

Top Ten 1031 Exchange Misconceptions

- 1. Like-kind means I must exchange the same type of property, such as apartment building for apartment building.** All real property is like-kind to other real property, but personal property like-kind requirements do have some restrictions. Real property and personal property are not like-kind to one another.
- 2. My attorney can handle this for me.** Not if your attorney has provided you any non-exchange related legal services within the two-year period prior to the exchange.
- 3. I must literally "swap" my property with another investor.** No. A 1031 exchange allows you to sell your relinquished property and purchase replacement property from a third party.
- 4. 1031 exchanges are too complicated.** They don't have to be. As an experienced Qualified Intermediary, First American Exchange will work with you and your tax and/or legal advisors to make sure the process is as seamless as possible.
- 5. The sale and purchase must take place simultaneously.** No. The taxpayer has 45 days to identify the new replacement property and up to 180 days to close.
- 6. I just need to file a form with the IRS with my tax return and put the proceeds into a new investment.** No. A valid exchange requires much more than just reporting the transaction on Form 8824. One of the biggest traps when not structured properly is the taxpayer having actual or constructive receipt of the exchange proceeds and triggering a taxable event.
- 7. 1031 exchanges are only for real estate.** No. Almost any property, whether real or personal, which is held for productive use in a trade or business, or for investment, may qualify for tax-deferred treatment under Section 1031.
- 8. All of the funds from the sale of the relinquished property must be reinvested.** No. A taxpayer can choose to withhold funds or receive other property in an exchange, but it is considered boot and will be subject to federal and state taxes.
- 9. 1031 exchanges are just for big investors.** No. Anyone owning investment property should consider a 1031 exchange.
- 10. I must hold property longer than a year before exchanging it.** The 1031 regulations do not list a time requirement on how long you must hold property, but it does say that property must be "held for productive use in a trade or business or for investment".

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