

1031 Exchange Frequently Asked Questions (FAQs) (eff. 4.9.2021)

These FAQs are intended to answer general inquiries regarding 1031 tax deferred exchanges. Every exchange is different and the application of the general principles will vary depending on the specific facts of each transaction. You (as the taxpayer) should seek the advice of your attorney or tax consultant before participating in a 1031 exchange as Knight Barry Exchange LLC (“KB Exchange”) and its sister companies do not and will not provide legal or tax advice to you.

What transactions qualify for a 1031 Exchange? Generally, the nonrecognition rules for like-kind exchanges apply only to exchanges of real property held for investment or for productive use in your trade or business and not held primarily for sale. To determine if your transaction qualifies, please speak with an accountant or attorney. You may also wish to review IRS Publication 544 (Sales and Other Dispositions of Assets) which is available on the IRS website (www.irs.gov) and 26 CFR §1.1031.

When should I engage an attorney or accountant? We strongly encourage that you engage an attorney and/or accountant *before* you sell the Relinquished Property. Your attorney/account should review the closing statement(s) to confirm that you are maximizing the deferral of capital gain (for example you may want to pay rent and security deposits to the buyer directly, outside of the closing statement(s), to avoid taxable boot).

What is the timeline for the entire “exchange period”? First you must close on the sale of the property you currently own (the “Relinquished Property”) and the exchange funds/sales proceeds will be deposited with KB Exchange as the intermediary (as that term is defined in the Internal Revenue Code). The closing date of the sale of the Relinquished Property starts the clock on the time period you have to identify and close on your new like-kind property (the “Replacement Property”). The exchange period ends the earlier of: (i) 180 days after the transfer of the Relinquished Property, or (ii) the due date of your federal tax return for the year in which the Relinquished Property was transferred, including extensions. The exchange period may end earlier if you either fail to timely identify any Replacement Property or if you close on all identified Replacement Properties, as discussed in more detail below.

How long do I have to identify potential Replacement Property? You must identify all potential Replacement Property within 45 days (including holidays and weekends) after the closing date for the Relinquished Property even if the 45th day falls on a Saturday, Sunday or legal holiday.

How do I identify potential Replacement Property? KB Exchange has created the “Identification of Replacement Property Form” for you to use to identify the Replacement Property. The written identification must be signed and hand-delivered, mailed or faxed by midnight on the 45th day to KB Exchange or any “non-disqualified” person (as defined in IRS regs). This form can be amended, revised or even revoked within the 45-day identification period, provided that written delivery of the revision is timely made.

Can I identify more than 1 potential Replacement Property? Yes - the maximum number of Replacement Properties you can identify is:

- *Three Property Rule:* Three properties regardless of their fair market value.
- *200% Rule:* Any number of properties may be identified, but their total value cannot exceed twice the value of the Relinquished Property
- *95% Exception:* If at the end of the 45-day identification period you’ve identified more properties than permitted under IRS regulation, the only property considered identified is: (i)

Replacement Property purchased before the end of the 45-day period, and (ii) Replacement Property identified within the 45-day period and purchased before the end of the exchange period but only if the fair market value of the property is at least 95% of the total fair market value of all identified Replacement Properties.

How long do I have to buy my Replacement Property? You must acquire the Replacement Property the earlier of: (i) 180 days after the transfer of the Relinquished Property, or (ii) the due date of your federal tax return for the year in which the Relinquished Property was transferred, including extensions.

Where will my money be during the exchange period? KB Exchange will deposit the exchange funds into our custodial escrow account. For an additional fee, the escrow account may be interest bearing (see schedule of fees below).

What do I do when I'm ready to buy my Replacement Property? Contact Scotti Tuttle at Knight Barry (414-727-4545 or 1031exchange@knightbarry.com) and provide information about the closing.

What if I identified 1 or more Replacement Properties within the 45-days but then later decide not to purchase all of the identified Replacement Properties – when can I get my money back? If you've identified 1 or more Replacement Properties within the 45-day identification period, and you are now beyond the 45-day identification period, IRS regulations dictate that KB Exchange must hold onto the money until you've either purchased ALL of the identified Replacement Property or the 180-day exchange period has expired. The one small exception to this rule is if your failure to purchase the Replacement Property is because of a circumstance beyond your control and the control of any "disqualified person".

But wait, isn't this my money, can't I change my mind, decide to pay the capital gains tax and get my money back before the 180-days? Unfortunately, IRS regulations say no.

One more question, are all 1031 exchanges created equal? No. The discussion in this FAQ is for a straight forward exchange (where the Relinquished Property is sold first and the improved Replacement Property is purchased later). There are different forms of 1031 exchanges including: Reverse Exchanges (where the Replacement Property is purchased before the Relinquished Property is sold); Installment Sales (where one of the parties holds a carry-back promissory note as part of the 1031 exchange); and Build to Suit (where part of the exchange funds are used to make improvements to the Replacement Property). These types of 1031 exchanges can be complicated and require a unique set of documents to be signed at the first sale/purchase. If you have an exchange of this nature, KB Exchange can provide additional resources to facilitate your transaction.

EXHIBIT A - 1031 Exchange Fee Schedule (effective 4.9.2021)

EXCHANGE FEE – TITLE FOR RELINQUISHED PROPERTY ISSUED BY A MEMBER OF THE KNIGHT BARRY TITLE GROUP:

WISCONSIN

Exchange Fee \$750.00*
(Includes Relinquished Property and one Replacement Property)

Each Additional Replacement Property Exchange Disbursement \$75.00**

MINNESOTA

Exchange Fee \$800.00*
(Includes Relinquished Property and one Replacement Property)

Each Additional Replacement Property Exchange Disbursement \$175.00**

FLORIDA

Exchange Fee \$800.00*
(Includes Relinquished Property and one Replacement Property)

Each Additional Replacement Property Exchange Disbursement \$175.00**

EXCHANGE FEE - TITLE FOR RELINQUISHED PROPERTY ISSUED BY A 3RD PARTY:

Exchange Fee amount shown above PLUS \$100.00*
(Includes Relinquished Property and one Replacement Property)

Each Additional Replacement Property Exchange Disbursement \$150.00**

OTHER FEES, AS APPLICABLE:

Interest Bearing ledger \$ 100.00*
(interest accrues on the exchange funds to you rather than KB Exchange)

Cancellation fee *(due if KB Exchange is asked to draft Exchange Documents and then you choose to not proceed with the exchange)* \$100.00

*Due at close of escrow of the Relinquished Property.

**Due at close of escrow of the Replacement Property.