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**CHECKLIST FOR DOING A
SECTION 1031 EXCHANGE OF REAL ESTATE**

Below is a checklist of items for a §1031 exchange of real estate.

<u>ITEM</u>	<u>RESPONSIBLE PARTY</u>
1. Put provision in the Relinquished Property's sales agreement stating that the buyer of the Relinquished Property will cooperate with taxpayer to do a §1031 exchange.	_____
2. Determine if the Relinquished Property is used for "investment" or "trade or business" purposes in order to qualify under §1031.	_____
3. Is the Relinquished Property subject to any indebtedness? If so, then §1031(b)-(c) should be reviewed as to boot issues. Plan to avoid gain on boot by refinancing Relinquished Property or by paying down Relinquished Property indebtedness.	_____
4. Is cash or boot received in the exchange? If so, then calculate gain on exchange.	_____
5. Is the taxpayer related to the seller of the Replacement Property or the buyer of the Relinquished Property? If so, then §1031(f) related party rules must be reviewed. Verify that qualified intermediary is not related to the taxpayer.	_____
6. Is the Replacement Property "like-kind" to the Relinquished Property?	_____

ITEM

RESPONSIBLE PARTY

- (b) As an alternative, identify multiple Replacement Properties whose values are less than or equal to 200% of the fair market value of the Relinquished Property.
- (c) As an alternative, identify an unlimited number of Replacement Properties so that 95% of the value of all identified properties is received by the taxpayer before the end of the exchange period.

- 12. If a Qualified Intermediary is used, then the exchange agreement, along with the other documents, must be drafted to include those provisions required by Reg. §1.1031(k).
- 13. For Relinquished Property's sales proceeds being held by the Qualified Intermediary, verify that the taxpayer has no rights to receive, pledge, borrow or otherwise receive these benefits of cash or cash equivalence.
- 14. If the proceeds held by the Qualified Intermediary are to be secured by a deed of trust or by a letter of credit, then verify that this security is structured to comply with the Regulations.
- 15. If the monies held by the Qualified Intermediary are to have a growth factor or bear interest, structure so that the taxpayer will not be in constructive receipt of this growth factor pursuant to the Regulations.
- 16. The Qualified Intermediary must close the purchase of the Replacement Property within the 180-day exchange period following the closing of the sale of the Relinquished Property.
- 17. In a deferred exchange, have two closing statements, one for the taxpayer who is exchanging the Relinquished Property to the Qualified Intermediary, and another closing statement from the Qualified Intermediary to the buyer of the Relinquished Property.
- 18. In a deferred exchange, the Relinquished Property escrow closing statement should show that the sales proceeds of the Relinquished Property are paid to a Qualified Intermediary.

ITEM	RESPONSIBLE PARTY
19. In a deferred exchange, have a closing statement that shows the transfer from the seller of the Replacement Property to the Qualified Intermediary, and a second closing statement showing the transfer from the Qualified Intermediary to the taxpayer. The closing statement should identify the Qualified Intermediary as the purchaser.	_____
20. Calculate the tax basis of Replacement Property for depreciation and other tax purposes.	_____
21. Have the escrow holder exempt the exchange from California withholding requirements.	_____
22. File federal tax Form 8824 with taxpayer's income tax return.	_____

This checklist is a general list of items which the accountant and other tax professionals should verify are completed in a §1031 exchange of real estate. However, since each exchange has unique issues, this list should be modified to fit the specific facts of a particular exchange. Please email Robert A. Briskin at rbriskin@rablegal.com with any questions regarding this checklist.

Disclaimer: This checklist is not, nor is it intended to be, legal advice. You should consult with an attorney and other professionals before utilizing this checklist.

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