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PROPERTY IDENTIFICATION REQUIREMENTS:

Identification period and Exchange period

IRC Section 1031 states that like-kind exchange property is identified as “property to be received in the exchange on or before the day which is 45 days after the date on which the taxpayer transfers the property relinquished in the exchange”.

According to IRC Section 1031, it is the “requirement that property be identified and that exchange be completed not more than 180 days after transfer of exchanged property “.

The Replacement property has to be acquired before “the earlier of (i) the day which is 180 days after the date on which the taxpayer transfers the property relinquished in the exchange, or (ii) the due date (determined with regard to extension) for the transferor’s return of the tax imposed by this chapter for the taxable year in which the transfer of the relinquished property occurs”.

Manner of identifying replacement property

§1.1031 (k)-1: “The Replacement property is identified only if it is designated as replacement property in a written document signed by the taxpayer and hand delivered, mailed, telecopied, or otherwise sent before the end of identification period to” “the person obligated to transfer the replacement property to the taxpayer”.

Description of replacement property

§1.1031 (k)-1: “Replacement property is identified only if it is unambiguously described in the written document or agreement. Real property generally is unambiguously described if it is described by a legal description, street address, or distinguishable name (e.g., the Mayfair Apartment Building).”

