

Strategic 1031 Exchange Advisors

OUR BUSINESS PRINCIPALS

SECURITY

Industry-leading security measures that ensure exchange fund liquidity and principal protection

KNOWLEDGE

Expert team of CPAs, MBAs, and attorneys that provide exchange guidance for forward, reverse, build-to-suit construction, leasehold, international, personal property, multi-asset, and other complex exchanges

SERVICE

A significant value-adding resource with exceptional client service and innovative strategies that complement core business objectives

An Insight into:

Personal Property 1031 Exchanges

Exchanges under Section 1031 of the Internal Revenue Code are often referred to as a “Like-Kind” Exchange due to the requirement that exchanged properties must be like-kind to one another. The like-kind requirement for real estate is broadly defined, thus allowing taxpayers to exchange, for example, residential rental property for raw land, or a retail shopping center for an office building. However, the like-kind application for personal property is much more narrowly defined. There are three main classifications for personal property held for investment or used in a trade or business:

- *Depreciable, Tangible Personal Property:* includes aircraft, automobiles, FF&E, livestock, railroad cars and watercraft.
- *Non-Depreciable, Tangible Personal Property:* includes art, collectibles, other memorabilia and contracts.
- *Intangible Personal Property:* includes copyrights, FCC licenses and patents. Specifically excluded from exchange qualification in this category are goodwill or going concern, trademarks or tradenames, and non-compete agreements.

When making the “like-kind” determination for personal property, a taxpayer must often consider the nature or character of the asset or rights involved. In general, most tangible personal property assets are treated as like-kind property for 1031 exchange purposes if they are within the same IRS Asset Class (i.e., for depreciation purposes).

Sales & Use Tax Issues

Taxpayers must carefully consider compliance with local Sales and Use tax laws when purchasing or disposing of personal property, even if the taxpayer is performing a 1031 exchange. Upon sale, sales tax is usually due to a local tax authority and is typically required to be collected by the seller of the Relinquished Property. Similarly, use tax may be payable by the purchaser of the Replacement Property if the seller does not collect and remit the sales tax. Some states have exceptions to these sales and use tax requirements when the taxpayer performs an exchange. Due to the complexity and jurisdictional differences of local taxing authorities, a taxpayer should consult with their accountant, attorney and intermediary when structuring an exchange.

Domestic and International Exchanges

Investors should take note that exchanges can be performed on personal property assets at both domestic and international levels. Of importance is that non-US personal property must be exchanged for other non-US personal property while US personal property must be exchanged for other US personal property. Application of this rule often focuses on the location of predominant use of the personal property asset and not necessarily where the asset is located at the time of sale.

Please contact Strategic 1031 Exchange Advisors with any personal property exchange questions or issues.

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