



How, When and Why a 1031 Exchange Should be Set-up with a Qualified Intermediary

By

[Lauren H. Speidel](#)

Vice President and Regional Manager
Exeter 1031 Exchange Services, LLC
Midwest Regional Office, Chicago



A 1031 exchange can be a powerful tax deferral strategy for real estate investors. When it is structured correctly, it allows you to sell investment or business-use property and reinvest in replacement property without immediately paying capital gain and depreciation recapture taxes. Those taxes are deferred, not erased, but the deferral can preserve and build working capital, support portfolio growth, and improve long-term returns.

The key is that a 1031 exchange must be set up properly before the sale of your relinquished property or the purchase of your replacement property close. Timing matters. Documentation matters. And the role of the qualified intermediary, often referred to as an accommodator or facilitator, is central to the transaction. If you close on the sale of your investment property before you have your exchange set-up and in place, or if you bypass the qualified intermediary and receive the net sale proceeds directly from the closing agent, the exchange will fail and you must report it as a taxable sale rather than a [tax-deferred exchange](#).

This article explains:

- How to set up a 1031 exchange with the [right qualified intermediary](#) (accommodator or facilitator)
- When to set it up and the deadlines that apply
- Why investors use 1031 exchange transactions
- How to find and choose a “[best practices](#)” qualified intermediary (accommodator or facilitator)
- Why a licensed and [regulated qualified intermediary](#) offers significantly better protection
- What can go wrong if the exchange is not established before closing
- What is a 1031 exchange, what really matters and what really qualifies?

A 1031 exchange refers to Section 1031 of the Internal Revenue Code (IRC Section 1031). It allows an investor to defer the payment of their capital gain and depreciation recapture taxes when exchanging real property (i.e., “relinquished property”) that was rented or leased (i.e., produced cash flow), or held for investment (e.g., held for capital appreciation without any cashflow), or used for productive use in the taxpayer’s trade or business for other like-kind real property (i.e., “replacement property”).

For most investors, this does not mean a simple property swap or concurrent exchange. In practice, most 1031 exchanges are delayed exchanges. You sell one rental property first, then acquire one or more investment properties later. Because you cannot take control of the sale proceeds or receive the net proceeds directly, an exchange qualified intermediary must be brought in to hold the funds and document the exchange transaction to avoid a taxable sale.

What Really Qualifies as Qualified Use Property?

Qualified use means the relinquished property sold through the tax-deferred exchange and the subsequent replacement property bought through the like kind exchange must be held for rental, investment or business use. The critical factor to qualify for tax deferred treatment is the taxpayer’s intent to hold the properties for investment purposes and not necessarily the length of time they actually held the properties. The length of time



they held the relinquished or replacement properties as rental, investment, or business use property helps support the crucial issue of intent to hold, but the length of time they have held the property is not what really matters.

Property held primarily for personal use usually does not qualify for tax-deferred exchange treatment. A primary residence is generally excluded. Vacation properties and second homes may qualify in limited cases if they meet investment-use standards. The intent of the taxpayer and the use of the property can be changed so that properties can qualify under the qualified use requirements. Investors should always discuss the qualified use rules with their legal, tax and financial advisors, along with a best practices qualified intermediary like Exeter 1031 Exchange Services, LLC (Exeter1031™).

What Does “Like-Kind” Property Really Mean?

Great news! The definition of [like-kind property](#) is extremely broad. Like-kind literally means you are selling real property and must therefore buy or reinvest in other real property. It does not mean that you sold a condo and must therefore reinvest in another condo or sold an office building and must purchase another office building or sold raw unimproved land and must buy more vacant land. It simply means you sold real estate and must therefore reinvest in other real estate. Any real estate qualifies as like kind property and therefore 1031 exchange treatment if it satisfies the qualified use requirement discussed above. Like kind includes properties that you would not even consider to be real estate, such as air rights, water rights, mineral rights, certain types of oil and gas investments, timberland, vineyards, cell site towers, billboards, and much more.

How do I Set Up a 1031 Exchange with a Qualified Intermediary

A 1031 exchange should be planned well before the sale of your relinquished property closes. Once the taxpayer receives the proceeds, the opportunity to structure a like kind exchange is lost. Here are the steps to consider when planning your tax-deferred exchange:

Step 1: Confirm that your property qualifies

Start by reviewing whether the property you are selling is real property and is held for:

- Rental or leased income (cash flow);
- Investment purposes (capital appreciation without cash flow); or
- Use in a trade or business.

You should also review your tax basis, expected taxable gain, depreciation recapture exposure, net investment income tax (i.e., Obamacare tax), and any state tax issues with your certified public accountant, enrolled agent or tax advisor.

Step 2: Engage a best practices qualified intermediary before closing

This is one of the most important steps. The qualified intermediary, often called a QI for short, must be retained before the sale of the relinquished property closes. The QI must prepare the exchange documents and related transaction documents before any of the closings occur, including:

- Exchange agreement
- Notice to exchangor
- Qualified trust account agreement (if using a best practices qualified intermediary)
- Assignment of the purchase and sale agreement or contract to integrate the property into the exchange
- Notice of assignment to all parties involved in the transaction
- Exchange instructions to escrow agent, closing or settlement agent or closing attorney
- Replacement property assignment documents
- Other documents for the more complex transactions



The QI will also receive, hold, and safeguard the net proceeds from the sale of the relinquished property so that you do not have actual or constructive receipt of the funds.

Step 3: Assignment of the purchase and sale agreement

Before or at closing, your rights under the sale contract are assigned to the qualified intermediary. The qualified intermediary steps into the seller's shoes. The buyer is notified of that assignment. This is a standard part of the exchange structure and does not change the commercial terms of the sale. The qualified intermediary does not actually take legal title to the property (except in limited reverse or improvement 1031 exchanges).

Step 4: Close the sale of the relinquished property

At closing, the net proceeds are transferred to the qualified intermediary, not to you. This step preserves the exchange. If the proceeds are wired to your personal or business account, even briefly, the transaction will fail and become a taxable sale.

Step 5: Identify replacement property within 45 days

You have exactly 45 calendar days from the date you close on the sale of your relinquished property to identify one or more potential replacement properties in writing to the qualified intermediary. The identification must be specific and:

- Signed by you as the exchangor;
- Delivered to the qualified intermediary; and
- Unambiguous, with enough detail to clearly describe the property or properties that are being identified

Common identification rules include the:

- Three-property rule: Identify up to three properties, regardless of value
- 200% rule: Identify any number of properties as long as the total value identified does not exceed 200% of the gross sale price of the relinquished property
- 95% reinvestment rule: Identify more properties above the 200% threshold, but acquire at least 95% of the identified value

You are only required to comply with one of the above identification of replacement property rules. You must ensure that as of midnight on the 45th calendar day you have complied with one of the ID rules above.

Step 6: Acquire replacement property within 180 days

You must close on the purchase of one or more of the identified replacement properties within 180 calendar days from the date that you closed on the sale of your relinquished property, or by the due date of your tax return for that year, whichever comes first, unless an extension applies. You never have more than 180 calendar days to complete your tax-deferred exchange.

Step 7: Match value and equity if you want full deferral

To defer all taxable gain, you generally need to:

- Buy one or more replacement properties with a combined total value that is equal to or greater than the net sale price (do not subtract outstanding debt) of your relinquished property
- Reinvest all net equity in your replacement properties
- Replace any debt paid off on the sale of your relinquished property with equal debt or additional out-of-pocket cash in the purchase of your replacement properties

If you receive cash or reduce your debt without offsetting it, that amount will be taxable boot.



When should I Set Up a 1031 Exchange

The short answer is simple: before the sale of any relinquished properties close.

The purchase and sale agreement must be assigned to the qualified intermediary before closing occurs to defer your tax consequences. If the like kind exchange has not been established prior to closing, whether the funds have been disbursed or not, you have the right to receive the funds (i.e., you have constructive receipt or actual receipt of your funds) and the sale will be reported as a taxable transaction.

What are the key timing rules?

Before closing

The qualified intermediary must be engaged before the sale of the relinquished property closes. Exchange documents, including the assignment of the sales contract, should be drafted, signed and delivered to the closing agent before or at the closing to avoid triggering your taxable gain.

45-day identification period

You have exactly 45 calendar days after the sale of your relinquished property closes to identify one or more replacement properties. If the sale of your relinquished property closes today, tomorrow is considered day number one.

Important points:

- Weekends and holidays count
- The deadline is strict
- There is no extension available or allowed, unless the IRS provides disaster-related relief

180-day exchange period

You must acquire one or more of the replacement properties identified within 180 calendar days after the sale of the relinquished property closes.

Important points:

- This period runs at the same time as the 45-day ID period
- It does **not** begin after day 45
- Your tax filing date can shorten this window if you do not file an extension of time to file your tax return. You never have more than 180 calendar days for your 1031 exchange

Practical timing example

Suppose you sell your rental property on June 1.

- Your 45-day identification deadline is July 16
- Your 180-day completion deadline is November 28

If your tax return due date arrives before the end of your 180 calendar day deadline and you have not filed for an extension of time to file your tax return, the earlier date will control.

Why early planning matters

Many failed exchanges do not fail because of tax law complexity. They fail because the investor started the process too late. Early planning helps you:

- Line up replacement properties
- Review title and financing issues



- Coordinate with escrow, settlement agents, closing attorneys, and lenders
- Avoid rushed decisions near the 45-day ID deadline

You should always review your proposed tax-deferred exchange transaction with your legal and tax advisors before you proceed to ensure that you should be completing the exchange transaction. There are reasons why you may not want to defer your tax consequences.

Why Should I Set Up a 1031 Exchange?

A 1031 tax deferred exchange is used to defer capital gain and depreciation recapture taxes, avoid the net investment income tax (i.e., the Obamacare tax), preserve your equity capital and build your long-term wealth more efficiently.

Tax deferral

The main benefit of a like kind exchange is the deferral of your capital gain tax and, in most cases, your depreciation recapture tax. And, because you have deferred your taxable gains you also avoid triggering the net investment income tax of 3.8% (i.e., the Medicare surcharge).

By deferring your taxes, you keep all of your sale proceeds (i.e., your cash equity) working for you. Your equity can be used toward your acquisition of one or more replacement properties instead of paying federal and state taxes.

Greater reinvestment power

Because you are not paying the taxes immediately, you will have more funds available for:

- A larger replacement property
- Multiple replacement properties
- Improvements, repurposing or repositioning strategies
- Better cash flow opportunities

Portfolio growth and diversification

A 1031 exchange can help you move from one investment strategy to another without getting penalized by paying taxes. For example, you may exchange:

- One high-maintenance property for several passive low maintenance investment properties
- Several smaller assets for one larger investment property
- Property in one market for property in another market
- Land producing no income for income-producing real estate
- Trading up into a larger property for use in your business (i.e., larger office, industrial, retail, etc.)

Estate and long-term planning

For some investors, 1031 exchanges are part of a long-range estate planning strategy. By exchanging over time instead of selling and paying tax at each step, investors can continue compounding their equity capital inside their investment real estate portfolio.

Example

An investor sells a rental property with a large gain. If that investor pays the tax immediately, less equity capital remains to acquire the next rental or investment property. If the gain is deferred through a 1031 exchange, more equity can be reinvested. Over time, that added buying power can support stronger cash flow and larger asset accumulation.



How do I Find and Pick My Qualified Intermediary

Not all qualified intermediaries offer the same level of financial protection, insurance and bonding, service, or independent oversight. Since the QI holds substantial sale proceeds on behalf of many clients, solid [due diligence is essential](#).

What does a qualified intermediary do?

A qualified intermediary is an independent third party who:

- Drafts and facilitates exchange documents
- Coordinates with the escrow, settlement agent or closing attorney
- Receives, holds and safeguards exchange funds
- Helps maintain compliance with IRS exchange rules and regulations
- Supports the timing and closing process
- Provides consultative guidance to the client and their advisors

The QI cannot be your agent or a disqualified person, under IRS rules, such as your attorney, accountant, broker, or employee if they have served in that role within the two (2) year period just before or right after your tax-deferred exchange.

What should I look for in a qualified intermediary

Experience and expertise with 1031 exchanges matters

Look for a firm that handles 1031 exchanges as a core service, not as a side offering. Ask about their expertise and experience with:

- Delayed exchanges
- Reverse exchanges
- Improvement exchanges
- Leasehold improvement exchanges
- Multi-asset or multi-party transactions
- Partnership Installment Notes (PINs) or QI Notes
- Complex title and entity issues
- Foreign property exchanges
- No equity 1031 exchanges

Strong documentation and process controls

A reliable QI should have a clear process, responsive communication, and accurate documentation. Delays or errors in exchange paperwork can create avoidable risks.

Financial safeguards, bonding and insurance for exchange funds

Ask how your exchange funds are held and protected. Key questions include:

- Are funds held in separate, segregated, dual-signature, restricted qualified trust accounts?
- Who has authority to move funds?
- How many employees does it take to move exchange money?
- Are dual signatures required so that funds can't be disbursed without your signature?
- Is fidelity bond coverage in place, and if so, how much is the coverage?
- Is there errors and omissions insurance, and what is the insurance limit?
- Is there cyber fraud and wire transfer fraud insurance, and if so, how does it protect you?



Regulatory oversight and compliance

The 1031 exchange industry has no licensing or regulatory oversight functions. Qualified intermediaries are not licensed or regulated. That makes due diligence even more important.

Look for firms that are [licensed, regulated and audited](#), such as:

- State licensing where applicable, such as a bank or trust company
- Regulatory examinations by their regulators
- Independent CPA audits of financial statements
- Independent CPA audits of policies, procedures and operations
- Written internal controls and safeguards
- Written [investment policy](#) and disclosure statement for exchange funds
- Compliance policies for safeguarding client funds

Reputation and responsiveness

Review the QI firm's reputation in the market. Ask questions:

- How long has the company been in business?
- How long have their executive officers been administering exchanges?
- Do attorneys, CPAs, escrow officers, and brokers refer clients to them?
- Is their team accessible when timing is critical, including their executive team?
- Can they explain complex issues clearly?
- Do they take the time you need to explain the process clearly

What Are the Benefits of Working with a Licensed and Regulated Qualified Intermediary?

A qualified intermediary that has some form of regulatory oversight, regulatory exams and independent CPA audits provides critically important protections and safeguards compared to those that are not regulated or audited, especially in transactions involving large sums of money.

Better protection for client funds

The QI holds and controls the net proceeds from the sale of your relinquished property. If that QI firm lacks regulated oversight, independent exams and audits, internal controls, or financial safeguards, your funds face unnecessary risk.

A more regulated provider offers:

- Separate, segregated, dual-signature, restricted qualified trust accounts
- Account transparency and full disclosure
- Regulatory examinations
- Independent CPA audits
- Bonding and insurance (e.g., fidelity bond, E&O insurance, cyber fraud and wire fraud insurance)
- Stronger fraud-prevention controls

Improved compliance support

1031 exchange rules are technical. A licensed and regulated QI is often better positioned to follow established procedures, maintain documentation standards, and reduce avoidable compliance failures as a best practices exchange company.

More reliable transaction execution

Experienced and regulated firms tend to have stronger operational systems. That matters when deadlines are fixed and errors can trigger a taxable event.



Greater confidence for investors and advisors

Investors, attorneys, CPAs, lenders, and escrow professionals often prefer to work with a QI that demonstrates documented controls, professional standards, and a stable operating history.

What are the Pitfalls if the 1031 Exchange Is Not Set Up in Time?

Failure to set up the exchange before closing can have immediate tax consequences.

You may lose tax deferral entirely

If you actually receive or have control over the sale proceeds, the IRS will treat the transaction as a taxable sale rather than a deferred exchange. In most cases, that ends the 1031 opportunity for that transaction.

The 45-day and 180-day deadlines cannot be fixed later

Missed deadlines are fatal to the like kind exchange. If you fail to identify property within 45 days or fail to acquire property within 180 days, the exchange fails and any gain becomes taxable.

You may owe capital gains and depreciation recapture tax

A failed exchange can expose you to:

- Federal capital gain tax
- Depreciation recapture tax
- State income tax, where applicable
- Net investment income tax, depending on your tax profile

Partial mistakes can still create taxable boot

Even when the exchange is otherwise valid, errors can create taxable amounts, such as:

- Taking cash out of the deal
- Failing to replace debt through the purchase of your replacement property
- Buying replacement property of lower value (trading down in value)
- Improperly handling prorations or closing debits or credits

Poor planning can force bad investment decisions

Some investors rush into unsuitable replacement properties because they did not prepare early enough. That can lead to overpaying, weak underwriting, or buying an asset that does not fit long-term goals.

What are some Practical Tips for a Smoother 1031 Exchange?

- Engage a [best practices](#) qualified intermediary before listing the property, or at least before signing final closing instructions
- Involve your CPA, enrolled agent, or other tax advisor, and real estate attorney early
- Start reviewing replacement property options before the relinquished property closes
- Keep written records of identification and deadlines
- Verify how exchange funds will be held
- Confirm title and vesting issues before closing on the replacement property
- Do not assume every settlement agent understands 1031 exchange requirements

Conclusion

A 1031 exchange can be one of the most effective tools available to real estate investors who want to defer taxes and keep more equity invested. But the benefits depend on proper execution. You must set up the exchange before closing, follow the 45-day and 180-day deadlines, and work with a best practices qualified intermediary that has the regulatory oversight, experience, safeguards, and compliance standards needed to protect your transaction.



Choosing the right qualified intermediary is not just an administrative step. It is a risk-management decision. A well-qualified, well-regulated, best practices intermediary can help preserve tax deferral, protect exchange proceeds, and guide the transaction through strict IRS requirements with greater confidence.

Before you sell, build your team. Review the property's eligibility, confirm your exchange strategy, and retain a qualified intermediary early. In a 1031 exchange, timing is not a detail. It is the foundation.

Frequently Asked Questions (FAQs) for Exchanges and Qualified Intermediaries

What is a 1031 exchange?

A 1031 exchange is a tax-deferral strategy under Section 1031 of the Internal Revenue Code that allows you to sell rental, investment or business-use real property and reinvest the proceeds into like-kind replacement property without paying capital gains tax or depreciation recapture tax at the time of sale.

The tax is deferred, not eliminated. By deferring capital gains tax, depreciation recapture tax, and, in most cases, state income tax, you keep more equity working for you and can build wealth faster. Most 1031 exchanges are delayed exchanges, where you sell one property first and acquire another later.

When should I set up a 1031 exchange?

You should set up a 1031 exchange before the sale of your relinquished property closes. This is the only safe time to establish the exchange. If you wait until after closing and receive the sale proceeds directly, you lose the opportunity to defer your taxes. To protect your exchange, engage a qualified intermediary early, ideally before listing the property or at least before signing final closing instructions. Early planning gives you time to line up replacement properties, review financing, and coordinate with your escrow, settlement agent, closing attorney, and lender.

What is a qualified intermediary and what do they do?

A qualified intermediary, also called a QI, accommodator, or facilitator, is an independent party that structures and administers 1031 exchange transactions. The qualified intermediary has three critical responsibilities:

- Prepares exchange documents, including the exchange agreement, assignment of the sale contract, notice of assignment, and exchange instructions
- Coordinates compliance with IRS rules by working with you and your legal, tax, and financial advisors
- Receives, holds, and safeguards your exchange funds so you avoid actual or constructive receipt of the proceeds

A qualified intermediary cannot be a disqualified person, such as your attorney, accountant, broker, or employee who has served in that role within the prior two years or subsequent two years.

What are the 45-day and 180-day deadlines in a 1031 exchange?

The 45-day and 180-day due dates are two strict time limits you must meet for a successful 1031 exchange. Both periods begin on the date that the sale of your relinquished property closes.

- 45-day identification period: You have 45 calendar days to identify potential replacement property in writing, signed by you and delivered to your qualified intermediary.
- 180-day exchange period: You must complete the purchase of all replacement properties within 180 calendar days, or by your tax return due date for that year (including extensions), whichever comes first.



These due dates run concurrently. Weekends and holidays count, and the deadlines cannot be extended except in presidentially declared disasters.

What happens if I miss the 45-day or 180-day deadline?

If you miss either deadline, your 1031 exchange will fail and your gain becomes taxable. Missed deadlines cannot be fixed later. A [failed exchange](#) can expose you to federal capital gains tax, depreciation recapture tax, state income tax where applicable, and net investment income tax depending on your tax profile. Because these limits are strict and unforgiving, early planning is essential. Many failed exchanges fail simply because the investor started too late rather than because of any complexity in the tax law.

What does "like-kind" property mean in a 1031 exchange?

[Like-kind property](#) simply refers to real property. The definition is exceptionally broad. You can exchange almost any type of real estate for another type of real property as long as the properties all satisfy the [qualified use](#) requirements. For example, you can exchange:

- An apartment building for raw land
- A retail center for an office building
- Cell site tower for single family residential property held for rental
- Vacant land for a rental home
- Multifamily property for a Delaware Statutory Trust (DST) or tenant-in-common (TIC) interest

Quality or grade does not matter. Property held primarily for personal use, such as a primary residence, second home, or vacation property, generally will not qualify. Property within the United States is not like-kind to property outside the United States. However, you can exchange foreign property for other foreign property.

How do I find and choose a qualified intermediary?

[Choose a qualified intermediary](#) the same way you would conduct any important risk-management decision: through careful thought and due diligence. Because the qualified intermediary holds substantial sale proceeds on behalf of many clients, focus on licensing, [regulatory oversight](#), [strength and stability](#), safety and experience, not just [price](#).

Evaluate each candidate on:

- [Regulatory oversight](#), including licensing, examinations, and independent CPA audits.
- [Financial safeguards](#), such as how funds are held and who can move them.
- [Insurance and bonding](#), including fidelity bond, errors and omissions, and cyber and wire fraud insurance coverage. Request evidence of bonding and insurance, and verify coverage as part of your due diligence.
- [Experience and expertise](#) with delayed, reverse, improvement, leasehold improvement, zero equity, foreign property, partnership installment notes (PINs) or QI Notes, and other complex exchanges.
- [Reputation and responsiveness](#), including how long the firm has operated, whether advisors refer clients to the firm, and the online reviews.

Are all qualified intermediaries the same?

No, qualified intermediaries are [not created equal](#), and the differences are significant. The 1031 exchange QI industry has no national licensing body or regulatory authority to provide independent government oversight. Most qualified intermediaries are not licensed, regulated, audited, or examined, and have no minimum insurance or equity capital requirements. This is a serious concern given the large sums they hold for their investors.

[Exeter 1031 Exchange Services, LLC](#) is one of the few qualified intermediaries with any kind of regulatory oversight, holding client funds in [qualified trust accounts](#) through [Exeter Trust Company](#), which is licensed, [regulated](#), and audited by the Wyoming Division of Banking.



What should I look for in a best-in-class qualified intermediary?

Look for a qualified intermediary with proven expertise, experience, meaningful regulatory oversight, strong financial safeguards, and robust internal controls. It is not the size of the qualified intermediary that matters most, but how they manage your funds and control risk.

Ask each candidate these key questions:

- Are you directly licensed and regulated by any government or regulatory agency?
- Are you subject to government or regulatory examinations?
- Do you have independent financial statement, as well as policy, procedure, and operational audits performed by an external independent CPA firm?
- Do you carry fidelity bond, errors and omissions, cyber and wire fraud, and financial institution blanket bond insurance coverages?
- Do you hold client funds in separate, segregated, dual-signature, restricted qualified trust accounts or qualified escrow accounts?
- Do you have the depth of knowledge and experience to administer my specific transaction?
- A consultative best-in-class qualified intermediary should be willing to work alongside your legal, tax, and financial advisors.

Why is regulatory oversight important when selecting a qualified intermediary?

Regulatory oversight is critical because it provides independent, third-party verification through regulations, examinations, and audits that a qualified intermediary operates in a safe, sound, and secure manner. Qualified intermediaries hold significant fiduciary duties in safeguarding your exchange funds.

Government oversight and independent annual regulatory audits, such as those performed by a State Division of Banking, help prevent failures before they happen. Most qualified intermediary failures would have been prevented through proper regulation. Regulated entities also operate under best practices shared across the industry. Exeter 1031 Exchange Services, LLC pursued a rigorous, multi-year application and review process to obtain its own trust company charter. The result was Exeter Trust Company, which is licensed, regulated, and audited by the Wyoming Division of Banking.

How are my 1031 exchange funds protected?

Your exchange funds are best protected when held in separate, segregated, dual-signature, restricted qualified trust accounts, backed by regulatory oversight and regulatory required insurance, bonding, equity capital reserves.

Exeter protects client funds through multiple layers of security:

- Qualified trust accounts at Exeter Trust Company, regulated by the Wyoming Division of Banking.
- Dual-signature requirements, so no funds move without your written authorization. Disbursements require written authorization from four (4) Exeter team members and the client, acting together, before any funds can be transferred.
- Excess FDIC insurance, spreading funds across several commercial banks for \$3.25 million in FDIC insurance coverage, with up to \$150.0 million available through an Insured Cash Sweep or ICS program.
- \$15.0 million fidelity bond, \$10.0 million errors and omissions insurance, \$15.0 million cyber and wire fraud insurance, plus more than \$8.0 million in equity capital.

What is a qualified trust account?

A qualified trust account (QTA) is a separate, segregated account specifically authorized under the Treasury Regulations to hold a client's 1031 exchange funds as client trust funds rather than corporate funds.



This distinction is crucial. In the LandAmerica 1031 Exchange Services bankruptcy case, the court ruled that client exchange funds were corporate funds subject to general creditor claims, because they were not held in qualified trust accounts or qualified escrow accounts. The court noted it would have ruled differently had the funds been properly held. Exeter 1031 Exchange Services, LLC has always held client funds in separate, segregated, dual-signature qualified trust accounts at no additional cost to the client.

What are the tax consequences of a failed 1031 exchange?

A failed 1031 exchange can convert a tax-deferred transaction into a taxable sale, exposing you to substantial tax liabilities. If you take actual or constructive receipt of the proceeds or miss a deadline, the IRS will treat the entire transaction as taxable.

Potential consequences include:

- Federal capital gains tax
- Depreciation recapture tax
- State income tax, where applicable
- Net investment income tax, depending on your tax profile

Even an otherwise valid exchange can trigger partial tax through taxable boot. To protect your transaction, set up the exchange before closing, meet every deadline, and consult your legal, tax, and financial advisors.

What is taxable boot in a 1031 exchange?

Taxable boot is any portion of your exchange that is not reinvested in like-kind replacement property, and it triggers recognition of capital gains or depreciation recapture tax. Boot commonly arises in two forms: cash boot and mortgage boot.

You may create taxable boot by:

- Taking cash out of the transaction (cash boot)
- Buying replacement property of lower value (trading down in value)
- Failing to replace debt that was paid off on the relinquished property (mortgage boot)
- Improperly handling prorations or closing debits and credits

To defer 100% of your gain, acquire replacement property of equal or greater value, reinvest all net equity, and replace any debt with new debt or additional cash.

How much does a 1031 exchange cost?

The cost of a 1031 exchange depends on the type and complexity of the transaction. [Fee models](#) vary widely across the industry, so it is important to compare all costs carefully before selecting a qualified intermediary.

Exeter's fee structure is transparent:

Forward 1031 exchange: \$1,295.00 for one relinquished and one replacement property, plus \$300.00 per additional relinquished property or replacement property. This includes the qualified trust account with Exeter Trust Company.

Reverse 1031 exchange: \$7,850.00 (no lender) or \$8,850.00 (with a lender), plus \$500.00 per additional property. This includes the qualified trust account with Exeter Trust Company.



Complex exchanges (improvement, reverse improvement, leasehold improvement, foreign property, zero equity, partnership installment notes (PINs) or QI Notes (QI Notes), and others): generally \$7,500 to \$15,000 depending on the complexity and risks of administering the exchange.

Exeter includes a separate, segregated, dual-signature qualified trust account at no additional cost with each and every exchange transaction. When comparing fees, weigh set-up charges, per-property fees, interest income retained by the QI, and any transactional charges such as wire transfer fees or check disbursement charges.

1031 exchange transactions are complex income tax strategies. You should always consult with competent legal, tax, and financial advisors before entering into any 1031 exchange. The Exeter Group of Companies does not provide legal, tax, or financial advice. To speak with a 1031 exchange specialist, call (866) 393-8377, email ask@exeterco.com, or visit exeterco.com 24 hours a day, 7 days a week. You can reach Lauren H. Speidel, Vice President, Exeter 1031 Exchange Services, LLC, in our Midwest Regional Office located in [Chicago, Illinois](#).