

1031 Exchange Wording For Use in Purchase and Sale Contracts

Wording in a purchase and sale contract for property involved in a 1031 exchange is no longer required by the IRS. However, there are at least two reasons why you may wish to include language similar to that shown below in such contracts:

- (1) it puts the other party on notice that you wish to complete an exchange, thereby avoiding any threat of non-cooperation from the other party, or delays at the closing;
- (2) it notifies the title company or attorney handling the escrow closing that the transaction is part of an exchange, so that they are prepared to include the Qualified Intermediary in preparation for the closing.

Following is sample language for use in your contracts.

PURCHASE AGREEMENT FOR THE SALE OF RELINQUISHED PROPERTY

Buyer hereby acknowledges that Seller has the option to qualify this transaction as part of a tax deferred exchange under section 1031 of the Internal Revenue Code. Buyer agrees that Seller may assign its rights and obligations under this agreement to The 1031 Exchange Experts, LLC as necessary to facilitate the exchange. Buyer agrees to cooperate with the Seller and The 1031 Exchange Experts, LLC in order to complete the exchange, which will neither delay the closing nor cause additional expense or liability to the Buyer.

PURCHASE AGREEMENT FOR THE ACQUISITION OF REPLACEMENT PROPERTY

Seller hereby acknowledges that Buyer has the option to qualify this transaction as part of a tax deferred exchange under Section 1031 of the Internal Revenue Code. Seller agrees that Buyer may assign its rights under this agreement to the 1031 Exchange Experts, LLC as necessary to facilitate the exchange. Seller agrees to cooperate with the Buyer and The 1031 Exchange Experts, LLC in order to enable the Buyer to complete the exchange, which will neither delay the closing nor cause additional expense or liability to Seller.

Note: The above language is provided by The 1031 Exchange Experts, LLC as a service to our clients, and is not intended as legal or tax advice. Please use contract wording provided by your attorney, tax advisor, or broker if they so request.