

→ 1031 Exchange FOCUS

SECTION 1031 OF THE INTERNAL REVENUE CODE IS ONE OF THE GREATEST WEALTH BUILDING TOOLS AVAILABLE TO THE INVESTOR

Holding Requirements for 1031 Exchange Property

Internal Revenue Code Section 1031 allows investors to defer the payment of capital gains taxes when selling an investment property and exchanging into another like-kind investment property.

How long do I have to own my relinquished and replacement properties before they qualify for 1031 Exchange?

Want the easy answer? The longer the better. Unfortunately, there is no safe holding period for property to automatically qualify for a 1031 Exchange. Keep in mind, the properties only need to be “held for investment” to be eligible for an exchange. Time of ownership is only one factor the IRS looks at when determining if the properties were “held for investment”, thus qualifying for 1031 Exchange.

In one private letter ruling (PLR 8429039), the IRS stated that a minimum holding period of two years would be sufficient.

Although a private letter ruling does not establish legal precedent for all investors, there are many advisors

who believe two years is a conservative holding period, provided no other significant factors contradict the investment intent.

Other advisors recommend that Exchangers hold property for a minimum of at least twelve months. The reason for this is twofold:

1. A holding period of 12 or more months means the investor will usually reflect it as an investment property in two tax filing years.
2. In 1989, Congress proposed a one year holding period for both the relinquished and replacement properties. Although this proposal was



never incorporated into the tax code, some believe it represents a reasonable minimum guideline.

Unfortunately, there is no easy answer as to how long a property must be held for it to qualify for an exchange, so make sure the intent when the property was acquired, was to hold it for investment purposes—and to be safe, hold it for as long as possible!

The subject matter in this newsletter is intended as general information only and not intended as tax or legal advice. Please always consult your tax or legal advisor for any specific tax or legal matters.

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