

Perhaps you should consider a “like-kind” exchange. With a like-kind exchange you can defer any tax you would incur if you were to sell your current property and apply all of the appreciation in your property towards acquiring the replacement property.

To qualify for like-kind treatment, four conditions must be met:

- (1) There must be an exchange, rather than a sale, of properties.
- (2) You must hold both the property traded and received for business or investment purposes.
- (3) The properties must be of like-kind, e.g., real estate for real estate. Improved real estate can be traded for unimproved real estate, and vice versa.
- (4) The properties must not be stocks, bonds, notes, securities, evidences of debt, or partnership interests. In addition, the property traded and received must not be held primarily for sale, such as inventory.

The most common types of exchanges are "simultaneous" exchanges and "deferred" exchanges.

A simultaneous exchange is when you trade your property for property that another party already owns, i.e., the transfers occur contemporaneously.

A deferred exchange is one in which you transfer property for the other party's promise to acquire and transfer property of like-kind to you. Deferred exchanges must satisfy two timing rules. First, within 45 days of the transfer of your property, you must give the other party written identification of the property you want to receive. Second, you must receive that property by the earlier of 180 days after you transfer your property or the due date of your tax return for the year of your transfer.

The engagement of a qualified intermediary to handle a deferred exchange is recommended. This eliminates the purchaser's participation in the completion of the deferred exchange. As further security, depositing the purchaser's funds in an escrow or trust account is also recommended. Both the exchange agreement with the intermediary and any escrow or trust agreement must expressly limit your right to receive, pledge, borrow, or otherwise obtain the benefits of the cash or cash equivalent received from the purchaser before the end of the exchange period. Also, neither the intermediary nor the escrow holder or trustee may be a "disqualified" person such as your agent or someone who is "related" to you or your agent. Thus, your current CPA, attorney, etc. cannot serve as your intermediary.

Here are some special rules to note about like-kind exchanges:

- The tax consequences to the other party do not affect your tax status.
- If the properties are not equal in value, one party can transfer cash or other non-like-kind property ("boot") to equalize the exchange. Although the boot is taxable to the recipient, the transaction will

usually still qualify for the favorable tax treatment.

- If you transfer a liability in the exchange, the liability is treated as cash and thus is taxable to you.

Structuring a like-kind exchange can be complex, but the tax deferral is often worthwhile.