

1031 TAX DEFERRED EXCHANGES

"WHAT IS CONSIDERED "LIKE KIND" PROPERTY?"



Compliments of

IRC Section 1031 does not limit "like-kind" property to certain types of real estate. The term refers to the nature or character of the property, rather than its grade or quality. Real property must be exchanged for like-kind real property. Real property is not considered like-kind to personal property.

WHAT IS EXCLUDED?

An Exchanger's primary residence and property held "primarily for resale" (dealer property) are excluded from tax deferral under IRC Section 1031. [Note: Primary residences qualify for tax exclusion, with certain restrictions, under IRC Section 121.]

QUALIFYING REAL PROPERTY

The types of real estate which can be exchanged are extremely broad. Any real estate *held for productive use in a trade or business or for investment* – whether improved or unimproved – is considered "like-kind." Improvements to real estate refer to the grade or quality, not the nature or character of the real property. Like-kind examples:

- Unimproved for improved property
- Fee for leasehold with 30+ years to run
- Commercial building for vacant land
- Duplex for commercial property
- Single family rental for an apartment
- Industrial property for rental resort property

QUALIFYING PERSONAL PROPERTY

Personal property that qualifies for a §1031 exchange must be "held for productive use in a trade or business or for investment." In general, qualifying properties must both be in the same General Asset Class or within the same Product Class. The Standard Industrial Classification Manual provides categories for General Asset Classes of depreciable tangible personal property. It is critical to review any personal property transactions with tax advisors because the rules are more restrictive than for real property. Examples of qualifying personal property exchanges include:

- Mexican gold coins for Austrian gold coins
- Aircraft for aircraft
- Restaurant equipment for restaurant equipment
- Computers for computers

Call the professionals toll-free at **Asset Preservation** for more detailed information on "like-kind" issues.



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