

# 1031 EXCHANGE INSIGHTS

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In an **Exchange of Business Assets**, “Personal Property” which might seem at first glance to be a part of the Real Estate, may be separated from Real Estate for Section 1031 exchange purposes to reduce your income taxes on the sale of Business Assets. It pays to ask a Knowledgeable Qualified Intermediary!

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Our tax opinions protect your Section 1031 exchanges **from IRS penalties** and guarantee your tax results! **Only A Qualified Tax Attorney** can give these opinions, not Title Companies and not Exchange Companies.

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## **Timberland exchange involves like-kind properties where the cutting of the timber within 2 years was not considered a disposition.**

The IRS ruled in PLR 200541037 that the exchange of a taxpayer’s 100% interest in old-growth timberlands for a related party’s 100% interest in reproduction timberlands constitutes a like-kind exchange under Section 1031. The related party’s planned cutting of the old-growth timber within two years of the exchange does not require recognition of gain pursuant to Section 1031 (f) (1).

The taxpayer and her husband acquired substantial timberlands property for investment. They divorced, but they continued holding the property as co-tenants. After the husband died, his undivided one-half interest was acquired by a holding company whose subsidiaries were engaged in owning and managing timberlands, harvesting timber, and manufacturing and selling various wood products. The taxpayer and the company were considered related persons pursuant to Sections 267 (b) and 1031 (f)(3). The taxpayer wanted to hold the timberlands strictly as investment property, while the company wanted to harvest any old-growth timber before it lost its’ value. To accommodate these conflicting interests, the taxpayer and the company entered into a like-kind exchange in which the taxpayer’s 100% interest in old-growth timberland was exchanged for the company’s 100% interest in reproduction timberlands of equal value. The exchange allowed the company’s business needs to be accommodated, while allowing the taxpayer to continue holding timberlands for investment.

Although a disposition of the property exchange between related persons within two years causes recognition of gain under Section 1031 (f)(1), Rev. Rul. 2001-50, 2001-2 CB 343, ruled that the cutting of timber was not a taxable sale for purposes of the built-in gains under Section 1374 (d)(3), regardless of whether Section 631 applies to the timber transaction.

The Service pointed out that, in the present case, after the cutting and disposition of the timber, the company will still own the underlying land that was exchanged in the transaction. Therefore, it ruled that the planned cutting of the timber will not trigger recognition of gain under Section 1031 (f), regarding of whether 631(a) or (b) applies to the transaction.

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Providing tax advice on  
like kind exchanges.

Strategic Property Exchanges,  
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**Merry Christmas to All, and to All a Happy New Year!**

**Let us help you lower your taxes in 2006.**