

# 1031 Checklist for Business Transfers and Sales

Please check the box that applies to your situation

YES	NO	NOT SURE	
			<p><b><u>Classification of Property</u></b>            According to IRC 1060 the sales price of a business has to be allocated among 7 categories of assets established by the IRS. Both you and the buyer will need to sign a Form 8594 Asset Acquisition Statement. The allocation is important because it is used to figure the gain or loss on each asset you are selling.</p>
<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	Do you know how your assets fall into the 7 IRS classes: I Cash, II Securities, III Accounts Receivable, IV Inventory, V Tangible Property, VI Covenant Not to Compete & Other Intangibles, VII Goodwill?
<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	Are you aware that you want to assign as much possible to the long-term capital gain items of land and building or goodwill vs. the other items?
<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	Are you aware that the only items for which you can defer taxes with a 1031 exchange are on land, buildings, and personal property?
<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	Are you planning to sell more than one property that needs to be broken out this way?
			<p><b><u>Taxes</u></b>            There are a number of taxes to consider in the sale of a business that have an impact upon whether an exchange is worthwhile or not.</p>
<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	Are you aware of the amount of gain on your property and what tax rates apply? The rates are ordinary income rate, depreciation recapture rates, and long-term capital gains.
<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	Are you aware that the amount of personal property that you sell will normally be subject to sales tax? For example In King County of Washington State it is 9%. In other counties it is slightly less.
<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	Did you know that there is an excise tax on the transfer of property? Again in King County it is 1.78%.
<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	Are you aware that if you sell depreciated property (building or personal property) at a gain that the depreciation taken in prior years is recaptured? This rate is generally 25%
			<p><b><u>1031 Exchanges</u></b>            According to IRC 1031 exchanges can only be accomplished with land, buildings, &amp; personal property. Goodwill and covenants-not-to-compete are not exchangeable, nor is seller financing exchangeable if you issue a promissory note to the buyer.</p>
<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	Land and buildings have plenty of replacement options, about 50 categories of investments are considered real estate. Would you like to know what those options are for your consideration?
<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	Personal property on the other hand is very short on replacement options. What is allowed is very narrow. Would you like to know more about how similar asset class matching is done?
<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	Did you know that you can take some cash out of the exchange and do a partial exchange?
			<p><b><u>1031 Vesting, Entities, and Related Parties</u></b>            In the past five years there has been increasing activity by the Treasury Dept and IRS to ensure that vesting, a change in entities and related parties are within the boundaries of established laws.</p>
<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	Is anyone else on title to the property in addition to you and/or spouse?
<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	Is the property owned by an entity such as a LLC, Partnership, Corporation, or a Trust?
<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	Are you planning to sell to or buy from a family member or related party?
<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	According to IRC 1031 partnership interests can not be exchanged. If you are selling as a partnership what are the other partners doing? Have you negotiated the sale in the name of the partnership? Do you or some of your partners want to get out and move in a different direction? It requires planning to be done.

YES	NO	NOT SURE	
			<p><u>Cash and Debt</u> Cash and debt play an important part in an exchange and need to be allocated to the land, buildings, and personal property if they are being exchanged.</p>
<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	What is the approximate amount of debt on the property being sold? _____
<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	Are there other debts or liabilities associated with the property that will be paid off?
<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	Have you received any earnest money or option payments for the property being sold?
<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	Have you made any earnest money or options payments on replacement property to be purchased?
			<p><u>Replacement Property</u> One of the biggest challenges for business owners is the question of what will they move on to buy in the future. This relates to the replacement property also.</p>
<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	Do you know what you want to buy as replacement property? Is it more than one property?
<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	Would you like to receive our handout explaining 50 categories of possible real estate that qualify?
<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	Do you know the most important objectives for you in your replacement property?
<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	Are you planning to purchase your replacement property together with another person or entity?
			<p><u>Exchange Funds and Financing</u> At times there is confusion about what can be done with exchange funds, because the Treasury Regulations under Reg. 1.1031(k) specifies that the portion of cash from the sale of a business that relates to tangible property must be sent to the Qualified Intermediary upon closing and cannot even be constructively received.</p>
<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	Do you understand that during the exchange, funds are available only for the purchase of replacement property and related acquisition expenses?
<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	Do you understand that unused exchange funds are available: 1) after day 45 if no replacement properties have been identified, or 2) After all identified properties have been acquired, or 3) after the 180 <sup>th</sup> day
<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	Do you understand that investment property cannot usually be financed as owner occupied?
			<p><u>Miscellaneous Items</u> There are other technicalities in an exchange that we can help with such as a reverse exchange, improvement exchange, out-of-state exchange, etc.</p>
<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	Are you considering buying replacement property before your relinquished property sells?
<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	Are you planning to build improvements on raw land or remodel existing structures?
<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	Are you a builder, developer, dealer, REALTOR <sup>®</sup> or real estate professional? _____
<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	Please list all states in which you are selling or considering buying property: Selling _____ Buying _____

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