

TAX-FREE EXCHANGES UNDER § 1031 2026-2027 EDITION RELEASE NOTES

Here are some of the areas that contain the changes.

Chapter 2. Requirements for Tax-Free Exchange:

- A discussion of the rental to a related party as a qualified use.

Chapter 4. Tax Consequences of an Exchange:

- New California case on loan reserves as taxable boot.
- New York case on closing expenses as taxable boot and the need for adequate documentation of payments made at closing.
- Syndication fees paid in an exchange.
- New York case on penalties in an exchange case.
- Form 1099-S filing, including in reverse exchanges for transfers to and from the EAT.
- Audit list for FTB audit.

Chapter 6. Forward Exchanges under Regulations:

- Changes to the Disaster Postponement Notices based on more recent notices.
- Disregarded entities as the “Taxpayer” for 1031 purposes.
- New case regarding a QI’s duty of care to the exchangor.
- The “open transaction doctrine” and the exchangor’s receipt of deposits prior to the relinquished property closing.
- Referral commissions and finder’s fees paid by QIs to disqualified persons.

Chapter 7. Documenting Exchange Transactions:

- Modification to the assignment of rights form for the replacement property when a disregarded entity is substituted in as buyer with a deposit previously made by the exchangor.

Chapter 8. Reverse and Improvement Exchanges:

- Update to FinCEN residential real estate rule and EATs.
- IRS Form 1099-S reporting for reverse exchanges with relinquished property parking and replacement property parking.
- Amending a qualified exchange accommodation agreement to go beyond 180 days.

Chapter 9. Current Problems in Exchanging:

- New York drop and swap case.
- Post-exchange conversion of a DST into REIT operating partnership shares.

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