

“Like-Kind” Property

To qualify for tax deferred exchange treatment under IRC §1031, the relinquished property must be exchanged for replacement property that is of “like-kind”. For real property exchanges, the term “like-kind” refers to the nature or character of the property and not to its grade or quality. For example, it does not matter whether the real property involved is improved or unimproved, because that fact only relates to the grade or quality of the property and not to its kind or class. Treas. Reg. §1.1031(a)-1(b). In essence, all real property is “like-kind” with all other real property. Generally, however, for personal property exchanges the relinquished and replacement property must both be in either the same General Asset Class or the same Product Class. To qualify for an exchange, the Exchanger must have held the relinquished property for investment or for “productive use in their trade or business”, and must intend to do the same with the replacement property. The following are examples of exchanges of “like-kind” properties:

- Residential for commercial
- Fee simple interest for 30-year leasehold
- Non-income producing raw land for income producing rental property
- Corporate twin-engine aircraft for a corporate jet
- Buses for buses
- Livestock of the same sex (Note: livestock of different sexes are not of “like-kind”)
- Bare land for rental property
- Single family rental for multi-family rental
- Rental mountain cabin for a dental office in which the Exchanger intends to practice
- Mitigation credits for restoring wetlands for other mitigation credits
- Garbage routes for garbage routes

Brief Exchanges

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