory and generally does not qualify either. Your tax advisor makes the final call.

2 A QUALIFIED INTERMEDIARY

A neutral company, called a qualified intermediary, must hold the sale money between the two closings, and you hire one before your sale closes. If the money touches your hands or your bank account, the exchange can fail.

3 TWO DEADLINES

You must identify your replacement choices in writing within 45 days of the sale closing, and close on the purchase within 180 days. Both clocks start on the same day, and the 180 days include the 45.

WHY INVESTORS EXCHANGE

People use a 1031 exchange for different reasons. Here are the ones we hear most. Your CPA can tell you which ones apply to your situation.

KEEP MORE MONEY WORKING

Putting off the tax means more of your sale money goes into the next property instead of to a tax bill now.

CHANGE WHAT YOU OWN

Trade a property that takes too much work, or sits in the wrong place, for one that fits your plans better.

STEP UP IN SIZE OR EASE

Move from one small rental to a larger building, or from a hands-on property to one that asks less of your time.

PLAN FOR THE LONG TERM

Under current law, property held until death can receive a new tax basis for heirs. Ask your estate attorney and CPA how that would work for your family.

WHERE EXCHANGES GO WRONG

- **Missing a deadline.** There is no grace period on the 45 or the 180 days.
- **Touching the money.** The proceeds reach your account before the intermediary has them.
- **Starting too late.** The sale closes before an intermediary is in place.
- **Identifying too narrowly.** If your one choice falls through, nothing else is on the list.
- **Assuming a property qualifies.** Always ask before you list.
- **Leaving cash behind.** Money you take out, or a smaller loan on the new property, can be taxed. This is called boot.

A GOOD AIM TO DISCUSS WITH YOUR CPA

Buy a replacement property of equal or greater value, and reinvest all of the sale proceeds.

THE PROCESS, STEP BY STEP

STEP 1

PLAN BEFORE YOU LIST

Talk to your CPA or tax attorney. Choose a qualified intermediary. Reach out to us so the property search can start early.

STEP 2

SELL YOUR PROPERTY

We price and market the property, and the exchange goes into the sale contract. The proceeds go to your intermediary at closing.

STEP 3

IDENTIFY WITHIN 45 DAYS

Name your replacement choices in writing, with your intermediary. We will already have options lined up.

STEP 4

CLOSE WITHIN 180 DAYS

We keep the purchase on track with your lender, intermediary and title company, so it closes on time.

YOUR CHECKLIST

- [ ] Talk to your CPA or tax attorney about whether an exchange fits you.
- [ ] Choose a qualified intermediary before you list or sign a sale contract.
- [ ] Decide what you want to buy next: type, price range, area and financing.
- [ ] Start looking at replacement properties while your sale is under contract.
- [ ] Write the exchange into the sale contract and tell the title company early.
- [ ] Write down your 45-day and 180-day dates the day the sale closes.
- [ ] Identify your replacement properties in writing, on time.
- [ ] Line up your loan for the replacement purchase before the 45 days are up.
- [ ] Close on the replacement property inside the 180 days.

WHAT TO BUY NEXT

Selling is half of an exchange. The other half is deciding what to buy. These are the common choices.

A PROPERTY YOU OWN

Another rental, a commercial building or land held for investment, in your name. You keep control and the work. This is the part we help with most.

A DELAWARE STATUTORY TRUST

A trust that owns a larger property, run by a sponsor company. Less work, less control, and it is a security sold only through a licensed securities professional.

Most real estate funds do not qualify for an exchange, because you own a share of a partnership, not the real estate. Ask your tax advisor before you move any exchange money. We cover these choices in more detail at theostermanteam.com/investors.

TALK WITH US BEFORE YOU LIST

The earlier the search starts, the more options you have.

The Osterman Team
405-593-8326
theostermanteam.com
kelli@kelliosterman.com
mark@markosterman.com

This guide is general information about how a 1031 exchange works. It is not legal, tax, accounting, investment or lending advice, and it is not an offer to sell, or a request to buy, any security. Every exchange depends on the facts, and tax rules are strict and change. We are real estate agents, not tax advisors, attorneys or securities professionals, and we do not sell or recommend investments or receive payment for any investment. Any investment, including a Delaware Statutory Trust, is offered only through a licensed securities professional with a written offering document and carries risk, including the loss of money you put in. Talk to your CPA or tax attorney and a qualified intermediary before you list a property you want to exchange. The Osterman Team is with The Agency. Equal Housing Opportunity.