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Reverse and Improvement 1031 Exchanges

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Overview

- What is Like-Kind?
- Timeframes
- Title Parking Exchanges
- Improvement Exchanges





§1031. Exchange of property held for productive use or investment (a) Nonrecognition of gain or loss from exchanges solely in kind. —

(1) In general. — No gain or loss shall be recognized on the exchange of property held for productive use in a trade or business or for investment if such property is exchanged solely for property of like kind which is to be held either for productive use in a trade or business or for investment.



What is Like-Kind?

- Single-family house for raw land
- Apartment building for a retail center
- Office building for a warehouse
- 4-plex for a TIC interest in an office building





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What is a Qualified Intermediary (QI)?

What is a Qualified Intermediary?

The IRS requires that a taxpayer deposit their 1031 exchange funds with a Qualified Intermediary (QI).

If the taxpayer does not, they will have “constructive receipt” of the funds and taxes will be due.



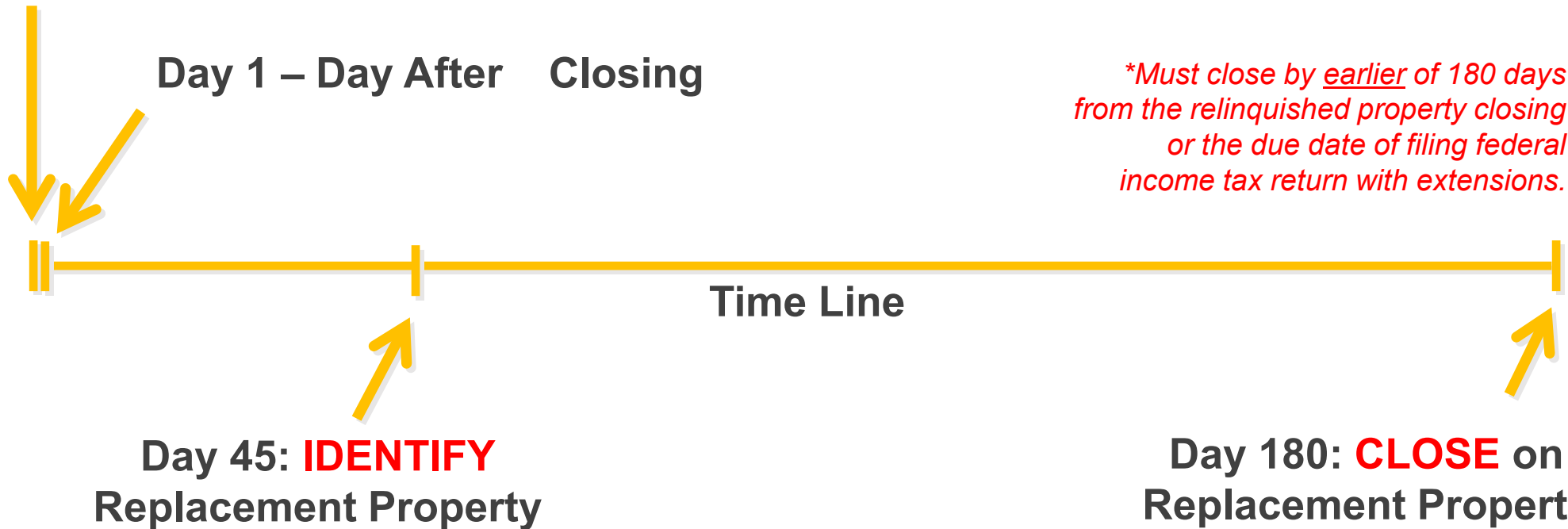


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Timeframes

TIMEFRAMES FOR AN EXCHANGE

Day 0 – Closing of Relinquished Property



No extensions – even if deadline is a Saturday, Sunday or a legal holiday.





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Title Parking Exchanges

Title Parking Exchanges

Revenue Procedure 2000-37 (aka Rev Proc 2000-37)

Created a safe harbor for an EAT to own property in the course of facilitating Reverse & Improvement Exchanges

EAT

Exchange Accommodation Titleholder

QEAA

Qualified Exchange Accommodation Agreement

Title Parking Exchanges



“I want to purchase a property before I will be able to sell the property I currently own.”

Title Parking Exchanges

Reverse Exchanges

A Reverse Exchange is one where the taxpayer finds a need to acquire the Replacement Property before relinquishing property.

Rev Proc 2000-37 provides a safe harbor for Reverse Exchanges.

Title Parking Exchanges

Reverse Exchanges

Rev Proc 2000-37 outlines that:

- Property is held for the benefit of the taxpayer in order to facilitate a 1031 Exchange
- Taxpayer and EAT agree to report the acquisition, holding and disposition of property as required
- EAT will be treated as beneficial owner for tax purposes
- No later than 45 days after transfer of Replacement Property to EAT, Relinquished Property is identified



Title Parking Exchanges

Reverse Exchanges Exchange Last

Once a third-party buyer is found for the relinquished property, the relinquished property is transferred to the buyer.

After the relinquished property has been transferred to the buyer, the replacement property and any net sale proceeds from the relinquished property are transferred to the Exchangor to complete the reverse exchange.

Title Parking Exchanges

Reverse Exchanges

Rev Proc 2000-37 outlines that:

No later than 180 days after the transfer of the property to the EAT, the property is transferred to the taxpayer (replacement property) or a person other than the taxpayer or disqualified person (relinquished property)

Title Parking Exchanges

Reverse Exchanges Exchange Last

In an exchange last transaction, the EAT acquires title to the replacement property at the scheduled closing. The acquisition is funded by the Exchangor or by a loan arranged by the Exchangor.

The EAT leases the replacement property to the Exchangor, and the lease provides that the Exchangor receives all of the income and pays all of the expenses of the replacement property.

Title Parking Exchanges



Reverse Exchanges Exchange Last

On the scheduled closing date, the Exchangor takes title to the replacement property.

Once a third-party buyer is found for the relinquished property, the relinquished property is transferred to the buyer and any net sale proceeds from the relinquished property are used to retire any debt, or portion thereof, incurred by the EAT on its acquisition of the relinquished property.



Title Parking Exchanges

When does a Reverse Exchange make sense?

- If you are trying to do a delayed exchange, and your sale is delayed.
- You find a great deal on a property you want to purchase and your sale has not closed yet.
- You do not want to have to worry about the 45-day Identification Period



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Improvement Exchanges

Improvement Exchanges

- QI holds title and makes approved improvements
- Investment replaced before 180 days
- Title transferred to Exchangor





Improvement Exchanges

Can I sell an investment property that I currently own to improve another investment property that I also own?

NO

Rev Proc 2004-51 was issued to clarify the IRS' position that Rev Proc 2000-37 cannot be used to conduct an exchange into improvements on a property currently or previously (with the past 180 days) owned by a taxpayer.



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Summary

Key Points to Remember

- Purchase like-kind property
- 45-day Identification Period
- 180-day Exchange Period
- Title Parking Exchanges
 - Reverse Exchange
 - Improvement Exchange
- Visit www.firstexchange.com for more information and upcoming webinars





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Questions?

For future webinars visit www.firstexchange.com

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