Completing Form 8824

Reporting IRC §1031 Like-Kind Exchanges

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WHEN TO FILE

This form must be included with your tax return for the tax year in which a relinquished property was transferred (given up). Generally, the IRS prefers the use of only one 8824 form and the attachment of a statement indicating how you determined the gain if more than one exchange is entered into during one tax year.

PART I

Sale

Line 1: List the address or legal description and type of property relinquished (sold).

Acquisition

Line 2: List the address or legal description and type of property received.

Date of Purchase

Line 3: List the month, day, year relinquished property was originally acquired.

Date of Sale

Line 4: List the date relinquished property was transferred to the buyer.

Identification Date

Line 5: Enter the date the replacement property was identified. This would be a date within 45 days of the transfer of the property given up. If you acquired the replacement property prior to the 45th day, then list the acquisition date here.

Acquisition Date

Line 6: Enter the date replacement property was acquired. It must have been acquired by the earlier of the due date for the tax return for the year in which the relinquished property was sold (unless an extension was filed) or 180 days.

Related Party Sale

Line 7: If you traded properties with, or acquired property from, a related party, you must check Box "a" "yes." A related party is a spouse, brother or sister, parent, grandparent or other lineal descendant. It is also a corporation, partnership or trust in which you own more than a 50% interest. Any property received by either party to a related party cannot be sold for two years without invalidating the exchange and it may be disallowed altogether. In addition, you are required to include this form with your tax returns for two additional years following the exchange if you checked Box "a."

Caution: *Transferring a relinquished property to an unrelated third party and subsequently acquiring a replacement property from a related party in a qualified intermediary structured exchange may be deemed an invalid exchange by the IRS.* ***Consult a CPA or other tax professional if your replacement property was purchased from a related party in a qualified intermediary exchange.***

PART II (Required only if exchange was with a related party and Box "a" was checked)

Related Party Info

Line 8: List the name, address, relationship, and tax identification number of the related party.

Line 9: Check "no" if the property transferred is still owned by the related party. *If you must check "yes," then the exchange is invalid unless one of the exceptions at Line 11 applies.*

Line 10: Check "no" if you still own the property received from the related party. *If you must check "yes," then the exchange is invalid unless one of the exceptions at Line 11 applies.*

Exceptions

Line 11: If you checked "yes" at either Line 9 or Line 10, then you must pay tax on the deferred gain unless one of these exceptions applies:

Box "a"- If a disposition of either property was due to the death of either party, then there is no violation of the related party provisions and no tax will be due.

Box "b"- If a disposition of either property was due to an involuntary conversion, then there is no violation of the related party provisions and no tax will be due. An involuntary conversion is generally the receipt of money from either a government entity due to a taking of property (e.g., eminent domain action) or from an insurance company due to destruction of property beyond the control of the owner (e.g., hurricane or fire).

Box "c"- Might apply in those instances where property was taken without the consent of the owner. (e.g., foreclosure or trustee's sale).

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Part III

Determining Boot

Lines 12, 13 and 14: To be completed only if, along with the "like kind" property relinquished, you transferred other property that was not like kind (e.g., cash, notes, or personal property not replaced).

Example

You sold a hotel with beds, desks, etc. and acquired an unfurnished apartment building. The aggregate fair market value of the personal property which will not be replaced was $100,000 with an adjusted basis* of $10,000. You would report the gain from the sale of the beds and desks as follows:

Line 12: List the total FMV of property **$100,000.**
Line 13: List the adjusted basis* of **$10,000** for the property.
Line 14: Subtract Line 13 from Line 12 to determine the amount of recognized gain and enter that figure $100,000 (-) $10,000.00 = **$90,000.**

For the remainder of the form, refer to the following two examples for assistance in completing the form.

**For a description on how to determine adjusted basis see "Hint" below at Line 18.*

Cash & Debt Relief Boot Example

Example 1

Adjusted basis of relinquished property:	$40,000
Closing costs (total expense of sale & purchase):	$5,000
Accelerated gain subject to recapture:	$2,000

	Property Transferred	Property Received
Sales Price	$100,000	$80,000
Equity	$50,000	$40,000
Debt	$50,000	$40,000

Cash Boot Example

Example 2

Adjusted basis of relinquished property:	$30,000
Closing costs (total expense of sale & purchase):	$4,000
Accelerated gain subject to recapture:	$0.00

	Property Transferred	Property Received
Sales Price	$100,000	$120,000
Equity	$50,000	$40,000
Debt	$50,000	$80,000

Cash & Mortgage Boot

Line 15: List any cash or other property received plus net liability of which you were relieved. This line is where **"boot"** is indicated.

Example 1

The taxpayer received $10,000 in cash (i.e., equity not spent), was relieved of $10,000 in net debt, and had $5,000 in closing costs.
$10,000 [cash] (+) $10,000 [net debt relief] = $20,000 (-) $5,000 [Closing Costs] = $15,000.
List **$15,000** (the amount of "boot" recognized).

Example 2

The taxpayer received $10,000 in cash (difference in equity), had no net debt relief, and had $4,000 in closing costs.
$10,000 [cash] (-) $4,000 [Closing Costs] = $6,000.
List **$6,000** (the amount of "boot " recognized).

FMV of Replacement Property

Line 16: List the fair market value of the replacement property received in the exchange. If you paid less than market value, you must list the property's actual value and not the purchase price.

Example 1: Enter **$80,000**

Example 2: Enter **$120,000**

Line 17: Add Lines 15 and 16 and enter the result.

Example 1: $80,000 (+) $15,000 = $95,000 (Line 16 (+) Line 15 = Line 17) Enter **$95,000**

Example 2: $120,000 (+) $6,000 = $126,000 (Line 16 (+) Line 15 = Line 17) Enter **$126,000**

Basis-Replacement Property

Line 18: List the sum of:

a. Adjusted basis of relinquished property (property given up).
b. Cash paid (in addition to exchange equity paid to seller of replacement property).
c. Increase in new debt.
d. Any transaction expenses not previously listed on Line 15.

***Hint**: Adjusted Basis is determined by taking the original net acquisition cost of the property given up (relinquished property) and subtracting the total of any depreciation deductions taken during its ownership. You then add to this number the cost of any capital improvements made during ownership. The resultant figure is the adjusted basis.*

Example 1:

Adjusted Basis	=	$40,000
(+) Cash Paid In	=	$0.00
(+) Debt Increase	=	$0.00
(+) Other Costs	=	$0.00
Total		$40,000

Enter **$40,000**

Example 2:

Adjusted Basis	=	$30,000
(+) Cash Paid In	=	$0.00
(+) Debt Increase	=	$30,000
(+) Other Costs	=	$0.00
Total		$60,000

Enter **$60,000**

Realized Gain

Line 19: Subtract Line 18 from Line 17 to determine the realized gain or loss for this exchange. *Realized gain* is the actual (not necessarily taxable) gain or profit resulting from the sale of a capital asset. *Realized gain* takes into account depreciation recapture as well as transactional costs. Taxable gain can never exceed realized gain.

Example 1: $95,000 (–) $40,000 = $55,000 (Line 17 (–) Line 18 = Line 19) Enter **$55,000**

Example 2: $126,000 (–) $60,000 = $66,000 (Line 17 (–) Line 18 = Line 19) Enter **$66,000**

Line 20: Enter the smaller of Line 15 or Line 19 but not less than zero (0).

Example 1: $15,000 is smaller than $55,000 (Line 15 is smaller than Line 19) Enter **$15,000**

Example 2: $6,000 is smaller than $66,000 (Line 15 is smaller than Line 19) Enter **$6,000**

Accelerated Depreciation

Line 21: If you gave up property (relinquished property) that was subject to accelerated depreciation (generally depreciable real estate acquired between 1981 and 1986), then you must report the excess over straight-line on Line 21. Straight-line for residential rental = 27.5 years, for commercial/industrial = 39 years.

Example 1: Enter **$2,000**
Example 2: Enter **$0.00**

This is the amount of gain subject to tax at ordinary income tax rates. Enter resultant amount on Line 16 of Form 4797.

For personal property: any depreciation recognized due to purchasing a property of lesser value would be listed here (i.e., the difference between the sales price of what was acquired less the sales price of that sold).

Recognized Gain

Line 22: Subtract Line 21 from Line 20 and enter result. If less than zero (0), then enter zero (0). This is the amount of recognized gain subject to capital gains tax. Enter resultant amount on Schedule D if you exchanged a capital asset, or on Form 4797 line 5 or 16 if you exchanged a property used in a trade or business.

Example 1: $15,000 (–) $2,000 = $13,000 (Line 20 (–) Line 21 = Line 22) — Enter **$13,000**

Example 2: $6,000 (–) $0.00 = $6,000 (Line 20 (–) Line 21 = Line 22) — Enter **$6,000**

Line 23: Add Line 21 and Line 22. This is the total amount of **recognized gain. Recognized gain** is the gain subject to tax.

Example 1: $2,000 (+) $13,000 = $15,000 (Line 21 (+) Line 22 = Line 23) — Enter **$15,000**

Example 2: $0.00 (+) $6,000 (Line 22) = $6,000 (Line 21 (+) Line 22 = Line 23) — Enter **$6,000**

Gain Deferred

Line 24: Subtract Line 23 from Line 19. This is the amount of **deferred gain** (non-taxable gain) due to the use of the §1031 exchange.

Example 1: $55,000 (–) $15,000 = $40,000 (Line 19 (–) Line 23 = Line 24) — Enter **$40,000**

Example 2: $66,000 (–) $6,000 = $60,000 (Line 19 (–) Line 23 = Line 24) — Enter **$60,000**

New Basis

Line 25: Subtract Line 15 from the sum of Lines 18 and 23. This determines the **new basis** in the replacement property.

Example 1: $40,000 (+) $15,000 (–) $15,000 = $40,000 (Line 18 (+) Line 23 (–) Line 15) — Enter **$40,000**

Example 2: $60,000 (+) $6,000 (–) $6,000 = $60,000 (Line 18 (+) Line 23 (–) Line 15) — Enter **$60,000**

CONCLUSION

If you entered a number other than zero (0) on **Line 23** (Recognized Gain), then you have a taxable gain. If this number was zero (0), then your exchange was completely tax deferred!

This material is provided for informational purposes only and is not to be construed as tax advice. The reader is strongly advised to speak with a tax consultant before attempting to employ any of the concepts stated herein.

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