

IRC §1031 DO'S AND DON'TS

DO

advanced planning for the exchange. Talk to your accountant, attorney, broker, lender and Qualified Intermediary.

DO NOT

miss your identification and exchange deadlines. Failure to identify within the 45-day identification period or failure to acquire replacement property within the 180 day exchange period will disqualify the entire exchange. Reputable Qualified Intermediaries will not act on backdated or late identifications.

DO

keep in mind these three basic rules to qualify for complete tax deferral:

- Use all proceeds from the relinquished property for purchasing the replacement property.
- Make sure the debt on the replacement property is equal to or greater than the debt on the relinquished property. (Exception: A reduction in debt can be offset with additional cash; however, a reduction in equity cannot be offset by increasing debt.)
- Receive only “like-kind” replacement property.

DO NOT

plan to sell and invest the proceeds in property you already own. Funds applied toward property already owned purchase “goods and services,” not “like-kind” property.

DO

attempt to sell before you purchase. Occasionally Exchangers find the ideal replacement property before a buyer is found for the relinquished property. If this situation occurs, a reverse exchange (buying before selling) may be necessary. While the IRS has recently provided guidance for reverse exchanges in Revenue Procedure 2000-37, Exchangers should be aware that reverse exchanges are considered a more aggressive exchange variation because some other entity must hold title to either the Exchanger’s relinquished or replacement property for up to 180 days pending the completion of the exchange transaction.

DO NOT

dissolve partnerships or change the manner of holding title during the exchange. A change in the Exchanger’s legal relationship with the property may jeopardize the exchange.

BRIEF EXCHANGE COMMUNICATIONS

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