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# 1031 Exchanges / 2024 Refresher

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**IPX**  
1 0 3 1<sup>®</sup>

**IPX**<sup>®</sup> Investment Property  
1031 Exchange Services, Inc.

**Sara Remley**

Account Executive Nevada

[Sara.remley@ipx1031.com](mailto:Sara.remley@ipx1031.com)

702-232-4576

# Add 1031 Help to Your Phone Now! 1031Sara

Sara Remley 1031  
Nevada Account Executive  
**702-232-4576 Cell**  
602-224-8818 Office  
[Sara.Remley@ipx1031.com](mailto:Sara.Remley@ipx1031.com)  
  
[www.ipx1031.com](http://www.ipx1031.com)

Save me now as 1031Sara 😊

# IPX1031 – Selecting a Secure Qualified Intermediary

**Security:** Security is your most important issue.

**IPX 1031® provides;**

- \$100 Million Fidelity Bond
- Third Party Written Guarantee of Funds
- \$30 Million Errors & Omissions Professional Liability Coverage

**Service:** Be sure that they provide top customer service.

**IPX 1031® provides;**

- 14 Regional Processing Centers managed by an experienced attorney and a competent exchange processing staff
- 24 Regional Sales Offices

**Experience:** 26 Regional Attorneys with substantial experience in facilitating all aspects of real estate and personal property exchanges –

- Delayed (“Starker”) Exchanges
- Simultaneous Exchanges
- Build-To-Suit Parking Transactions
- Reverse Parking Transactions
- Multiple Asset and Mass Asset Exchanges
- Workout/Foreclosure Exchanges



# What is a 1031 Exchange?

In a nutshell, a 1031 exchange allows an investor to sell their current investment property and use **all** of the equity (not just the “after-tax” equity) to purchase a new investment property.

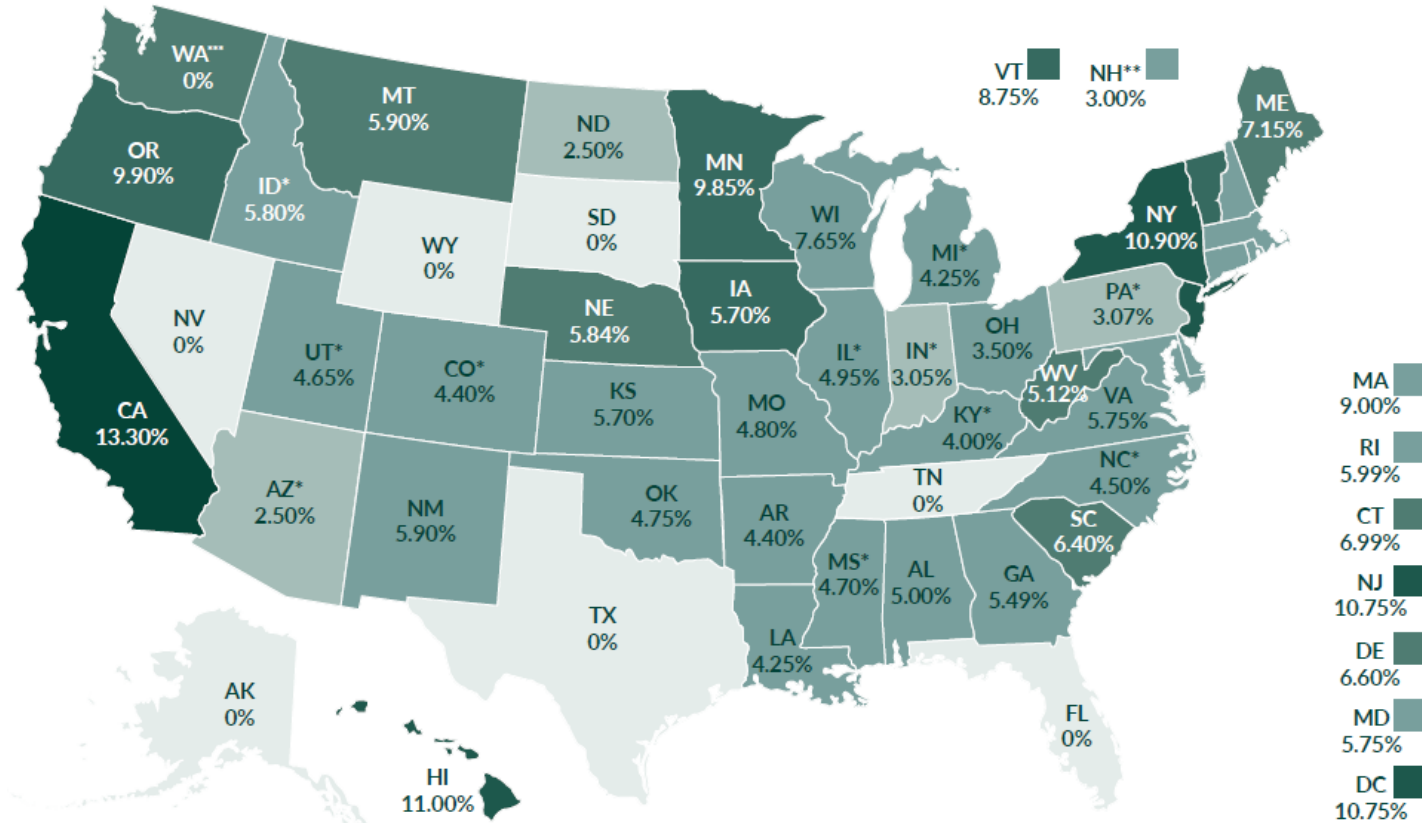
Section 1031 is the greatest wealth building tool in the entire tax code also one of the most under used parts!

# 1031 Permits Deferral Of...

- Capital Gains Taxes (15-20% Fed, 0% State)
- Depreciation Recapture (25% Fed, 0% State)
- Net Investment Income Tax (NIIT)(3.8%)
- State Tax.....

# State Tax Rates

## STATE TAX RATES 2024



Note: Map shows top marginal rates: the maximum statutory rate in each state. This map does not show effective tax rates, which would include the effects of various tax preferences. Local income taxes are not included. (\*) State has a flat income tax. (\*\*) State only taxes interest and dividends income. (\*\*\*) State only taxes capital gains income for high earners at 7%. Real property, however, is exempt from this provision.

Tax Rate Information source: <https://taxfoundation.org/data/all/state/state-income-tax-rates-2024/>

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# Run the numbers

Some people don't want to use a 1031 since they are only 'deferring' the tax.....

Grandpa always said "two things in life are inevitable"

Are taxes inevitable?

What do heirs receive?

\$11,200,000 exemption per spouse with a step up in basis

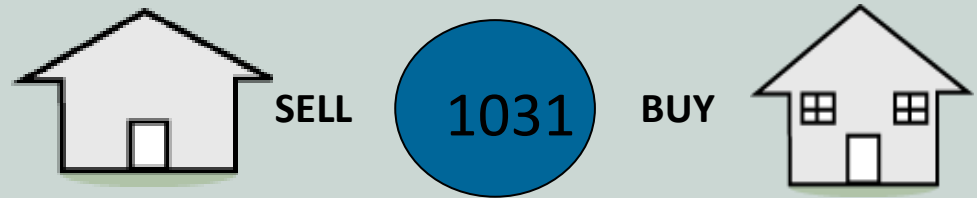
***Don't let your clients cash out of their real estate and pay their tax!***

**Instead, help them exchange into properties that better meet their current financial objectives.**

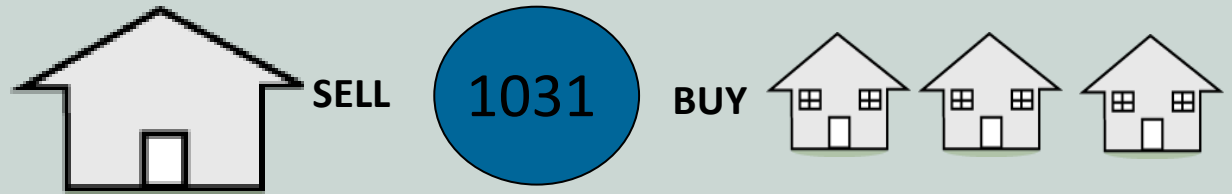
**Swap until you drop!**

# Why do a 1031?

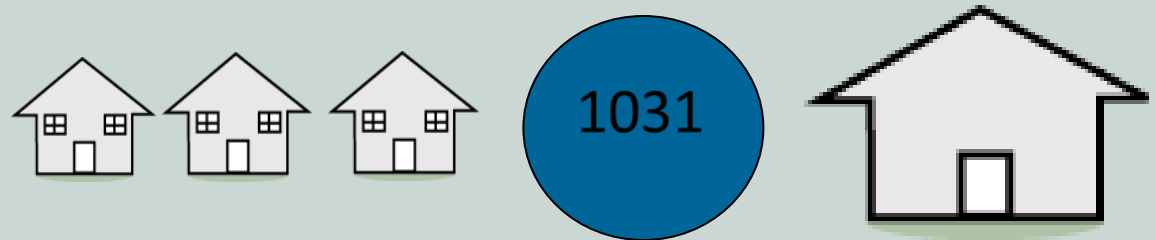
## #1 Move markets / Upgrade



## #2 Diversification



## #3 Consolidation



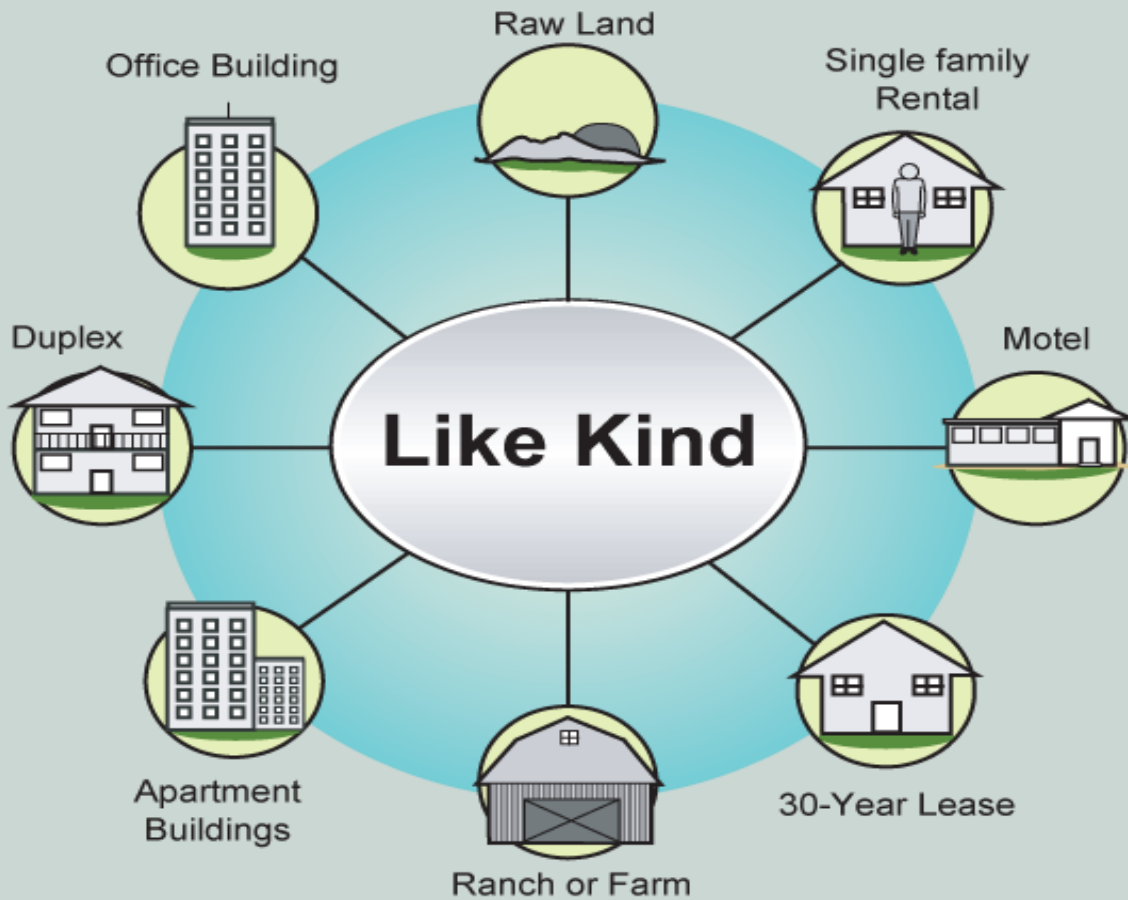
## #4 Estate Planning

**Dad Sells 1  
and buys 3  
near the  
children**

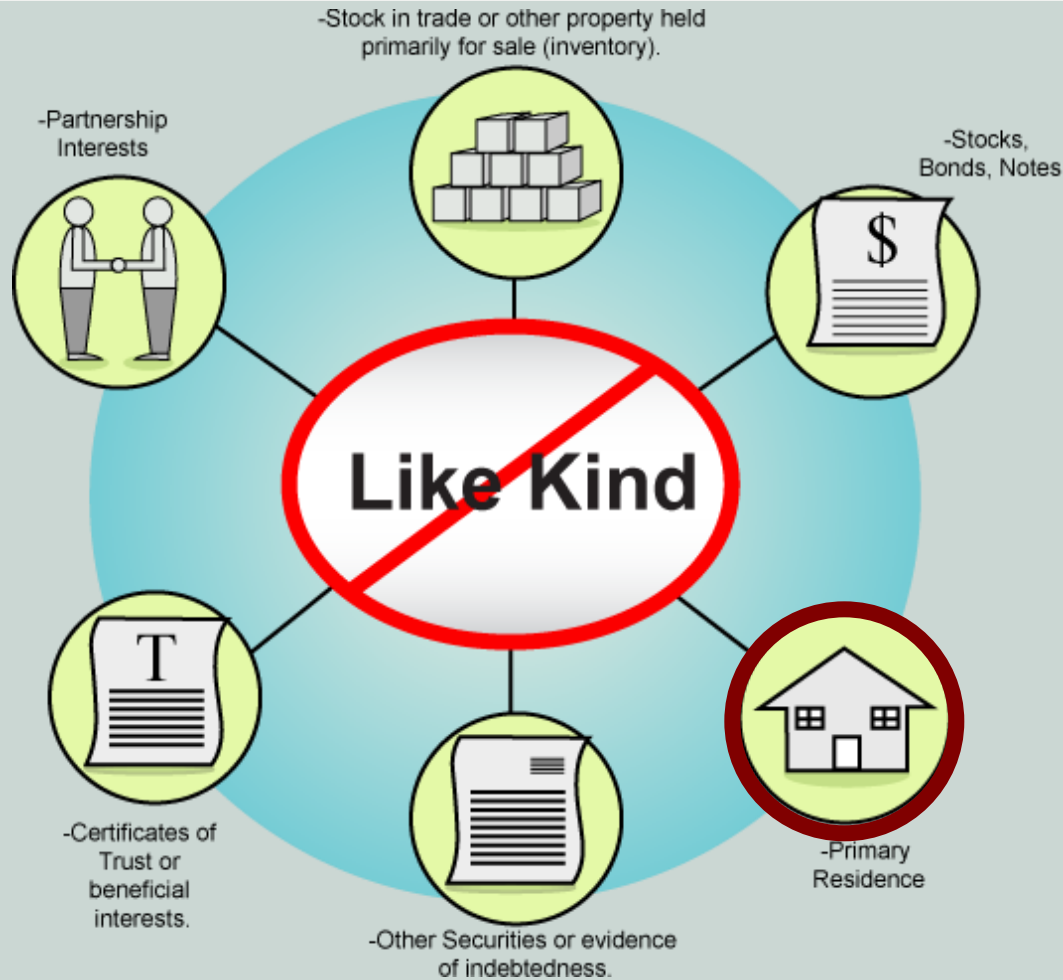
**Pays each child to manage property for him  
Sets each one up in a revocable living trust**



# What is Like Kind?



# What is NOT Like Kind?



# Basic Rules of §1031: Three Requirements

- The purchase price of the Replacement Property must be equal or greater in value than the relinquished property. Sales Price Less Commissions & Closing Costs
- All cash proceeds from the sale of the Relinquished Property must be reinvested in the Replacement Property
- Debt on the replacement property must be equal or greater to the debt paid off at closing on the Relinquished Property
  - \*\*Debt may also be replaced with cash

\*\*A Partial Exchange is when your client buys down in value or retains cash, creating 'taxable boot'



# 1031 EXCHANGE TIME FRAMES

## 45 DAY IDENTIFICATION

The Exchanger must identify the property to be purchased within 45 days following the transfer of the relinquished property

## ID RULES

Rules for identifying replacement property

- 3 Property Rule;
- 200% Rule;
- 95% Rule (Exception)

## 180 EXCHANGE PERIOD

The Exchanger must obtain the replacement property within 180 days following the transfer of the relinquished property

- Saturdays, Sundays and legal holidays **do not** extend the time periods
- The time limits begin to run on the date the Exchanger transfers the relinquished property (or the first relinquished property) to the buyer.



# Questions??

**My client is worried about finding a replacement, what happens if they don't buy something?**

If they aren't able to identify a replacement, funds go back to them on day 46.

**When can my client go under contract on a replacement property?**

At any time! The sooner the better.

**When do we start the exchange process?**

Have your client call for a consultation and to qualify the property – It's all in the planning!

We open the exchange when you have a signed contract and escrow is open.

**What's the latest an exchange can be put in place?**

Anytime before recordation!!

**My client is considering refinancing before selling to pull out cash, is this okay?**

It's never recommended to refi immediately before selling, it's best for your Client to complete the exchange then wait at least 6 months before any cash out ref.

# Advanced 1031 Strategies

- Acquiring a Vacation / Second Home
- Dream Home Strategy
- Vesting Issues
- Converting a Primary Home to Investment Property
- Reverse 1031 Exchange – This process through an Intermediary allows the client to buy the replacement property first
- FIRPTA
- Seller Financing

# Vesting Question

- The Same Taxpayer Needs to Close and Take Title to the Replacement Property that sold the Relinquished property.
- Joe Smith is selling 123 Main Street and exchanging it for 456 Park Place. The property being sold is titled in 123 Main Street LLC, a disregarded single member LLC and Joe Smith is the single member.
  - Q: Can 456 Park Place be purchased by a LLC other than 123 Main Street LLC?
  - A: **Yes**, as long the new LLC is a disregarded LLC solely owned by Joe Smith.

# What is a Disregarded Entity?

- It is an entity that is disregarded as being separate from its owner **for income tax purposes**
- Common Examples
  1. Single Member LLC
  2. H&W LLC in a Community Property State/Filing Jointly
    - LA, TX, NM, AZ, CA, NV, WA, ID & WI
  3. Revocable Living Trust (a/k/a Grantor Trust)
- It is a separate legal entity for all other purposes
  - Ownership of assets, liability, ability to contract, etc.



# WHAT IS A REVERSE EXCHANGE?

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○ Opposite of a forward exchange

○ Exchanger wants to acquire Replacement Property first and sell Relinquished Property later

○ When to use:  
✓ Relinquished Property falls out of escrow  
✓ Exchanger finds Replacement Property and is ready to close before

# The Reverse 1031 Exchange

The client cannot hold title to the relinquished and replacement properties simultaneously and a QI must be a party to both closings.

- Exchange Accommodation Titleholder - LLC Created
- Funds are Loaned to the EAT – Promissory Note
- EAT Takes Title and Holds 'Parks' Property
- EAT Leases property to Exchanger under Triple Net Lease
- Proceeds from Sale of Relinquished Property Go Directly to QI
- EAT Repays Loan From Exchanger & Third-Party Debt
- Title is Deeded Directly to Exchanger or LLC Ownership Transferred

But Wait there's more.....For the Very (very) High-Risk takers among us....the Non-Safe Harbor Reverse Exchange eeekkk!



# REVERSE EXCHANGE STRUCTURES



## 45 & 180-day timelines still in effect

- Time starts when EAT acquires parked property
- Within 45 days – Exchanger must identify Relinquished Property
- 180 days – EAT must transfer parked property



## Can also do a Relinquished Property Reverse

- Similar procedure except the relinquished property is parked with the EAT (instead of the replacement property)

# Seller Financing COMBINED WITH A §1031

If QI takes note into Exchange, before end of exchange:

1. Exchanger can purchase Note;
2. Third Party can purchase Note; or
3. Seller of Replacement Property can accept Note as part of sales price

If 1-3 fail, Exchanger receives Note at end of the exchange

- Taxable boot using the installment sale method

## Acquiring Personal Residence/Vacation home with §1031



How does the Taxpayer meet Safe Harbor for a Vacation Home And Principal Residence?

**Limit Taxpayer Use.** The taxpayer (and any related parties under Section 267, other than as a principal residence) can only use the property for 14 days per year (or 10% of the rental period, if greater) for the two years prior to the Exchange.

**Rent It Out.** The property also must be rented to an unrelated party for at least 14 days per year, but it does not have to be rented more than 14 days per year. Alternatively, it can be rented as a *principal* residence to a related party (at fair market value rent).

# Using IRC §1031 to buy a primary residence

**Sell your rental property and use §1031 to buy your dream home on the golf course**

Buy the dream home as a rental (property must be held for productive use in a trade or business or for investment)

Follow the safe-harbor rules and rent it out for 2 years

After occupying for 2 years, can the tax payer sell under §121?

***No!***

H.R. 4520 (signed into law October 22, 2004) states you must own for a minimum of 5 years and occupy for a minimum of 2 years before you can use your §121 exclusion.

Do you get all of your capital gain exclusion?

The Housing and Economic Recovery Act of 2008



# Combining §1031 and §121 in a single exchange

- Now possible under Rev. Proc. 2005-14 to both exclude capital gains under §121 *and* defer capital gains in an exchange under §1031
- Properties last use must have been as investment to qualify §1031
- Must have been occupied for 2 out of last 5 years as principal residence
- Can take up to \$250K or \$500K tax free under §121
- Exchange the rest into a like-kind business or investment property for equal or greater value under §1031, tax deferred.



# Anticipated Trends

- *Passive income 1031 solutions like fractional ownership of properties (known as a DST) and Triple Net Lease as Replacement Property have never been this popular and will continue to rise*
- Reverse 1031 Exchange – Record Numbers!
- Raw land as 1031 Replacement Property and **Build-to-Suit Exchanges where improvements are made to Replacement Properties as part of the like-kind exchange.**
- Individual exchangers in larger and higher tax states like California and New York, selling investment property and relocating assets and/or themselves to tax friendlier states.
- Continued increase of qualifying vacation home rental property purchases in warmer climates or other vacation or remote-working locations with high short-term rental income.



# Thank You For Staying Awake!



Please Leave Me A Review 😊

- Sara Remley
- 702-232-4576
- Sara.Remley@ipx1031.com

