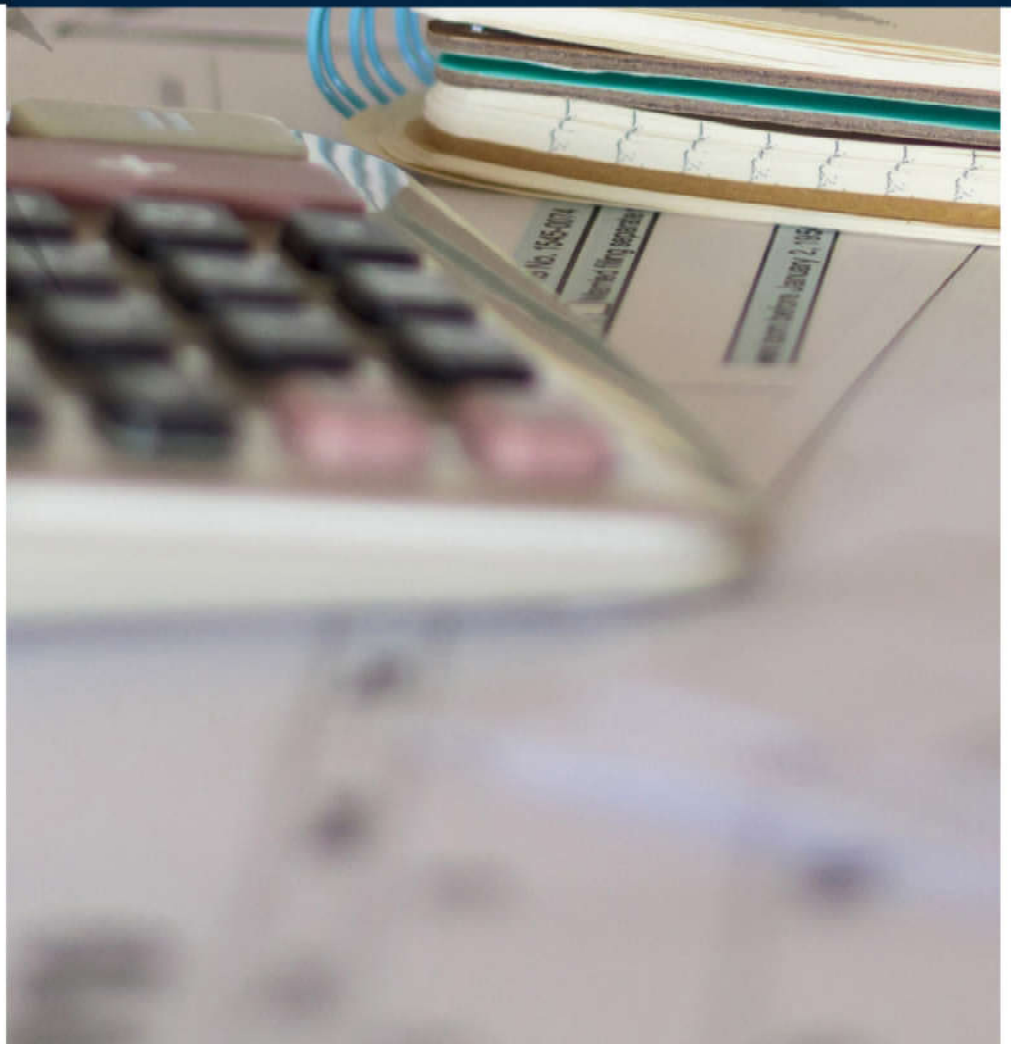




2022 Exchange Reporting Guide



1.800.828.1031
www.1031CORP.com



Introduction

In our ongoing commitment to provide our valued clients with the most comprehensive services possible, this information is designed to assist you and/or your tax preparer with the reporting requirements of your 1031 tax-deferred exchange. We will also provide guidance on when it may be necessary to file for an extension to ensure you have the benefit of the full 180-Day Exchange Period.

Please read the enclosed information carefully as filing your return before an exchange initiated in tax year 2022 is complete and included on your tax return *will* create a taxable event. There is no way to go back and amend a tax return to include a 1031 exchange.

We realize the form used to report your 1031 exchange is not the easiest form to complete so we have included line by line instructions to assist you. Additionally, we have developed a Microsoft Excel spreadsheet to help you with the preparation of IRS Form 8824 "Like-Kind Exchanges." If you would like a copy of this copyrighted spreadsheet, please provide us with your email address and we would be more than happy to forward the spreadsheet. You can also e-mail your request to Exchange@1031CORP.com.

This information is designed to provide helpful information on the reporting of your 1031 tax-deferred exchange. It is provided with the understanding that 1031 CORP. is not engaged in rendering legal or accounting services. If legal or tax advice is required, the services of a competent professional should be sought.

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Reporting Interest on Exchange Proceeds

If your exchange proceeds were placed into an interest-bearing exchange account with one of the several financial institutions utilized by 1031 CORP., you should receive a Form 1099-INT directly from the financial institution. The primary financial institutions used by 1031 CORP. in 2022 include Customers Bank and TriState Capital Bank.

Note if your exchange was initiated in one calendar year and completed in the following year, you will have two separate Form 1099-INT statements; one for each calendar year with each form reporting the respective interest earnings.

Regardless of whether you reinvested the interest earnings into your replacement property or received them directly after the completion of your exchange, the interest reported on the Form 1099-INT should be reported just as any other interest earnings for the tax year.

If you do not receive your Form 1099-INT by the second week of February, please contact your Exchange Officer and a duplicate copy will be requested from the financial institution.

When to Report an Exchange

A 1031 exchange must be reported for the tax year in which the exchange was initiated through the sale of your first relinquished property regardless of when your replacement property was acquired. You must NOT file your tax return until your exchange is complete. Depending on the end of your fiscal year and whether or not you still wish to acquire replacement property, you may be required to file an extension of time in order to have the benefit of the full 180-Day Exchange Period.

For individual taxpayers with an April 18, 2023 reporting deadline:

- If the exchange was *initiated and completed in 2022*, you can file your return and report the exchange immediately.
- If your exchange was *initiated in 2022 and you have not yet acquired all desired replacement property*, you must wait until you acquire all desired replacement property before you can file your return.
 - If your 180th day is **before** the April filing deadline, you can file your return as soon as all desired identified replacement property is acquired.
 - If your 180th day is **after** the April filing deadline and you will not have acquired all desired replacement property, you will need to file for a reporting extension in order to get the full benefit of the 180-Day Exchange Period.

Filing your return before your exchange is complete WILL automatically end your 180-Day Exchange Period. This extension of time will give you the full 180-Day Exchange Period to complete your exchange as well as a six-month extension to file your return. Unfortunately, if you file your return you automatically end your exchange period. There is no way to amend your return or continue the exchange and you will have to report the sale as a taxable event. A filing extension can be requested on Form 4868 and estimated taxes are still due.

Federally Declared Disaster Extensions

If you were in the unfortunate situation of being affected by a federally declared disaster that provided extensions to your 45-Day Identification Period and 180-Day Exchange Period deadlines allowed under Revenue Procedure 2018-58, you must note that on your return(s). Extensions are not automatic and they do not apply to all state or local states of emergency or all federal disasters.

Taxpayers qualifying for an extension are defined as follows: (a) An “affected taxpayer” as defined in IRC Section 301.7508A-1(d)(1) of the Procedure and Administration Regulations; OR (b) Has difficulty meeting the 45-day identification or 180-day exchange deadlines for the following or similar reasons:

- (i) The relinquished property or the replacement property is located in a covered disaster area;
- (ii) The principal place of business of any party to the transaction (for example, a qualified intermediary, exchange accommodation titleholder, transferee, settlement attorney, lender, financial institution, or a title insurance company) is located in the covered disaster area;
- (iii) Any party to the transaction (or an employee of such a party who is involved in the 1031 exchange transaction) is killed, injured or missing as a result of the Federally declared disaster;
- (iv) A document prepared in connection with the exchange (for example, the agreement between the transferor and the qualified intermediary or the deed to the relinquished property or replacement property) or a relevant land record is destroyed, damaged, or lost as a result of the Federally declared disaster;
- (v) A lender decides not to fund either permanently or temporarily a real estate closing due to the Federally declared disaster or refuses to fund a loan to the taxpayer because flood, disaster, or other hazard insurance is not available due to the Federally declared disaster; or
- (vi) A title insurance company is not able to provide the required title insurance policy necessary to settle or close a real estate transaction due to the Federally declared disaster.

For more information on reporting an exchange that included an extension allowed under Revenue Procedure 2018-58, please contact your Exchange Officer for a copy of the Revenue Procedure.

Incomplete or Partial Exchange Spanning Two Tax Years

An exchange started near the end of a tax year will often run into the following tax year. The regulations address how to handle incomplete exchanges and cash “boot” received by the taxpayer in the following year.

If you structured your exchange with a “bona fide intent” to complete the exchange, you may elect to report the exchange as an installment sale in the tax year in which the first relinquished property was sold. Under the installment sale reporting rules, the receipt of an indebtedness that is secured directly or indirectly by cash or a cash equivalent is treated as receipt of payment. The regulations provide that exchange proceeds held by a qualified intermediary, such as 1031 CORP., could fall into that category and as long as there is a bona fide intent to exchange, the taxpayer can report cash not reinvested in replacement property as an installment sale. [Reg. 1.1031(k)-1(j)(2); Temp Reg. 15a.453-1(b)(3)(i)]

A taxpayer has “bona fide intent” if it is reasonable to believe, based on all of the facts and circumstances at the beginning of the exchange period, that identified replacement property would be acquired to complete the exchange.

Any cash “boot” received in the following tax year can be reported using the installment sale method. Cash “boot” is any cash not reinvested in replacement property and paid directly to you from 1031 CORP. This would apply when replacement property is acquired but not all of the exchange proceeds are used or when no replacement property is acquired.

Reporting the cash “boot” using the installment sale method would allow you to defer the gain until the following tax year when you actually receive the exchange proceeds from your exchange account.

The regulations do not address how to handle liability relief (the sale proceeds of your relinquished property used to pay off debt against the old property) and whether the gain is due in the year of the sale or in the following tax year provided you had the bona fide intent to complete the exchange. Revenue Ruling 2003-56 related to a partnership whose exchange straddled two tax years and holds that if the exchange straddles two taxable years of the partnership, the amount of the relinquished liability that exceeds the amount of the replacement liability is treated as money or other property received in the first taxable year of the partnership, since the excess is attributable to the transfer of the relinquished property. This reasoning may also apply to other taxpayers.

You should discuss the tax consequences of your particular situation with your tax advisor to determine the best course of action in your particular situation.

Depreciation of Replacement Property

The basis of the replacement property acquired in a 1031 exchange is generally the same as that of the relinquished property less any cash received plus any gain recognized provided an improved property is exchanged for another improved property. Notice 2000-4 clarified how Modified Accelerated Cost Recovery System (MACRS) replacement property should be depreciated. The MACRS replacement property should be treated in the same manner as the MACRS relinquished property with respect to so much of your basis in the replacement property as does not exceed your adjusted basis in the relinquished property. The replacement property is depreciated over the remaining recovery period and using the same depreciation method and convention as that of the relinquished property. Any excess basis in the replacement property is treated as newly acquired MACRS property. There will generally be at least two different depreciation schedules in place on one asset. Notice 2000-4 applies to properties placed into service on or after January 3, 2000. T.D. 9115 now gives you the option to elect out of this depreciation treatment.

Note when depreciable property is sold and non-depreciable property, such as land, is acquired you may be unable to defer the depreciation and will be required to recapture the depreciation.

You should discuss the tax consequences of your particular situation with your tax advisor to determine the best course of action in your particular situation.



Personal Property Exchanges after December 31, 2017

The “Tax Cuts and Jobs Act,” effective January 1, 2018, repealed Section 1031 exchanges of tangible and intangible personal property assets

Reporting State Capital Gain/Income Tax

As of January 1, 2023, all states that have an income tax regime either follow the federal tax code or have adopted their own version of Section 1031. Prior to January 1, 2023, Pennsylvania did not follow the federal tax code and, therefore, property exchanges resulting in gain or income are generally subject to Pennsylvania tax.

Pennsylvania Income Tax for 2022 Transactions:

For exchanges initiated in 2022, Pennsylvania law does not contain a provision similar to IRC §1031, therefore property exchanges resulting in gain or income are generally subject to Pennsylvania tax except for c-corporations which follow the federal tax code. However, the Department of Revenue has determined that gain or loss on like-kind exchanges does not have to be recognized at the time of the exchange if the taxpayer's method of accounting allows deferral of gain. A taxpayer must use the method of accounting that allows the deferral of gain on a consistent basis, and the method must clearly reflect the taxpayer's income. In addition, a taxpayer may not change his or her method of accounting just to obtain a tax benefit for a particular transaction, and the deferral of gain or income with respect to like-kind exchanges will remain the exception rather than the rule. [Pennsylvania Personal Income Tax Bulletin No. 2006-07, 10/20/2006.] Note Pennsylvania c-corporations follow the federal tax code and, therefore, are eligible for tax deferral treatment under Section 1031.

Non-Resident Withholding Tax:

If the state in which you sold relinquished property has a non-resident withholding tax and you requested an exemption, you will need to file a state return to report your exchange.

Please consult your tax advisor for information on how to report the transaction to the appropriate state(s).



Completion of Form 8824 “Like-Kind Exchanges”

A 1031 exchange is reported on Form 8824 “Like-Kind Exchanges.” This form cannot be completed until all replacement property is acquired and the exchange is complete. The following are step by step instructions to assist you with the completion of this form.

We would be more than happy to forward a very helpful Microsoft Excel spreadsheet created by 1031 CORP. to aid in your preparation of Form 8824. Simply contact your Exchange Officer and provide your email address and it will be forwarded to you and/or your tax preparer.

Part I:

- | | |
|--------|---|
| Line 1 | Describe the relinquished (old) property(ies) (e.g. Steel mill, duplex, raw land) and indicate that the property is located in the USA. |
| Line 2 | Describe the replacement (new) property(ies) (e.g. Steel mill, duplex, raw land) and indicate that the property is located in the USA. |
| Line 3 | Use initial acquisition date of the relinquished property regardless of the date of any improvements made subsequent to initial purchase. |
| Line 4 | Use date of sale of the first property relinquished. |
| Line 5 | This is the 45th day or earlier. Note that the taxpayer and the tax return preparer should have support for this date in the form of “written notice.” “Written notice” requires that the taxpayer must designate the replacement property in writing, as the replacement property in a like kind exchange, in a written document signed by the taxpayer within 45 days of the beginning of the 180-Day Exchange Period and sent to a party to the transaction that is not a disqualified person (typically 1031 CORP.). The letter must describe the property. For real property, a legal description, street address or property name are required. |
| Line 6 | This is the 180th day or the due date of the return or the completion of the exchange (if earlier). Note the taxpayer must file for an extension if the taxpayer is within the 180-Day Exchange Period at the time of the due date of the return. |
| Line 7 | Note that if the exchange is a related party exchange (involves the transfer to or from a related party within the exchange) question is indicated as “yes”, Form 8824 must be filed for two additional years after the exchange. |

Part II:

- Line 8 You must determine if you sold the relinquished property to a related party or acquired the replacement property from a related party. If 7 is answered "yes", this Section must be completed in full.
- Related parties are defined as follows:
- Family members such as siblings, spouse, ancestors and lineal descendants.
 - Individual and corporation where more than 50% in value of the stock is owned directly or indirectly by or for such individual.
 - Two corporations part of the same control group.
 - A grantor and a fiduciary of the same trust.
 - A fiduciary and a beneficiary of the same trust.
 - A fiduciary of a trust and the fiduciary or beneficiary of another trust where the same person is the grantor of both trusts.
 - A corporation and partnership if the same persons own more than 50% in value of the outstanding stock of the corporation and more than 50% of capital interest or profits interest in the partnership.
 - An S corporation and another S corporation or a C corporation if the same persons own more than 50% of the value of the outstanding stock of each corporation.
 - Two partnerships in which the same persons own, directly or indirectly, more than 50% capital interests or profit interests.
 - A partnership and a person owning, directly or indirectly, more than 50% capital interests, or profits interest, in such corporation.
 - A fiduciary of a trust and a corporation more than 50% in value of the outstanding stock in which is owned, directly or indirectly, by or for the grantor of the trust.
- Line 9 The property sold to a related party should not be sold by that party for 730 days or two years following the related party's acquisition of the property. (Note that signing an Agreement of Sale will toll (or end) the taxpayer's holding period and create a taxable event.)
- Line 10 What is purchased from a related party should not be sold (by the taxpayer) for 730 days or two years following the completion of the exchange.
- Line 11 If either 9 or 10 have been checked yes, then this Line 11 must be completed. Arguably, blocks a and b do not give rise to potential abuse. Proof that involuntary conversion was not a threat at the time of the exchange might be difficult to prove. The facts and circumstances test of box c are going to be difficult to win upon audit. The case must be compellingly in favor of the taxpayer.

Part III:

- Lines 12 to 14 are only applicable if other than like kind property is involved in the sale of the relinquished property(s). The gain or loss on the disposition of non-like kind assets is transferred to the appropriate form (usually Schedule D or Form 4797). For example, if a furnished rental property was sold and an unfurnished rental property was purchased as the replacement property this would give rise to reporting on Lines 12 through 14.
- Line 15 This is one of, if not the most complicated, lines of the form. This is comprised of the following four elements:
- a. Cash that the taxpayer walked away with from the transaction.
(plus)
 - a. The Fair Market Value of any non like-kind property received in the exchange.
(plus)
 - a. Any net reduction in debt (new debt less than old debt). If the taxpayer added additional equity in the course of completing the exchange, this additional equity reduces the net reduction in debt.
(less)
 - a. Exchange fees and other transaction costs – use all such costs to reduce Line 15 first and then use the remainder on Line 18.
- Line 16 This is the contract (sale) price of the replacement property. Do not reduce this by any transaction costs.
- Line 17 This is the sum of Lines 15 and 16.
- Line 18 This is the second most confusing line of the form (behind Line 15). This line is comprised of the following three elements:
- a. Adjusted tax basis of the relinquished property.
(plus)
 - b. Net amount of additional equity added to complete the exchange (not otherwise used to offset potential debt boot on Line 15).
(plus)
 - c. Exchange fees and other transaction costs (not otherwise used on Line 15).
- Line 19 Subtract Line 18 from Line 17. This is the economic or realized gain and should make some intuitive sense to you. In essence, this is the gain that would be taxed if not for the election under Section 1031.
- Line 20 The goal is to minimize the amount on this line. To the extent that you can, minimize the amount on Line 15 below the realized gain, less than the full gain will be taxed as a result of the election under Section 1031.

- Line 21 The instructions are very confusing with respect to Section 1250 property. A literal interpretation of the instructions for Section 1250 property for recapture can result in recapture greater than the amount of accumulated depreciation. Now that there is effectively no 19 year real property that remains with depreciable life, this line should not come into play for 1031 exchanges involving real estate. Otherwise, any gain on Line 20 is allocated 100% up to the amount of recapture that would be calculated in a sale at gain for which Section 1031 was not elected.
- Line 22 To the extent that there is an excess of Line 20 over Line 21, this excess is reported on Line 22. This amount is carried over to the appropriate form (typically Schedule D or Form 4797). If an installment sale election were to be made, this gain would be transferred to Form 6252.
- Line 23 This is the sum of Lines 21 and 22. It cannot exceed Line 20 and must also not exceed Line 19.
- Line 24 This is the difference between Line 19 and Line 23. The goal is to have Line 24 equal Line 19. To the extent that there is any amount on Line 24, there will be deferral of recognized gain. Note that the form refers the taxpayer to the instructions if a related party is involved in the exchange. If this is the case, and subsequent sale occurs within the prohibited two-year period, the gain is reported in the year of that subsequent sale.
- Line 25 This is the sum of Lines 18 and 23 after subtracting Line 15. In essence, this is the old basis plus capitalized transaction costs plus additional capital (equity or purchase money debt) less any gain recognized or boot.

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

2022
Attachment
Sequence No. **109**

Name(s) shown on tax return

Identifying number

Part I Information on the Like-Kind Exchange

Note: Only real property should be described on lines 1 and 2. If the property described on line 1 or line 2 is real 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 on 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.

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. See instructions	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. See instructions		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	



Instructions for Form 8824

Like-Kind Exchanges (and section 1043 conflict-of-interest sales)

Section references are to the Internal Revenue Code unless otherwise noted.

General Instructions

Future developments. For the latest information about developments related to Form 8824 and its instructions, such as legislation enacted after they were published, go to [IRS.gov/Form8824](https://www.irs.gov/Form8824).

What's New

We made clarifying changes throughout.

Reminders

Special rules for capital gains invested in Qualified Opportunity Funds (QOFs). Effective December 22, 2017, section 1400Z-2 provides a temporary deferral of inclusion in gross income for capital gains invested in QOFs, and permanent exclusion of capital gains from the sale or exchange of an investment in the QOF if the investment is held for at least 10 years. See the Form 8949 instructions on how to report your election to defer eligible gains invested in a QOF. For additional information (including details on investments in QOFs held for at least 10 years), see [Opportunity Zones Frequently Asked Questions](https://www.irs.gov/OpportunityZonesFrequentlyAskedQuestions) at IRS.gov.

Exchanges limited to real property. For 2018 and later years, section 1031 like-kind exchange treatment applies only to exchanges of real property held for use in a trade or business or for investment, other than real property held primarily for sale. See [Definition of real property](https://www.irs.gov/Definitionofrealproperty), later, for more details.

Qualified Opportunity Investment. If you are an eligible taxpayer who held a qualified investment in a QOF at any time during the year, you must file your return with Form 8997, Initial and Annual Statement of Qualified Opportunity Fund (QOF) Investments, attached. See the Form 8997 instructions.

Purpose of Form

Use Parts I, II, and III of Form 8824 to report each exchange of business or investment real property for real property of a like kind. Form 8824 figures the amount of gain deferred as a result of a like-kind exchange. Use Part III to figure the amount of gain required to be reported on the tax return in the current year if cash or property that isn't of a like kind is involved in the exchange. Also, use Part III to figure the basis of the like-kind property received.

Certain members of the executive branch of the federal government and judicial officers of the federal government use Part IV to elect to defer gain on conflict-of-interest sales. Judicial officers of the federal government are the following.

1. Chief Justice of the United States.
2. Associate Justices of the Supreme Court.
3. Judges of the:
 - a. United States courts of appeals;
 - b. United States district courts, including the district courts in Guam, the Northern Mariana Islands, and the Virgin Islands;
 - c. Court of Appeals for the Federal Circuit;
 - d. Court of International Trade;
 - e. Tax Court;
 - f. Court of Federal Claims;

- g. Court of Appeals for Veterans Claims;
- h. United States Court of Appeals for the Armed Forces; and
- i. Any court created by an Act of Congress, the judges of which are entitled to hold office during good behavior.

Multiple exchanges. If you made more than one like-kind exchange, you can file a summary on one Form 8824 and attach your own statement showing all the information requested on Form 8824 for each exchange. Include your name and identifying number at the top of each page of the statement. On the summary Form 8824, enter only your name and identifying number, "Summary" on line 1, the total recognized gain from all exchanges on line 23, and the total basis of all like-kind property received on line 25.

When To File

If during the current tax year you transferred property to another party in a like-kind exchange, you must file Form 8824 with your tax return for that year. Also file Form 8824 for the 2 years following the year of a related party exchange. See [Line 7](https://www.irs.gov/Line7), later, for details.

Like-Kind Exchanges

Section 1031 regulations. Regulations sections 1.1031(a)-1, 1.1031(a)-3, and 1.1031(k)-1 implement statutory changes limiting the application of section 1031 to exchanges of real property. These regulations, which apply to like-kind exchanges beginning after December 2, 2020, provide a definition of real property under section 1031, and address a taxpayer's receipt of personal property that is incidental to real property the taxpayer receives in the exchange.

Generally, if you exchange business or investment real property solely for business or investment real property of a like kind, section 1031 provides that no gain or loss is recognized. If, as part of the exchange, you also receive other (not like-kind) property or money, gain is recognized to the extent of the other property and money received, but a loss isn't recognized.

Section 1031 doesn't apply to exchanges of real property held primarily for sale. See section 1031(a)(2). In addition, section 1031 doesn't apply to certain exchanges involving tax-exempt use property subject to a lease. See section 470(e)(4).

Definition of real property. Regulations section 1.1031(a)-3 defines real property as land and improvements to land, unsevered natural products of the land, and water and air space superjacent to land. It is further described as tangible and intangible real property, as discussed later.

Tangible property. Tangible property is real property for purposes of section 1031 if it meets any of the following.

- On the date it is transferred in an exchange, the property is classified as real property under the law of the state or local jurisdiction in which the property is located. See Regulations section 1.1031(a)-3(a)(6) and [Intangible property](https://www.irs.gov/Intangibleproperty) next.
- The property is specifically listed as real property in Regulations section 1.1031(a)-3. See [Stock that is real property](https://www.irs.gov/Stockthatisrealproperty), later.
- The property is considered real property based on all the facts and circumstances under the various factors provided in Regulations section 1.1031(a)-3(a)(2). See [Property affixed to or integrated into real property](https://www.irs.gov/Propertyaffixedtoorintegratedintoarealproperty), later.

Each distinct asset is separately analyzed from any other distinct asset to which it relates for purposes of determining whether the

asset is real property under section 1031. See Regulations section 1.1031(a)-3(a)(4).

Intangible property. Intangible property is real property for purposes of section 1031 if it meets any of the following, subject to the exceptions provided in [Intangible property that is never real property under section 1031](#) next.

- On the date it is transferred in an exchange, the property is classified as real property under the law of the state or local jurisdiction in which the property is located.
- It is specifically listed in Regulations section 1.1031(a)-3 as real property.
- It derives its value from real property or an interest in real property and is inseparable from that real property or interest in real property; for example, an easement or an option to acquire real property. See Regulations section 1.1031(a)-3(a)(5).

Intangible property that is never real property under section 1031. The following assets are exceptions and not real property for purposes of section 1031, regardless of the classification of the property under state or local law.

- Stock (other than the type of stock described in [Stock that is real property](#) next), bonds, or notes.
- Other securities or evidences of indebtedness or interest.
- Interests in a partnership (other than an interest in a partnership that has in effect a valid election under section 761(a) to be excluded from the application of all of subchapter K).
- Certificates of trust or beneficial interests.
- Choses in action.

Stock that is real property. The following stock is listed in Regulations section 1.1031(a)-3 as real property for section 1031 purposes.

- Stock in a cooperative housing corporation.
- Shares in a mutual ditch, reservoir, or irrigation company described in section 501(c)(12)(A) if, at the time of the exchange, such shares have been recognized by the highest court of the state in which the company was organized, or by a state statute, as constituting or representing real property or an interest in real property.

Like-kind property. Properties are of like kind if they are of the same nature or character, even if they differ in grade or quality.

Generally, real properties are like-kind properties, regardless of whether they are improved or unimproved properties.

Property classified as real property under one of the definitions in the final regulations discussed above may be like-kind to other real property defined under another definition in the regulations.

However, real property in the United States and real property outside the United States aren't like-kind properties. See Pub. 544, Sales and Other Dispositions of Assets, for more details.

Property affixed to or integrated into real property. If tangible property is permanently affixed to real property and will ordinarily remain affixed for an indefinite period of time, the property is generally an inherently permanent structure and real property for section 1031 purposes, regardless of the use or purpose of the property or whether it contributes to the production of income. In addition, a structural component is real property for section 1031 purposes if it is a constituent part of, and integrated into, an inherently permanent structure, regardless of whether the structural component contributes to the production of income. For example, items of machinery or equipment are real property for like-kind exchange purposes if they comprise an inherently permanent structure, a structural component of an inherently permanent structure, or are classified as real property under state or local law.

Deferred exchanges. A deferred exchange occurs when, based on an agreement, the property received in the exchange is received after the transfer of the property given up. For a deferred exchange to qualify as like kind, you must comply with the timing requirements for identification and receipt of replacement property. The replacement property for the exchange must be identified within 45 days after the property being given up is transferred. The replacement property must be received within 180 days, or by the

due date of the tax return including extensions, whichever is earlier. See the instructions for [Line 5](#) and [Line 6](#), later, for more details.

If you make a deferred exchange using a qualified intermediary (QI), the transfer of the property given up and receipt of like-kind property is treated as a like-kind exchange. If you fail to meet the timing requirements because of the QI, your transaction won't qualify as a deferred exchange and any gain may be taxable in the year you transferred the property. However, if the QI defaults on its obligation to acquire and transfer replacement property because of bankruptcy or receivership proceedings and you meet certain requirements, you may be able to report the gain in the year or years payments are received. For the requirements, see Rev. Proc. 2010-14, 2010-12 I.R.B. 456, available at [IRS.gov/irb/2010-12_IRB/ar07.html](#). Related parties and agents of the taxpayer are not eligible to be QIs, and are referred to as "disqualified persons." For more information on QIs and disqualified persons, see Pub. 544, chapter 1.



The QI exchange constitutes one safe harbor. For more details on QI exchanges and for a discussion of other safe harbors, see Pub. 544.

Incidental personal property. For deferred like-kind exchanges involving a QI, personal property that is incidental to replacement real property (incidental personal property) is disregarded in determining whether a taxpayer's rights to receive, pledge, borrow, or otherwise obtain the benefits of money or non-like-kind property held by the QI are expressly limited, as provided in Regulations section 1.1031(k)-1(g)(6) and (7).

Personal property is incidental to real property acquired in an exchange if:

- In standard commercial transactions, the personal property is typically transferred together with the real property; and
- The aggregate fair market value of the incidental personal property transferred with the real property does not exceed 15% of the aggregate fair market value of the replacement real property or properties received in the exchange (15% limitation). See Regulations section 1.1031(k)-1(g)(7).

Multi-asset exchanges. A multi-asset exchange involves the transfer and receipt of more than one group of like-kind properties. The transfer or receipt of multiple properties within one like-kind group is also a multi-asset exchange. However, an exchange of a single piece of land, a vehicle, and cash for a single piece of land and a vehicle is not a multi-asset exchange because, of the assets transferred, section 1031 may apply only to the exchange of the land for other land. Special rules apply when figuring the amount of gain recognized and your basis in properties received in a multi-asset exchange. For details, see Regulations section 1.1031(j)-1.

Reporting of multi-asset exchanges. If you transferred and received (a) more than one group of like-kind properties, or (b) cash or other (not like-kind) property, don't complete lines 12 through 18 of Form 8824. Instead, attach your own statement showing how you figured the realized and recognized gain, and enter the correct amount on lines 19 through 25. Report any recognized gains on your Schedule D; Form 4797, Sales of Business Property; or Form 6252, Installment Sale Income, whichever applies.

Exchanges using a qualified exchange accommodation arrangement (QEAA). If property is transferred to an exchange accommodation titleholder (EAT) and held in a QEAA, the EAT may be treated as the beneficial owner of the property, the property transferred from the EAT to you may be treated as property you received in an exchange, and the property you transferred to the EAT may be treated as property you gave up in an exchange. This may be true even if the property you are to receive is transferred to the EAT before you transfer the property you are giving up. However, the property transferred to you can't be treated as property received in an exchange if you previously owned it within 180 days of its transfer to the EAT. For details, see Rev. Proc. 2000-37, as modified by Rev. Proc. 2004-51. Rev. Proc. 2000-37 is on page 308 of Internal Revenue Bulletin 2000-40 at [IRS.gov/pub/irs-irbs/irb00-40.pdf](#). Rev. Proc. 2004-51, 2004-33 I.R.B. 294, is available at [IRS.gov/irb/2004-33_IRB/ar13.html](#).

Property used as home. If the property given up was owned and used as your home for at least a total of 2 years during the 5-year period ending on the date of the exchange, you may be able to exclude part or all of any gain figured on Form 8824. For details on the exclusion of gain (including how to figure the amount of the exclusion), see Pub. 523, *Selling Your Home*. Fill out Form 8824 according to its instructions, with the following exceptions.

1. Subtract line 18 from line 17. Enter that result on line 19. On the dotted line next to line 19, enter "Section 121 exclusion" and the amount of the exclusion.

2. On line 20, enter the smaller of:

- a. Line 15 minus the exclusion, or
- b. Line 19.

Don't enter less than zero.

3. Subtract line 15 from the sum of lines 18 and 23. Add the amount of your exclusion to the result. Enter that sum on line 25.

Property used partly as home. If the property given up was used partly as a home, and partly for business or investment, you will need to use two separate Forms 8824 as worksheets. Use one worksheet for the part of the property used as a home, and the other worksheet for the part used for business or investment. Fill out only lines 15 through 25 of each worksheet Form 8824. On the worksheet Form 8824 for the part of the property used as a home, follow steps (1) through (3) above, except that instead of following step (2), enter the amount from line 19 on line 20. On the worksheet Form 8824 for the part of the property used for business or investment, follow steps (1) through (3) above only if you can exclude at least part of any gain from the exchange of that part of the property; otherwise, complete the form according to its instructions. Enter the combined amounts from lines 15 through 25 of both worksheet Forms 8824 on the Form 8824 you file. Don't file either worksheet with Form 8824.

More information. For details, see Rev. Proc. 2005-14, 2005-7 I.R.B. 528, available at [IRS.gov/irb/2005-07_IRB/ar10.html](https://www.irs.gov/irb/2005-07_IRB/ar10.html).

Additional information. For more information on like-kind exchanges, see section 1031 and its regulations and Pub. 544.

Specific Instructions

Lines 1 and 2. Generally, only real property should be described on lines 1 and 2, including intangible property that is treated as real property for like-kind exchange purposes. Enter the address and type of property. For property that is treated as real property for like-kind exchange purposes, but does not have an address, enter a short description. If the property described on line 1 or line 2 is real property located outside the United States, indicate the country.

Line 5. Enter on line 5 the date of the written identification of the like-kind property you received in a deferred exchange. To comply with the **45-day written identification requirement**, the following conditions must be met.

1. The like-kind property you receive in a deferred exchange is designated in writing as replacement property either in a document you signed or in a written agreement signed by all parties to the exchange.

2. The document or agreement describes the replacement property in a clear and recognizable manner. Real property should be described using a legal description, street address, or distinguishable name (for example, "Mayfair Apartment Building").

3. No later than 45 days after the date you transferred the property you gave up:

a. You fax, hand deliver, mail, or otherwise send the document you signed to the person required to transfer the replacement property to you (including a disqualified person) or to another person involved in the exchange (other than a disqualified person); or

b. All parties to the exchange sign the written agreement designating the replacement property.

Generally, a disqualified person is either your agent at the time of the transaction or a person related to you. For more details, see Regulations section 1.1031(k)-1(k). For more information on related persons, see [Line 7](#), later. Also, see details on disqualified persons in Pub. 544.

Note. If you received the replacement property before the end of the 45-day period, you are automatically treated as having met the 45-day written identification requirement. In this case, enter on line 5 the date you received the replacement property.

Line 6. Enter on line 6 the date you received the like-kind property from the other party.

The property must be received by the earlier of the following dates.

- The 180th day after the date you transferred the property given up in the exchange.
- The due date (including extensions) of your tax return for the year in which you transferred the property given up.

Line 7. Special rules apply to like-kind exchanges made with related parties, either directly or indirectly. A related party includes your spouse, child, grandchild, parent, grandparent, brother, sister, or a related corporation, S corporation, partnership, trust, estate, or tax-exempt organization. See section 1031(f).

An exchange made indirectly with a related party includes:

- An exchange made with a related party through an intermediary (such as a QI or an EAT, as defined in Pub. 544); or
- An exchange made by a disregarded entity (such as a single-member limited liability company) if you or a related party owned that entity.

An exchange structured to avoid the related party rules isn't a like-kind exchange. Don't report it on Form 8824. Instead, you should report the disposition of the property given up as if the exchange had been a sale. See section 1031(f)(4). Such an exchange includes the transfer of property you gave up to a QI in exchange for property you received that was formerly owned by a related party if the related party received cash or other (not like-kind) property for the property you received, and you used the QI intermediary to avoid the application of the related party rules. See Rev. Rul. 2002-83 for more details. You can find Rev. Rul. 2002-83 on page 927 of Internal Revenue Bulletin 2002-49 at [IRS.gov/pub/irs-irbs/irb02-49.pdf](https://www.irs.gov/pub/irs-irbs/irb02-49.pdf).



If, after the exchange, you own replacement property that a related party sold into the exchange for cash, or other non-like-kind property, through an unrelated party such as a QI, don't report the transaction on Form 8824 unless one of the exceptions on line 11 applies. Instead, report the disposition of the property given up as if the exchange had been a sale.

If you or the related party (either directly or indirectly) dispose of property received in an exchange before the date that is 2 years after the last transfer that was part of the exchange, the deferred gain or (loss) from line 24 must be reported on your return for the year of disposition (unless an exception on Form 8824, line 11, applies).



The running of the 2-year holding period will be tolled for any period during which your risk of loss is substantially reduced. See Two-year holding period in Pub. 544.

If you are filing this form for 1 of the 2 years following the year of the exchange, complete Parts I and II. If both lines 9 and 10 are "No," **stop**. You don't have to complete Part III.

If either line 9 or line 10 is "Yes," and an exception on line 11 applies, check the applicable box on line 11, attach any required explanation, and **stop**. If none of the exceptions on line 11 apply, complete Part III. Report the deferred gain or (loss) from line 24 on this year's tax return as if the exchange had been a sale.

Lines 11a through 11c. The line 11 exceptions are in Form 8824 on lines 11a through 11c. These are the exceptions.

- Line 11a. The disposition was after the death of either party.

- Line 11b. The disposition was an involuntary conversion and the threat of conversion occurred after the exchange.
- Line 11c. You can establish to the satisfaction of the IRS that neither the disposition nor the exchange had tax avoidance as one of its principal purposes.

Line 11c. If you believe that you can establish to the satisfaction of the IRS that tax avoidance was not a principal purpose of both the exchange and the disposition, attach an explanation. Generally, tax avoidance won't be seen as a principal purpose in the case of:

- A disposition of property in a nonrecognition transaction,
- An exchange in which the related parties derive no tax advantage from the shifting of basis between the exchanged properties, or
- An exchange of undivided interests in different properties that results in each related party holding either the entire interest in a single property or a larger undivided interest in any of the properties.

Lines 12, 13, and 14. Line 12 should be completed if other property that doesn't qualify as like-kind property was part of the exchange, in addition to the like-kind property. Enter the fair market value (FMV) and the adjusted basis of the other property on lines 12 and 13, respectively. The gain or (loss) from this property is figured on line 14 and must be reported on your return. Report gain or (loss) as if the exchange were a sale.

Line 15. Include on line 15 the sum of:

- Any cash paid to you by the other party;
- The FMV of other (not like-kind) property you received, if any; and
- Net liabilities assumed by the other party—the excess, if any, of liabilities (including mortgages) assumed by the other party over the total of (a) any liabilities you assumed, (b) cash you paid to the other party, and (c) the FMV of the other (not like-kind) property you gave up.

See the example in the instructions for line 18.

Reduce the sum of the above amounts (but not below zero) by any exchange expenses you incurred.

The following rules apply in determining the amount of liability treated as assumed.

- A recourse liability (or portion thereof) is treated as assumed by the party receiving the property if that party has agreed to and is expected to satisfy the liability (or portion thereof). It doesn't matter whether the party transferring the property has been relieved of the liability.
- A nonrecourse liability is generally treated as assumed by the party receiving the property subject to the liability. However, if an owner of other assets subject to the same liability agrees with the party receiving the property to, and is expected to, satisfy part or all of the liability, the amount treated as assumed is reduced by the smaller of (a) the amount of the liability that the owner of the other assets has agreed to and is expected to satisfy, or (b) the FMV of those other assets.

Line 18. Include on line 18 the sum of:

- The adjusted basis of the like-kind real property you gave up;
- Exchange expenses, if any (except for expenses used to reduce the amount reported on line 15); and
- The net amount paid to the other party—the excess, if any, of the total of (a) any liabilities you assumed, (b) cash you paid to the other party, and (c) the FMV of the other (not like-kind) property you gave up over any liabilities assumed by the other party.

Figuring amounts for lines 15 through 19. See Regulations section 1.1031(d)-2 and the following example for figuring amounts to enter on lines 15 through 19.

Example. A owns an apartment house with an FMV of \$220,000, with an adjusted basis of \$100,000, and that is subject to a mortgage of \$80,000. B owns an apartment house with an FMV of \$250,000, with an adjusted basis of \$175,000, and that is subject to a mortgage of \$150,000.

A transfers his apartment house to B and receives in exchange B's apartment house plus \$40,000 cash. A assumes the mortgage on the apartment house received from B, and B assumes the mortgage on the apartment house received from A.

A enters on line 15 only the \$40,000 cash received from B. The \$80,000 of liabilities assumed by B isn't included because it doesn't exceed the \$150,000 of liabilities A assumed. A enters \$250,000 on line 16, the FMV of the apartment house received from B. A enters \$290,000 on line 17, the sum of lines 15 and 16. A enters \$170,000 on line 18—the \$100,000 adjusted basis, plus the \$70,000 excess of the liabilities A assumed over the liabilities assumed by B (\$150,000 - \$80,000). A subtracts line 18 from line 17 and enters the \$120,000 gain realized on the exchange on line 19.

B enters \$30,000 on line 15—the excess of the \$150,000 of liabilities assumed by A, over the sum of the \$80,000 of liabilities assumed from A and the \$40,000 cash B paid A (\$120,000). B enters \$220,000 on line 16, the FMV of the apartment house received from A. B enters \$250,000 on line 17, the sum of lines 15 and 16. B enters on line 18 only the adjusted basis of \$175,000, because the total of the \$80,000 of liabilities B assumed from A and the \$40,000 cash B paid A doesn't exceed the \$150,000 of liabilities assumed by A. B subtracts line 18 from line 17 and enters the \$75,000 in gain realized on line 19.

Line 21. If you disposed of section 1245, 1250, 1252, 1254, or 1255 property (see the instructions for Part III of Form 4797), you may be required to recapture as ordinary income part or all of the realized gain (line 19). Figure the amount to enter on line 21 as follows.

Section 1245 real property. Enter the smaller of:

1. The total adjustments for deductions (whether for the same or other property) allowed or allowable to you or any other person for depreciation or amortization (up to the amount of gain shown on line 19); or
2. The gain shown on line 20, if any, plus the FMV of non-section 1245 like-kind property received.

Section 1250 property. Enter the smaller of:

1. The gain you would have had to report as ordinary income because of additional depreciation if you had sold the property (see the Form 4797 instructions for line 26); or
2. The larger of:
 - a. The gain shown on line 20, if any; or
 - b. The excess, if any, of the gain in item (1) above over the FMV of the section 1250 property received.

Section 1252, 1254, and 1255 property. The rules for these types of property are similar to those for section 1245 property. See Regulations sections 1.1252-2(d) and 1.1254-2(d) and Temporary Regulations section 16A.1255-2(c) for details. If the installment method applies to this exchange:

1. See section 453(f)(6) to determine the installment sale income taxable for this year and report it on Form 6252;
2. Enter on Form 6252, line 25 or 36, the section 1252, 1254, or 1255 recapture amount you figured on Form 8824, line 21—don't enter more than the amount shown on Form 6252, line 24 or 35;
3. Also enter this amount on Form 4797, line 15; and
4. If all the ordinary income isn't recaptured this year, report in future years on Form 6252 the ordinary income up to the taxable installment sale income, until it is all reported.

Line 22. Report a gain from the exchange of property used in a trade or business (and other noncapital assets) on Form 4797, line 5 or line 16. Report a gain from the exchange of capital assets according to the Schedule D instructions for your return. Be sure to use the date of the exchange as the date for reporting the gain. If the installment method applies to this exchange, see section 453(f)(6) to determine the installment sale income taxable for this year and report it on Form 6252.

Line 24. If line 19 is a loss, enter it on line 24. Otherwise, subtract the amount on line 23 from the amount on line 19 and enter the result. For exchanges with related parties, see [Line 7](#), earlier.

Figuring amounts for lines 20 through 24. See the following example for figuring the amounts to enter on lines 20 through 24.

Example. In addition to the facts in the example for lines 15 through 19, assume that A previously allocated a portion of the basis in its apartment house for depreciation purposes under section 168 to assets that are section 1245 property. Applying section 1.1031(a)-3 of the regulations, A determines that the section 1245 assets are real property for section 1031 like-kind exchange treatment. Additionally, A determines that the total depreciation allowed or allowable on the section 1245 property is \$50,000. A enters \$40,000 on line 20, the smaller of line 15 or line 19. A enters \$40,000 on line 21 as ordinary income under the section 1245 depreciation recapture rules. The remaining \$10,000 in potential depreciation recapture (\$50,000 - \$40,000) attaches to the property acquired from B. See Regulations section 1.1245-2(c)(4). A subtracts line 21 from line 20 and enters \$0 on line 22. A enters the sum of lines 21 and 22, \$40,000, on line 23. A subtracts line 23 from line 19 and enters the deferred gain on the exchange, \$80,000, on line 24.

Assume that B did not previously allocate the basis in its apartment house for depreciation purposes under section 168, so it does not contain any like-kind section 1245 property for section 1031 purposes. B enters \$30,000 on line 20, the smaller of line 15 or line 19. B enters \$0 on line 21 as it has no ordinary income from depreciation recapture. B subtracts line 21 from line 20 and enters \$30,000 on line 22. B enters the sum of line 21 and line 22, \$30,000, on line 23. B subtracts line 23 from line 19 and enters the deferred gain on the exchange, \$45,000, on line 24.

Line 25. The amount on line 25 is your basis in the like-kind property you received in the exchange. Your basis in other property (not like-kind) received in the exchange, if any, is its FMV.

If you received section 1245 property or intangible property that is like-kind property in the exchange, the amount on line 25 must be allocated to each like-kind section 1250 property, like-kind section 1245 property, and like-kind intangible property received in the exchange in proportion to their fair market values.

Example. Referring to the facts in the examples for lines 15 through 24, A determines the apartment house received from B contains only like-kind section 1250 property and no section 1245 property and no intangible property treated as section 1031 like-kind property. A subtracts line 15 from the sum of lines 18 and 23 and enters \$170,000 on line 25. A allocates the entire \$170,000 to the basis of the like-kind section 1250 property received in the exchange. As noted in the example above, A's remaining \$10,000 in potential section 1245 depreciation recapture attaches to the apartment house received by A from B, and \$10,000 of any gain recognized on the subsequent sale of this property is recognized as ordinary income. See Regulations sections 1.1245-5(a)(1) and 1.1250-3(d)(4).

B determines that the apartment house received from A with an FMV of \$220,000 contains like-kind section 1245 property with an FMV of \$55,000, and like-kind section 1250 property with an FMV of \$165,000. B enters \$175,000 on line 25, the sum of lines 18 and 23 less line 15. B allocates \$131,250 (\$165,000/\$220,000 times \$175,000) to the basis of the like-kind section 1250 property received in the exchange and allocates \$43,750 (\$55,000/\$220,000 times \$175,000) to the basis of the like-kind section 1245 property received in the exchange.

Section 1043 Conflict-of-Interest Sales (Part IV)

If you, as an eligible person, sell property at a gain according to a certificate of divestiture issued by the Office of Government Ethics (OGE) or the Judicial Conference of the United States (or its designee) and purchase replacement property (permitted property), you can elect to defer part or all of the realized gain. You must recognize gain on the sale only to the extent that the amount realized on the sale is more than the cost of replacement property purchased within 60 days after the sale. (You must also recognize any ordinary income recapture.) Permitted property is any obligation of the United States or any diversified investment fund approved by the OGE. "Eligible persons" includes an officer or employee of the executive branch, or a judicial officer of the federal government, but

not a special government employee defined in 18 U.S.C. section 202. "Eligible persons" also includes any spouse, minor, or dependent child whose ownership of any property is attributable to such an officer or employee.



If the property you sold was stock you acquired by exercising a statutory stock option, you may be treated as meeting the holding periods that apply to such stock, regardless of how long you actually held the stock. This may benefit you if you don't defer your entire gain, because it may allow you to treat the gain as a capital gain instead of ordinary income. For details, see section 421(d) or Pub. 525, Taxable and Nontaxable Income.

Complete Part IV of Form 8824 only if the cost of the replacement property is more than the basis of the divested property and you elect to defer the gain. Otherwise, report the sale on your Schedule D or Form 4797, whichever applies.

Your basis in the replacement property is reduced by the amount of the deferred gain. If you made more than one purchase of replacement property, reduce your basis in the replacement property in the order you acquired it.

Line 30. Enter the amount you received from the sale of the divested property, minus any selling expenses.

Line 35. Follow these steps to determine the amount to enter.

1. Use Part III of Form 4797 as a worksheet to figure ordinary income under the recapture rules.
2. Enter on Form 8824, line 35, the amount from Form 4797, line 31. Don't attach the Form 4797 used as a worksheet to your return.
3. Report the amount from line 35 on Form 4797, line 10, column (g). In column (a), enter "From Form 8824, line 35." Don't complete columns (b) through (f).

Line 36. If you sold a capital asset, enter any capital gain from line 36 on your Schedule D. If you sold property used in a trade or business (or any other asset for which the gain is treated as ordinary income), report the gain on Form 4797, line 2 or line 10, column (g). In column (a), write "From Form 8824, line 36." Don't complete columns (b) through (f). If you held a qualified investment in a QOF at any time during the year, you must file your return with Form 8997, attached. See the Form 8997 instructions.

Paperwork Reduction Act Notice. We ask for the information on this form to carry out the Internal Revenue laws of the United States. You are required to give us the information. We need it to ensure that you are complying with these laws and to allow us to figure and collect the right amount of tax.

You are not required to provide the information requested on a form that is subject to the Paperwork Reduction Act unless the form displays a valid OMB control number. Books or records relating to a form or its instructions must be retained as long as their contents may become material in the administration of any Internal Revenue law. Generally, tax returns and return information are confidential, as required by section 6103.

The time needed to complete and file this form will vary depending on individual circumstances. The estimated burden for individual taxpayers filing this form is approved under OMB control number 1545-0074 and is included in the estimates shown in the instructions for their individual income tax return. The estimated burden for all other taxpayers who file this form is shown below.

Recordkeeping	10 hr., 16 min.
Learning about the law or the form	1 hr., 59 min.
Preparing the form	2 hr., 14 min.

If you have comments concerning the accuracy of these time estimates or suggestions for making this form simpler, we would be

happy to hear from you. See the instructions for the tax return with which this form is filed.
