

The logo for 1031CORP. features the text "1031CORP." in a white, serif font. A blue, multi-pointed starburst graphic is positioned behind the "1" and "0" of "1031".

1031CORP.

The title "1031 Guide for Title & Escrow Officers" is displayed in a bold, white, sans-serif font. It is enclosed within a thin orange rectangular border. The background behind the text is a dark blue field with a subtle, lighter blue starburst pattern.

**1031 Guide
for Title &
Escrow Officers**

The contact information is presented in a black, sans-serif font on a white background. It includes a phone number and a website URL.

1.800.828.1031
www.1031CORP.com

Benefits of 1031 Exchanges for Title & Escrow Officers

Increase Your Title Orders

- Educating your existing clients on 1031 exchanges and their many benefits may motivate them to sell property that is no longer fitting their needs and acquire desirable replacement property.
- To complete the exchange process, a replacement property must be acquired almost always requiring title insurance.
- All equity from the sale of the relinquished property must be reinvested but nothing precludes the Exchanger from refinancing the replacement property at a later time. This results in the need to purchase title insurance a second time.



Build Customer Loyalty

- Knowing a client's short and long-term objectives and helping him/her accomplish them establishes you as a trusted advisor. A 1031 exchange is often an excellent vehicle to accomplish these goals and your knowledge of 1031 will be invaluable.
- Suggesting 1031 exchanges when appropriate can help develop a life-time relationship with a valued client.
- A client that defers a tax bill today is always thrilled to share his/her success story with others. When asked how he/she learned about 1031 exchanges, your client is always more than happy to pass on your name and contact information. These word-of-mouth referrals are priceless.

FAQs for Title & Escrow Officers

Why should I recommend a 1031 exchange?

You are in the ideal position to recommend an exchange when appropriate. Oftentimes the Seller is unaware of 1031 exchanges and misses the opportunity. Suggest a 1031 exchange any time the Seller does not live in the property, and you may be able to help the Seller defer significant gains while earning a great referral source. Request a co-branded "Hold on to Your Money" or "1031 Exchanges Made Easy" flier from 1031 CORP. to give to the Seller.



Is there additional work for the closing officer when a 1031 is involved?

You will be asked to make minor changes to the closing statement to reflect the exchange. Most other aspects of the transaction are handled as normal. The QI will forward detailed instructions prior to closing. The QI will sign the Settlement Statement after it is approved by the Exchanger, and you will be asked to wire the net proceeds to the QI. On the purchase side, the QI will transfer the exchange funds to you for the acquisition of the replacement property.

Why is it important to make changes to the closing statement?

While the 1031 regulations do not specifically require the changes to the statement, the changes do go a long way to properly document the exchange transaction in the unlikely event of an audit. Some of the changes a QI will ask the closing officer to make include:

- List 1031 CORP. as Qualified Intermediary for the Exchanger
- Provide a signature line for the QI and a "Read and Approved" line for the Exchanger.
- Any excess funds are usually returned to the QI and held until the end of the 180-Day Exchange Period

Can lender fees be paid from the 1031 exchange funds?

Unfortunately, no lender fees (application fees, points, etc.) can be paid from the exchange funds when purchasing the replacement property. These fees are classified as loan acquisition fees and not routine property closing costs. The Exchanger must pay these fees out-of-pocket.

How is title insurance handled when there is a 1031 exchange?

In a typical exchange, title insurance is handled as normal.

How is the Form 1099-S handled when the relinquished property is sold?

When the Exchanger sells the relinquished property, the 1099-S should include the Exchanger's name and address. In a typical exchange, the QI should not be listed on the 1099-S. The full consideration should be shown and when applicable, check the box indicating that additional property or services will be received as consideration.

What is the purpose of the Assignment of the Agreement of Sale?

There are two general purposes of this clause. (1) Provide the required notification to the other party of the transaction of the Exchanger's intent to complete a 1031 exchange; and (2) assign Exchanger's rights (but not obligations) in the Agreement of Sale to the QI.

How are the deeds handled in a 1031 exchange?

In a typical exchange, the deed is prepared as normal with the Seller conveying title directly to the Buyer.

How are excess funds during Exchanger's acquisition of replacement property handled?

As the Exchanger cannot have actual or constructive rights to the exchange proceeds, paying any funds to the Exchanger can create a taxable event. Whenever there are excess funds for the purchase of replacement property, contact the QI for instructions immediately. When in doubt, always forward excess funds to the QI.

Are there any vesting requirements in a 1031 exchange?

There is a requirement that title to both the relinquished and replacement properties be vested in the same owner. If the Exchanger asks you to vest title in a manner inconsistent with the QI's instructions, contact the QI immediately.

Can the Exchanger add a spouse to the deed of the replacement property?

There is a requirement that the replacement property be of equal or greater value than the relinquished property. If adding a spouse to the deed, the value of the Exchanger's percentage of ownership must be equal or greater than the net selling price of the relinquished property. Generally, to make it feasible to add a spouse without creating a taxable event, the Exchanger's replacement property must be at least twice as valuable as the relinquished property. Be sure to let the QI know immediately if you are asked to add another party to the deed.

Can the Exchanger acquire the replacement property in the name of an LLC?

An exception to the same taxpayer requirement is a disregarded entity in which the underlying owner/sole member is the same one that sold the relinquished property.

1031 Exchanges and the Closing Process

General requirements:

A Qualified Intermediary (QI) must be used to facilitate the 1031 exchange. 1031 CORP. serves as the QI and will provide the closing officer with instructions to help document the transaction as a 1031 exchange. Do not hesitate to contact 1031 CORP. any time with questions.

Note in a 1031 exchange, the following are handled as in any other transaction:

- The deed transfers title from the Seller to the Buyer.
- Transfer taxes or stamps are paid as normal.
- Title insurance is handled as normal.

Relinquished Properties:

Following are items to keep in mind when handling the sale of the Exchanger's relinquished property:

- **Form 1099-S:** The name and tax identification number of the Exchanger should be used. The name and tax identification number of the QI should not appear on the Form 1099-S. The full sale price may be used and there is usually a box that should be checked indicating additional property or services will be received as consideration.
- **Closing Statement:** While the regulations do not require any changes be made to the closing statement, QI will ask the closing officer to make changes to reflect a 1031 exchange. These changes can go a long way in the event the Exchanger is audited. There are no standard changes within the exchange industry and preferences vary by different QIs. Many closing software programs have an option to indicate the transaction is part of a 1031 exchange.
 - **Name of the Seller:** List the Seller as 1031 CORP. as Qualified Intermediary for the Exchanger.
 - **Signature Line for the Qualified intermediary:** 1031 CORP. will want to sign the closing statement after reviewing for any issue that may trigger a taxable event for the Exchanger. The Exchanger usually signs as having "Read and Approved."
 - **Net Proceeds/Bottom Line:** In a 1031 exchange, the Exchanger cannot receive any of the sale proceeds without triggering a taxable. 1031 CORP. will provide wiring instructions to an exchange account we have opened specifically for each exchange.

- **Security Deposits and Prepaid Rents:** Security deposits and prepaid rent credits cannot be paid from the Exchanger to the Buyer using exchange proceeds without creating a taxable event. The Exchanger should bring his own funds to closing to cover these expenses and they can be shown on the closing statement as Paid Outside Closing (P.O.C.).
- **Non-Routine Closing Expenses:** Some Exchangers may ask the closing officer to pay expenses from the exchange proceeds that are not routine transactional expenses, such as the last electric bill, invoices for recent repairs and even credit card bills. Payment of these expenses will create a taxable event for Exchanger as will tax liens and judgments. Chances are that Exchanger did not discuss these expenses with their Exchange Officer in advance and the closing officer should contact 1031 CORP. for guidance.
- **Assignment of Relinquished Property:** The rights, but not the obligations, of the Exchanger in the Agreement of Sale must be assigned to the QI. 1031 CORP. may ask the closing officer to have the Assignment signed during closing and the Buyer is then asked to sign to Acknowledgement the Assignment.
- **Escrows for Repairs/Outstanding Issues:** If funds must be held in escrow for repairs or outstanding issues, there are several things that must be considered.
 - **Preparing the Escrow Agreement and Disbursement of Escrow:** If the escrow is expected to be for a short time and the escrow funds will be released before the replacement property is scheduled to be acquired, the escrow agreement should state that all remaining funds be forwarded to the 1031 CORP. and not directly to the Exchanger.
 - If the escrow is for an expense, such as back taxes or an outstanding lien, and will take quite a while to disburse or will disburse after the replacement property is acquired, the Exchanger will be encouraged to bring money to closing from his/her own pocket to avoid a taxable event.

Replacement Properties:

Following are items to keep in mind when handling the sale of the Exchanger's replacement property:

- **Closing Statement:**
 - **Name of Buyer:** List the Buyer as 1031 CORP. Qualified Intermediary name of Exchanger.
 - **Signature Line for the Qualified intermediary:** 1031 CORP. will want to sign the closing statement after reviewing for any issue that may trigger a taxable event for the Exchanger. The Exchanger usually signs as having "Read and Approved."
 - **1031 Exchange Funds:** On the Buyer's side of the closing statement, show a credit in the amount of the exchange funds. These are the funds from the sale of the Exchanger's relinquished property and will be forwarded by 1031 CORP. prior to closing.
 - **Assignment of Relinquished Property:** The rights, but not the obligations, of the Exchanger in the Agreement of Sale must be assigned to the QI. 1031 CORP. may ask the closing officer to have the Assignment signed during closing and the Buyer is then asked to sign to Acknowledgement the Assignment.
 - **Excess Funds:** If there are any excess funds in favor of the Exchanger, please contact 1031 CORP. for direction.



State Non-Resident Withholding Issues:

Currently, all states with a non-resident withholding requirement have an exclusion if the sale is part of a 1031 exchange. However, the rules vary by state with some states require paperwork be submitted in advance to obtain the exemption while others require the necessary documents be completed at closing.

How You Can Use 1031 Exchanges as a Marketing Tool

The more you know about 1031 tax-deferred exchanges and their benefits, the more helpful you can be to your clients. 1031 CORP. is your 1031 resource and our Exchange Team is available to help you use your knowledge of 1031 exchanges as an effective sales tool to help grow your business.

Following are some ways you can spread the word about exchanges and help increase your referrals:

- Incorporate the suggestion of 1031 exchanges into your daily work habits
 - If the seller does not live in the property, consider suggesting they consider a 1031 exchange.
- Include “Knowledgeable in tax-deferral strategies” in your bio and on social networking bios and on your company website
- Educate your clients on 1031 exchanges
 - In your electronic and print newsletters
 - On your website
 - By hosting seminars for your real estate and attorney customers and/or investors
 - In your Blog entries
 - In your social networking entries
- Stay educated on the basics and new developments with 1031 exchanges
 - Bookmark www.1031CORP.com and check back for updates
 - Sign up for *Exchanging Times*® monthly newsletter
 - Attend 1031 seminars and webinars

1031 CORP. is your Exchange Partner

- Our Exchange Team is always available to answer 1031 exchange questions for you and your client.
- Our Sales and Marketing Team can assist you plan webinars/seminars as well as co-branded collateral materials.

Our promise to you:

1. Keep it simple for all party.
2. Always make you look good.

