



1031 Exchanges

LIKE-KIND INTANGIBLE REAL PROPERTY INTERESTS

By way of federal regulation and underlying case law, Intangible Assets of a type described on the next page are deemed real property for Sec. 1031 Exchange purposes. As a result, Taxpayers can leverage Sec. 1031 of the tax code to exchange qualifying: Easements, Rights, Royalties, Options, Leases, Licenses, and Permits.

How It Works

In a 1031 Exchange, real property is generally sold and acquired using a Qualified Intermediary.

Like-kind references the nature or character of the property, not its grade or quality. Generally, all real property in the United States is “like-kind” to all other domestic real property. The critical test for satisfying the like-kind standard requires taxpayer intent to hold the real property interests for investment purposes or for productive use in a trade or business.

So, you can relinquish an Intangible Asset (i.e. a Conservation Easement) and acquire a Fee Interest (i.e. a single-family rental home) as Replacement Property or vice versa.

Common Types of Like-Kind Intangible Assets & Other Real Property

- Perpetual Easements
 - Conservation
 - Drainage
 - Utility
 - Pipeline
 - Access
 - Development
 - Solar, Wind & Billboard
- Rights
 - Water (deeded or shares)
 - Oil, Gas & Mineral (lease or royalty)
- Leases & Permits
 - Federal or State Grazing Permits
 - Special Land Use Permits issued by Government
 - Cell Tower
 - Wind & Solar
- Long Term Leasehold Estate
 - Airport Hangers
 - Solar, Wind & Billboard
 - Related Party or Same Taxpayer Property
- Options to Acquire Real Property
- Land Development & Entitlement Rights

We look forward to discussing your 1031 Exchange Questions at No Charge!

CONTACT US TODAY!

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Considerations for Intangible Assets & Other Real Property

Below are a few considerations that must be met in order for intangible interests to qualify as “like-kind” Real Property for 1031 Exchange purposes.

- **Long Term Leasehold Estate (Tenant Interest Only)**

Any lease must have a minimum of 30 years in totality left at the time of the 1031 exchange. This could be a 20 year lease, with a 10 year option to extend held by the tenant. Only the tenant of a long term leasehold estate has an exchangeable interest. For example, a Farmer who is the landlord on a wind lease cannot exchange from his interest in that income stream, only the tenant of that lease has an exchangeable real property interest.

- **Intent for Use**

Licenses and permits, with the intent to engage in or operate a business on real property, are not deemed as “like-kind” real property, some examples include liquor or gambling licenses, and there are not eligible for a 1031 exchange. However, licenses and permits that are solely for the use, enjoyment, or occupation of the land or a structure thereon are generally considered real property.

- **Easements**

For easements to qualify as “like-kind” real property in a 1031 exchange, they must be perpetual in duration.

- **Oil, Gas & Mineral Production Payment**

Unlike mineral lease & mineral royalties which are real property for federal tax purposes and are exchangeable, a production payment is a right to the mineral in place for a specified amount of money and thereby is considered to be carved out and not deemed eligible real property for federal taxes purposes.



About Accruit

Founded in 2000 and acquired by Millennium Trust in 2023, Accruit is a leading full service Qualified Intermediary and Exchange Accommodation Titleholder, as well as the developer of the industry’s only patented 1031 Exchange technology

- Dedicated exchange specialists provide individualized service
- Developer of patented 1031 exchange workflow technology, Exchange Manager ProSM
- \$50 million Fidelity bond, \$25 million Errors & Omissions, and \$15 million Cyber Liability
- Client funds held in segregated accounts at top-rated financial institutions
- Multiple Certified Exchange Specialists® on staff
- In-house CPAs and Attorneys
- Experience managing up to \$9 billion annually in exchange transactions
- Board & Committee member of the Federation of Exchange Accommodators (FEA)

Contact Us for a Free Consultation!

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