
EXCEL 1031
YOUR TRUSTED PARTNER
1031 EXCHANGE PRESENTATION
WEIMING PENG

DISCLAIMER

This presentation is only intended to provide a broad overview of IRC Section 1031 tax deferred exchanges and does not address every potential 1031 exchange situation or all applicable 1031 exchange rules.

This tax-related information should not be construed as tax or legal advice specific to your situation and should not be relied upon in making any business, legal or tax related decision. A proper evaluation of the benefits and risks associated with a particular transaction or tax return position often requires advice from a competent tax and/or legal advisor familiar with your specific transaction, objectives and the relevant facts. You are urged to involve your tax and/or legal advisor (or to seek such advice) in any significant real estate or business related transaction.

1031 EXCHANGE CODE

- *No gain or loss shall be recognized on the exchange of real property held for productive use in a trade or business or for investment if such real property is exchanged solely for real property of like-kind which is to be held either for productive use in a trade or business or for investment.*

REASONS TO DO AN EXCHANGE

- Capital Gains Tax
- Diversify Portfolio
  - Properties you buy and manage
  - NNN Properties
  - DSTs
- Increase Cash Flow
- Like-Kind Property
- Depreciation
  - Search parameters with escrow
- Pass on Wealth

CAPITAL GAIN TAXES

Four levels of taxes:

1. Depreciation Recapture (25%)
2. Remaining Federal Gain (15%/20%)
3. Net Investment Income Tax (3.8%)
4. <u>State Taxes (0 – 13.3%)</u>

= TOTAL TAXES OWED

Contact your tax advisor/CPA prior to closing and have them provide an estimate of taxes owed if the relinquished property is sold in a taxable sale.

https://excel1031.com/capital-gains-tax-calculator/

INFORMATION TO MAKE YOU STAND OUT

- Agents who don’t know what a 1031 exchange is
- Agents who only knows that properties held for business, investment or trade use qualify
- You: Any portion of a property held for business, investment or trade use will qualify.
  - ADUs
  - Rooms
  - Offices
  - Other units

TYPES OF EXCHANGES

- Simultaneous Exchange:
  - *Close on the sale AND purchase properties on the same day*
- Delayed Exchange
  - *Close on the relinquished property prior to the replacement property*
- Reverse Exchange
  - Close on the replacement property prior to the relinquished property
- Construction/Improvement Exchange:
  - Use any exchange funds towards the capital improvements of the replacement property
- Reverse Construction Exchange:
  - *Close on the replacement property first*
  - *Exchanger can start capital improvements right away*

KEYS POINTS TO KEEP IN MIND

- Property Qualifications
  - *What qualifies for a 1031 exchange*
- Tax Deferral
  - *What are the 2 requirements to defer all taxes*
- Timeline
  - *How much time do you have and what are the deadlines?*
- Identification Rules:
  - *How do you identify?*

HOW CAN CLIENTS PLAN AHEAD?

???

Scenario #1

- Client has a property that he has lived in for years
- He wants to downsize but also want to minimize his tax exposure
- He can qualify for a homeowner's exclusion ($250k single or $500k married), but he will have more than that amount in gains
- What should he do?
- He decides to rent out 50% of his home

SPLIT TREATMENT

Relinquished Property	
Net Sales Price	$1,000,000
Basis	$400,000
Gain	$600,000
50% Primary	$500,000 Primary
50% Rental	$500,000 Rental

SPLIT TREATMENT CONTINUED

Primary Residence (50%)	
Net Sales Price	$500,000
Basis	$200,000
Gain	$300,000
Result	Exclude $300,000 of gains

Investment Property (50%)	
Net sales Price	$500,000
Basis	$200,000
Gain	$300,000
Result	Execute a 1031 exchange and purchase $500,000 or greater to defer all taxes

What if it wasn't exactly 50/50?

- Let's try 40/60 split

SPLIT TREATMENT (TRY 40/60)

Primary Residence (40%)	
Net Sales Price	$400,000
Basis	$160,000
Gain	$240,000
Result	Exclude $240,000 of gains

Investment Property (60%)	
Net sales Price	$600,000
Basis	$240,000
Gain	$360,000
Result	Execute a 1031 and have no tax liability on the primary residence side

Scenario #2

- Same scenario, but married instead of single
- Able to take $500k exclusion
- Also rent out 50% of the property

SPLIT TREATMENT CONTINUED

Primary Residence (50%)	
Net Sales Price	$500,000
Basis	$200,000
Gain	$300,000
Result	Exclude $300,000 of gains

Investment Property (50%)	
Net sales Price	$500,000
Basis	$200,000
Gain	$300,000
Result	Execute a 1031 exchange and purchase $500,000 or greater to defer all taxes

Scenario #3

- Clients have a property with an ADU
- The main house accounts for 75% of the total square footage of the property
- The ADU accounts for 25% of the total square footage of his property
- Decides to rent out the ADU

SPLIT TREATMENT

Relinquished Property	
Net Sales Price	$1,000,000
Basis	$400,000
Gain	$600,000
75% Primary	$750,000 Primary
25% Rental	$250,000 Rental

SPLIT TREATMENT CONTINUED

Primary Residence (75%)	
Net Sales Price	$750,000
Basis	$300,000
Gain	$450,000
Result	Exclude $450,000 of gains

Investment Property (25%)	
Net sales Price	$250,000
Basis	$100,000
Gain	$150,000
Result	Execute a 1031 exchange and purchase $250,000 or greater to defer all taxes

Scenario #4

- Clients bought their property a long time ago
- Low basis and lots of gains
- Instead of renting out a part of their home, they decide to move out of the property and convert their home into a rental
- At the time of sale, if their rental property qualifies for a homeowners' exclusion (having lived in the property for 2 out of any of the last 5 years), they can still take it AND do a 1031 exchange

121 EXCLUSION + 1031 EXCHANGE

Relinquished Property	
Net Sales Price	$1,500,000
Basis	$200,000
Gain	$1,300,000

121 EXCLUSION + 1031 EXCHANGE

Homeowners' Exclusion First	
Net Sales Price	$1,500,000
Basis	$200,000
Gain	$1,300,000
Result	Exclude $500,000 of gains

1031 Exchange The Rest	
Net sales Price	$1,000,000
Basis	$200,000
Gain	$800,000
Result	Keep $500,000 tax free and 1031 exchange the remaining $1,000,000

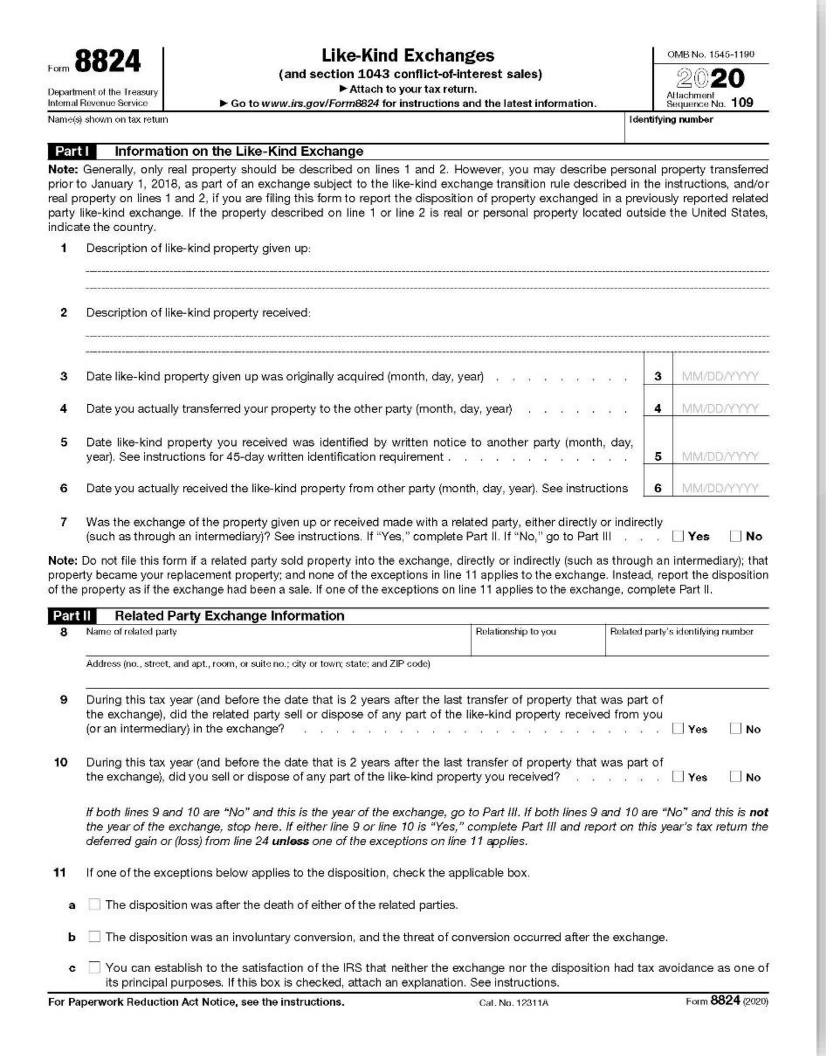
FAILING EXCHANGES WITH TAX ADVANTAGES

What if you sell a property in one year and fail your exchange in another?

- Example: Initiate exchange in August 1, 2025, but fail to acquire replacement property by Day 180 (January 28, 2026)

- Ask your CPA about installment reporting
- Report year the property was sold, or the year exchange failed
- Pay capital gains taxes when you report your tax returns by April 15, 2027

IRS FORM 8824



Form **8824**

Department of the Treasury
Internal Revenue Service

Like-Kind Exchanges

(and section 1043 conflict-of-interest sales)

▶ Attach to your tax return.

▶ Go to *www.irs.gov/Form8824* for instructions and the latest information.

OMB No. 1545-1190

2020

Attachment Sequence No. **109**

Name(s) shown on tax return | **Identifying number**

Part I **Information on the Like-Kind Exchange**

Note: Generally, only real property should be described on lines 1 and 2. However, you may describe personal property transferred prior to January 1, 2018, as part of an exchange subject to the like-kind exchange transition rule described in the instructions, and/or real property on lines 1 and 2, if you are filing this form to report the disposition of property exchanged in a previously reported related party like-kind exchange. If the property described on line 1 or line 2 is real or personal property located outside the United States, indicate the country.

1 Description of like-kind property given up:

2 Description of like-kind property received:

3 Date like-kind property given up was originally acquired (month, day, year) . . . . 3 MM/DD/YYYY

4 Date you actually transferred your property to the other party (month, day, year) . . . . 4 MM/DD/YYYY

5 Date like-kind property you received was identified by written notice to another party (month, day, year). See instructions for 45-day written identification requirement . . . . 5 MM/DD/YYYY

6 Date you actually received the like-kind property from other party (month, day, year). See instructions 6 MM/DD/YYYY

7 Was the exchange of the property given up or received made with a related party, either directly or indirectly (such as through an intermediary)? See instructions. If "Yes," complete Part II. If "No," go to Part III . . . . ☐ **Yes** ☐ **No**

Note: Do not file this form if a related party sold property into the exchange, directly or indirectly (such as through an intermediary); that property became your replacement property; and none of the exceptions in line 11 applies to the exchange. Instead, report the disposition of the property as if the exchange had been a sale. If one of the exceptions on line 11 applies to the exchange, complete Part II.

Part II **Related Party Exchange Information**

8 Name of related party | Relationship to you | Related party's identifying number

Address (no., street, and apt., room, or suite no.; city or town; state; and ZIP code)

9 During this tax year (and before the date that is 2 years after the last transfer of property that was part of the exchange), did the related party sell or dispose of any part of the like-kind property received from you (or an intermediary) in the exchange? . . . . ☐ Yes ☐ No

10 During this tax year (and before the date that is 2 years after the last transfer of property that was part of the exchange), did you sell or dispose of any part of the like-kind property you received? . . . . ☐ Yes ☐ No

*If both lines 9 and 10 are "No" and this is the year of the exchange, go to Part III. If both lines 9 and 10 are "No" and this is **not** the year of the exchange, stop here. If either line 9 or line 10 is "Yes," complete Part III and report on this year's tax return the deferred gain or (loss) from line 24 **unless** one of the exceptions on line 11 applies.*

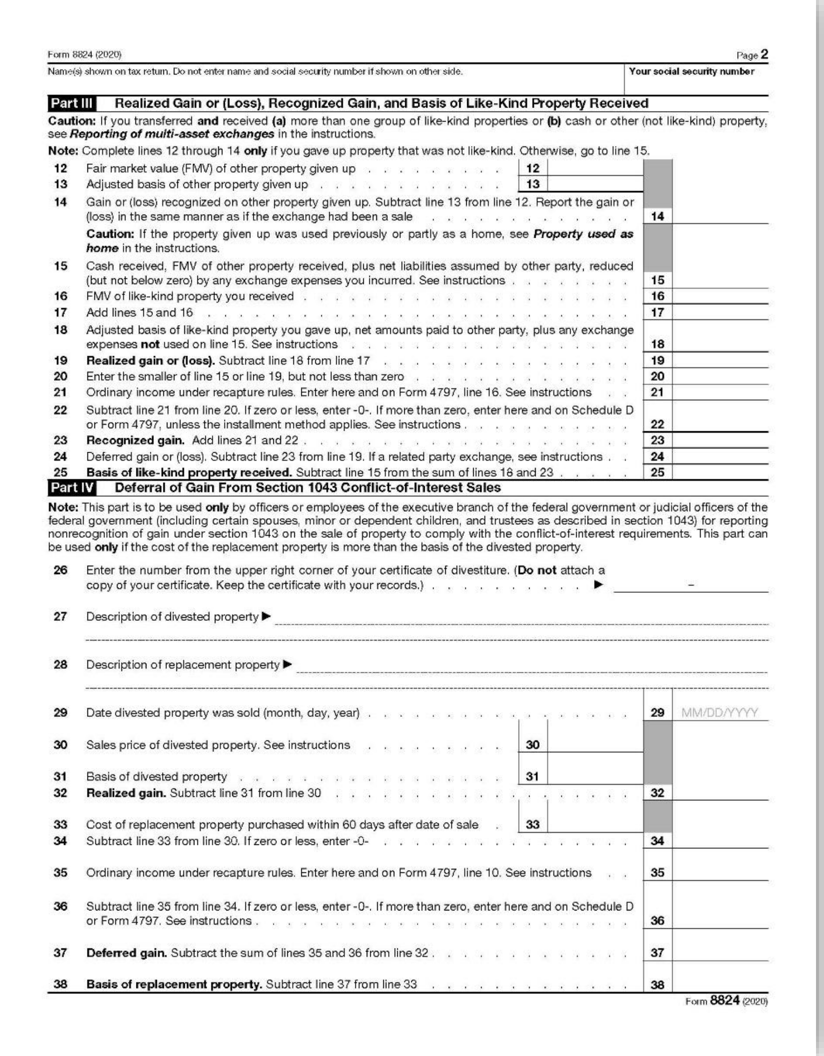
11 If one of the exceptions below applies to the disposition, check the applicable box.

a ☐ The disposition was after the death of either of the related parties.

b ☐ The disposition was an involuntary conversion, and the threat of conversion occurred after the exchange.

c ☐ You can establish to the satisfaction of the IRS that neither the exchange nor the disposition had tax avoidance as one of its principal purposes. If this box is checked, attach an explanation. See instructions.

For Paperwork Reduction Act Notice, see the instructions. Cat. No. 12311A Form **8824** (2020)



Form 8824 (2020) Page **2**

Name(s) shown on tax return. Do not enter name and social security number if shown on other side. | **Your social security number**

Part III **Realized Gain or (Loss), Recognized Gain, and Basis of Like-Kind Property Received**

Caution: If you transferred **and** received **(a)** more than one group of like-kind properties or **(b)** cash or other (not like-kind) property, see ***Reporting of multi-asset exchanges*** in the instructions.

Note: Complete lines 12 through 14 **only** if you gave up property that was not like-kind. Otherwise, go to line 15.

12 Fair market value (FMV) of other property given up 12

13 Adjusted basis of other property given up 13

14 Gain or (loss) recognized on other property given up. Subtract line 13 from line 12. Report the gain or (loss) in the same manner as if the exchange had been a sale 14

Caution: If the property given up was used previously or partly as a home, see ***Property used as home*** in the instructions.

15 Cash received, FMV of other property received, plus net liabilities assumed by other party, reduced (but not below zero) by any exchange expenses you incurred. See instructions 15

16 FMV of like-kind property you received 16

17 Add lines 15 and 16 17

18 Adjusted basis of like-kind property you gave up, net amounts paid to other party, plus any exchange expenses **not** used on line 15. See instructions 18

19 **Realized gain or (loss).** Subtract line 18 from line 17 19

20 Enter the smaller of line 15 or line 19, but not less than zero 20

21 Ordinary income under recapture rules. Enter here and on Form 4797, line 16. See instructions . . 21

22 Subtract line 21 from line 20. If zero or less, enter -0-. If more than zero, enter here and on Schedule D or Form 4797, unless the installment method applies. See instructions 22

23 **Recognized gain.** Add lines 21 and 22 23

24 Deferred gain or (loss). Subtract line 23 from line 19. If a related party exchange, see instructions . . 24

25 **Basis of like-kind property received.** Subtract line 15 from the sum of lines 18 and 23 25

Part IV **Deferral of Gain From Section 1043 Conflict-of-Interest Sales**

Note: This part is to be used **only** by officers or employees of the executive branch of the federal government or judicial officers of the federal government (including certain spouses, minor or dependent children, and trustees as described in section 1043) for reporting nonrecognition of gain under section 1043 on the sale of property to comply with the conflict-of-interest requirements. This part can be used **only** if the cost of the replacement property is more than the basis of the divested property.

26 Enter the number from the upper right corner of your certificate of divestiture. (**Do not** attach a copy of your certificate. Keep the certificate with your records.) . . . . ▶ –

27 Description of divested property ▶

28 Description of replacement property ▶

29 Date divested property was sold (month, day, year) . . . . 29 MM/DD/YYYY

30 Sales price of divested property. See instructions 30

31 Basis of divested property 31

32 **Realized gain.** Subtract line 31 from line 30 32

33 Cost of replacement property purchased within 60 days after date of sale . 33

34 Subtract line 33 from line 30. If zero or less, enter -0- 34

35 Ordinary income under recapture rules. Enter here and on Form 4797, line 10. See instructions . . 35

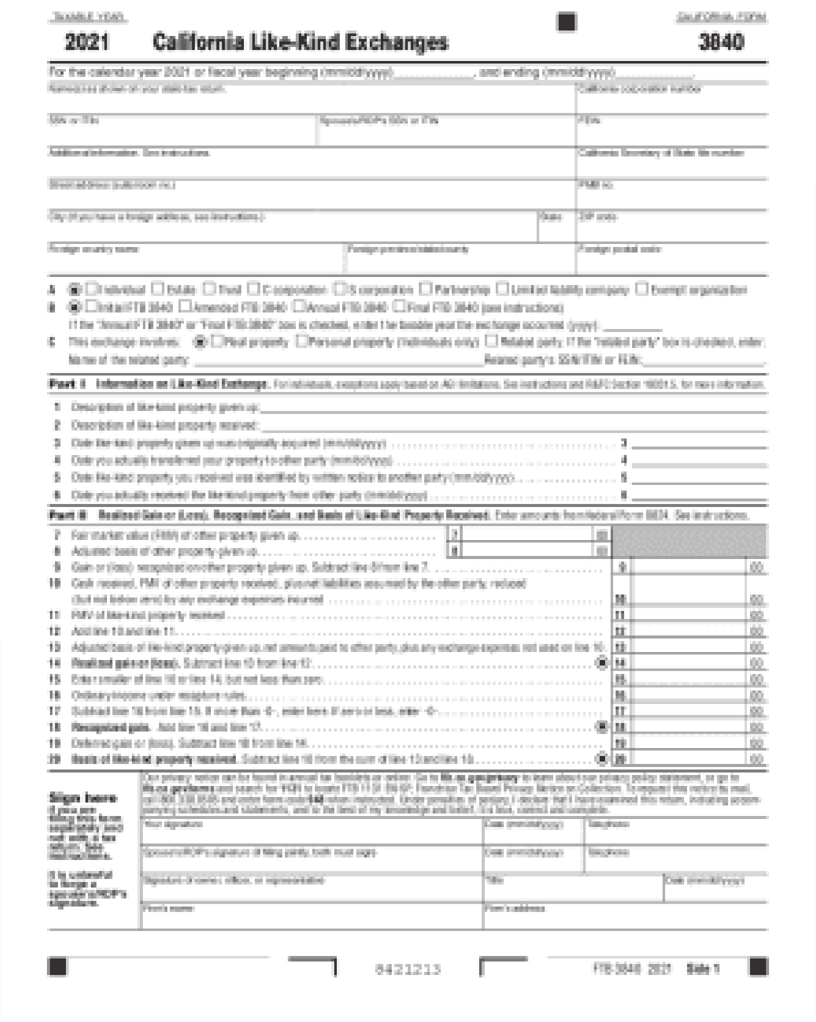
36 Subtract line 35 from line 34. If zero or less, enter -0-. If more than zero, enter here and on Schedule D or Form 4797. See instructions 36

37 **Deferred gain.** Subtract the sum of lines 35 and 36 from line 32 37

38 **Basis of replacement property.** Subtract line 37 from line 33 38

Form **8824** (2020)

IRS FORM 3840


TAXABLE YEAR

2021 California Like-Kind Exchanges

CALIFORNIA FORM

3840

For the calendar year 2021 or fiscal year beginning (mm/dd/yyyy)_________, and ending (mm/dd/yyyy)_________.

Part I Information on Like-Kind Exchange.

1 Description of like-kind property given up:

2 Description of like-kind property received:

Part II Realized Gain or (Loss), Recognized Gain, and Basis of Like-Kind Property Received.

7 Fair market value (FMV) of other property given up

8 Adjusted basis of other property given up

9 Gain or (loss) recognized on other property given up. Subtract line 8 from line 7.

11 FMV of like-kind property received

12 Add line 10 and line 11

14 Realized gain or (loss). Subtract line 13 from line 12.

18 Recognized gain. Add line 16 and line 17.

20 Basis of like-kind property received.

Sign here

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QUESTION AND ANSWERS

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