

# 1031Vest<sup>®</sup> Basic Requirements for a 1031 Exchange

**1031Vest, LLC's** "Basic Requirements for a 1031 Exchange" is intended to provide an overview of the steps involved in conducting a 1031 tax-deferred exchange. This document does not address all issues involved in an exchange. If you have any questions about the 1031 exchange process or any of **1031Vest's** services, a **1031Vest** exchange specialist will be happy to assist you. Please call us at 866.766.1031 or email us at [info@1031Vest.com](mailto:info@1031Vest.com). Please note that the IRS regulations prohibit Qualified Intermediaries (QI) from giving tax or legal advice. **1031Vest** recommends that the Exchangor consult a tax advisor and attorney prior to conducting a 1031 exchange.

## STEP 1: MAKE SURE ALL PROPERTIES QUALIFY FOR A 1031 EXCHANGE

- The relinquished (old) and replacement (new) property must be held for productive use in a trade or business or for investment purposes and be of a like-kind. Property acquired for immediate resale or property used as the taxpayer's personal residence does not qualify for an exchange.
- Real properties generally are of like-kind, regardless of whether the properties are improved or unimproved. For example, a commercial building or condominium unit is like-kind to vacant land. However, real property in the United States and real property outside the United States are not like-kind properties. Additionally, personal properties of a like asset or product class are like-kind properties (e.g. office equipment, vehicles, etc).
- Cooperative Apartments are considered qualifying property in many states, including New York and California. Additionally, leases in excess of 30 years are like-kind to fee interest in real property.
- Section 1031 does not apply to exchanges of inventory, stocks, bonds, notes, other securities or evidence of indebtedness, or certain other assets.

## STEP 2: ADD "COOPERATION" PROVISION TO CONTRACT OF SALE FOR THE RELINQUISHED PROPERTY

Make sure the sales contract provides for the assignment of the Exchangor's rights to the QI (i.e. **1031Vest, LLC**), as well as obligates the purchaser(s) to cooperate with the exchange. Similarly, the contract to purchase the replacement property should provide for the assignment of the contract and the cooperation of the seller(s).

## STEP 3: ENGAGE 1031VEST

Engage **1031Vest** prior to the sale of the relinquished property, or if performing a "reverse exchange" (i.e. when the replacement property is acquired prior to the sale of the relinquished property), prior to the purchase of the replacement property. **1031Vest** will prepare all of the required exchange documents. Certain documents (e.g. the Exchange Agreement and Assignment of Contract) must be signed by the Exchangor and returned to **1031Vest** prior to the transfer of the relinquished property.

## STEP 4: CLOSE ON SALE OF RELINQUISHED PROPERTY

It is essential that neither the Exchangor nor the Exchangors' agent(s) take actual or constructive receipt of the proceeds from the sale of the relinquished property. The funds must be deposited directly with **1031Vest**. This is why **1031Vest** must be engaged prior to the sale of the relinquished property.

## STEP 5: IDENTIFY REPLACEMENT PROPERTY

The Exchangor has 45 calendar days from the date of closing of the relinquished property to identify potential replacement property, which can be done easily and quickly using **1031Vest's** 45-Day Identification Form. The Exchangor may identify any number of replacement properties, but must comply with one of the following three rules:

- **3-Property Rule** - The exchangor may identify up to three replacement properties without regard to their value; OR
- **200% Rule** - The exchangor may identify as many properties as desired as long as the total value of all the properties does not exceed twice the value of the relinquished property; OR
- **95% Rule** - The Exchangor may identify as many properties as desired but the properties purchased must have a value equal to at least 95% of all of the properties identified. For example, if five properties are identified worth \$1 million collectively, the properties purchased must have a value of at least \$950,000.

Note: To defer all of the capital gains tax on the sale of the relinquished property, the Exchangor must (i) purchase replacement property that is of equal or higher value than the relinquished property, and (ii) reinvest all of the proceeds from the sale of the relinquished property toward the purchase of the replacement property.

## STEP 6: CLOSE ON PURCHASE OF REPLACEMENT PROPERTY

The Exchangor must purchase and take title to the new property exactly as title was held to the relinquished property. The Exchangor has 180 calendar days from the date of closing of the relinquished property to close on the replacement property. Note: It is important to remember that the 45-day identification period runs concurrently with the 180-day closing period.