

# Publication 544

## Sales and Other Dispositions of Assets

For use in preparing

**2024** Returns

Volume 2 of 5



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The replacement period for a condemnation begins on the earlier of the following dates.

- The date on which you disposed of the condemned property.
- The date on which the threat of condemnation began.

The replacement period generally ends 2 years after the end of the first tax year in which any part of the gain on the condemnation is realized. However, see the exceptions below.

***Real property held for use in a trade or business or for investment.*** If real property held for use in a trade or business or for investment (not including property held primarily for sale) is condemned, the replacement period ends 3 years after the end of the first tax year in which any part of the gain on the condemnation is realized.

However, this 3-year replacement period cannot be used if you replace the condemned property by acquiring control of a corporation owning property that is similar or related in service or use.

***Main home in disaster area.*** For your main home (or its contents) located in a federally declared disaster area, the replacement period generally ends 4 years after the close of the first tax year in which any part of your gain is realized.

For more information, go to [IRS.gov/UAC/Tax-Relief-inDisaster-Situations](https://www.irs.gov/UAC/Tax-Relief-inDisaster-Situations).

***Weather-related sales of livestock in an area eligible for federal assistance.***

Generally, if the sale or exchange of livestock is due to drought, flood, or other weather-related conditions in an area eligible for federal assistance, the replacement period ends 4 years after the close of the first tax year in which you realize any part of your gain from the sale or exchange.

If the weather-related conditions continue for longer than 3 years, the replacement period may be extended on a regional basis until the end of your first drought-free year for the applicable region. See Notice 2006-82, 2006-39 I.R.B. 529, available at [IRS.gov/irb/2006-39\\_IRB#NOT-2006-82](https://www.irs.gov/irb/2006-39_IRB#NOT-2006-82).

Each year, the IRS publishes a list of counties, districts, cities, or parishes for which exceptional, extreme, or severe drought was reported during the preceding 12 months. If you qualified for a 4-year replacement period for livestock sold or exchanged on account of drought and your replacement period is scheduled to expire at the end of 2024 (or at the end of the tax year that includes August 31, 2024), see Notice 2024-70, 2024-43 I.R.B. 1001, available at [IRS.gov/irb/2024-43\\_IRB#NOT-2024-70](https://www.irs.gov/irb/2024-43_IRB#NOT-2024-70). The replacement period will be extended under Notice 2006-82 if the applicable region is on the list included in Notice 2024-70.

***Determining when gain is realized.*** If you are a cash basis taxpayer, you realize gain when you receive payments that are more than your basis in the property. If the condemning authority makes deposits with the court, you realize gain when you withdraw (or have the right to withdraw) amounts that are more than your basis.

This applies even if the amounts received are only partial or advance payments and the full award has not yet been determined. A replacement will be too late if you wait for a final determination that does not take place in the applicable replacement period after you first realize gain.

For accrual basis taxpayers, gain (if any) accrues in the earlier year when either of the following occurs.

- All events have occurred that fix the right to the condemnation award and the amount can be determined with reasonable accuracy.

- All or part of the award is actually or constructively received.

For example, if you have an absolute right to a part of a condemnation award when it is deposited with the court, the amount deposited accrues in the year the deposit is made even though the full amount of the award is still contested.

***Replacement property bought before the condemnation.*** If you buy your replacement property after there is a threat of condemnation but before the actual condemnation and you still hold the replacement property at the time of the condemnation, you have bought your replacement property within the replacement period. Property you acquire before there is a threat of condemnation does not qualify as replacement property acquired within the replacement period.

**Example.** On April 3, 2023, city authorities notified you that your property would be condemned. On June 5, 2023, you acquired property to replace the property to be condemned. You still had the new property when the city took possession of your old property on September 4, 2024. You have made a replacement within the replacement period.

**Extension.** You should request an extension before the end of the replacement period. However, you can file your request within a reasonable time after the replacement period ends if you have a good reason for the delay. An extension may be granted if you can show there is reasonable cause for not making the replacement within the replacement period.

Ordinarily, requests for extensions aren't made or granted until near the end of the replacement period or the extended replacement period. Extensions are usually limited to 1 year.



The high market value or scarcity of replacement property isn't sufficient grounds for granting an extension. If your replacement property is being constructed and you clearly show that the construction can't be completed within the replacement period, you may be granted an extension of the period.

Send your request to the address where you filed your return, addressed as follows.

Extension Request for Replacement Period of  
Involuntarily Converted Property

Area Director

Attn: Area Technical Services,  
Compliance Function

The submission should include a cover sheet with the following information.

- Attention: SB/SE Field Examination Area Director [Your State].

- Subject: 1033 Extension Request for Replacement Period of Involuntarily Converted Property.
- Sender's name, title, phone number, and address.
- Date.
- Number of pages (including cover sheet).

Your request must contain all the details outlining your need for the extension, to include, but not limited to:

- Name, address, and social security number or taxpayer identification number of the taxpayer;
- Legal descriptions of property converted;
- Date property was converted;
- Adjusted basis of converted property;
- Date(s) and amount(s) of payment(s) received;

- Copy of return that related to the deferral of the gain; and
- Statement of action taken to replace the property.

**Election to postpone gain.** Report your election to postpone reporting your gain, along with all necessary details, on a statement attached to your return for the tax year in which you realize the gain.

If a partnership or corporation owns the condemned property, only the partnership or corporation can elect to postpone reporting the gain.

***Replacement property acquired after return filed.*** If you buy the replacement property after you file your return reporting your election to postpone reporting the gain, attach a statement to your return for the year in which you buy the property. The statement should contain detailed information on the replacement property.

***Amended return.*** If you elect to postpone reporting gain, you must file an amended return for the year of the gain (individuals file Form 1040-X) in either of the following situations.

- You do not buy replacement property within the replacement period. On your amended return, you must report the gain and pay any additional tax due.
- The replacement property you buy costs less than the amount realized for the condemned property (minus the gain you excluded from income if the property was your main home). On your amended return, you must report the part of the gain you cannot postpone reporting and pay any additional tax due.

***Time for assessing a deficiency.*** Any deficiency for any tax year in which part of the gain is realized may be assessed at any time before the expiration of 3 years from the date you notify the IRS director for your area

that you have replaced, or intend not to replace, the condemned property within the replacement period.

***Changing your mind.*** You can change your mind about reporting or postponing the gain at any time before the end of the replacement period. If you decide to make an election after filing the tax return and after making the payment of the tax due for the year or years in which any of the gain on the involuntary conversion is realized, and before the expiration of the period with which the converted property must be replaced, file a claim for refund for such year or years.

***Example.*** Your property was condemned and you had a gain of \$5,000. You reported the gain on your return for the year in which you realized it and paid the tax due. You buy replacement property within the replacement period. You used all but \$1,000 of the amount realized from the condemnation to buy the replacement property.

You now change your mind and want to postpone reporting the \$4,000 of gain equal to the amount you spent for the replacement property. You should file a claim for refund on Form 1040-X (or other applicable amended return). Include a statement explaining that you previously reported the entire gain from the condemnation, but you now want to report only the part of the gain equal to the condemnation proceeds not spent for replacement property (\$1,000).

## **Reporting a Condemnation Gain or Loss**

Generally, you report gain or loss from a condemnation on your return for the year you realize the gain or loss.

**Personal-use property.** Report gain from a condemnation of property you held for personal use (other than excluded gain from a condemnation of your main home or postponed gain) on Form 8949 or Schedule D (Form 1040), as applicable.

See the Instructions for Form 8949 and the Instructions for Schedule D (Form 1040).

Do not report loss from a condemnation of personal-use property. But, if you received a Form 1099-S (for example, showing the proceeds of a sale of real estate under threat of condemnation), you must show the transaction on Form 8949 and Schedule D (Form 1040), as applicable, even though the loss is not deductible. See the Instructions for Schedule D (Form 1040) and the Instructions for Form 8949.

**Business property.** Report gain (other than postponed gain) or loss from a condemnation of property you held for business or profit on Form 4797. If you had a gain, you may have to report all or part of it as ordinary income. See *Like-kind exchanges and involuntary conversions* in chapter 3.

## **Nontaxable Exchanges**

Certain exchanges of property are not taxable. This means any gain from the exchange is not recognized, and any loss cannot be deducted. Your gain or loss will not be recognized until you sell or otherwise dispose of the property you receive.

### **Like-Kind Exchanges**

Generally, if you exchange real property you hold for use in a trade or business or hold for investment solely for other like-kind real property held for use in a trade or business or investment, you do not recognize the gain or loss from the exchange. However, if you receive non-like-kind property or money as part of the exchange, you recognize gain to the extent of the value of the other property or money you received in the exchange.

See *Qualifying*

*Property*, later, for details on property that qualifies and for exceptions.



The exchange of property for the same kind of property is the most common type of nontaxable exchange. To be a like-kind exchange, the property given up (relinquished property) and the property received (replacement property) must be both of the following.

- Qualifying property.
- Like-kind property.

These two requirements are discussed later.

Additional requirements apply to exchanges in which the property received as like-kind property is not received immediately upon the transfer of the property given up. See Deferred Exchange, later.

If the like-kind exchange involves the receipt of money or unlike property or the assumption of your liabilities, see Partially Nontaxable Exchanges, later.

If the like-kind exchange involves a portion of a MACRS asset and gain is not recognized in whole or in part, the partial disposition rules in Regulations section 1.168(i)-8 apply.

See *Partial Dispositions of MACRS Property*, earlier.

**Multiple-party transactions.** The like-kind exchange rules also apply to property exchanges that involve threeand four-party transactions. Any part of these multiple-party transactions can qualify as a like-kind exchange if it meets all the requirements described in this section.

***Receipt of title from third party.*** If you receive property in a like-kind exchange and the other party who transfers the property to you does not give you the title but a third party does, you can still treat this transaction as a like-kind exchange if it meets all the requirements.

**Basis of property received.** If you acquire property in a like-kind exchange, the basis of the property you receive is generally the same as the basis of the property you transferred. See Pub. 551 for more information on basis.

**Example.** You exchanged real estate held for investment with an adjusted basis of \$225,000 for other real estate held for investment. The basis of your new property is the same as the basis of the old property, \$225,000.

For the basis of property received in an exchange that is only partially nontaxable, see *Partially Nontaxable Exchanges*, later.

**Money paid.** If, in addition to giving up like-kind property, you pay money in a like-kind exchange, the basis of the property received is the basis of the property given up, increased by the money paid.

**Reporting the exchange.** Report the exchange of like-kind property, even though no gain or loss is recognized, on Form 8824. The Instructions for Form 8824 explain how to report the details of the exchange.

If you have any recognized gain because you received money or non-like-kind property, report it on Form 8949, Schedule D (Form 1040), or Form 4797, as applicable. See chapter 4. You may have to report the recognized gain as ordinary income from depreciation recapture. See *Like-kind exchanges and involuntary conversions* in chapter 3.

**Exchange expenses.** Exchange expenses generally include the closing costs you pay on the disposition of the property given up such as brokerage commissions, attorney fees, and deed preparation fees. Subtract these expenses from the consideration received to figure the amount realized on the exchange.

If you receive cash or non-like-kind property in addition to the like-kind real property and realize a gain on the exchange, subtract the expenses from the cash or FMV of the non-like-kind property. Then use the net amount to figure the recognized gain. See *Partially Nontaxable Exchanges*, later.

Exchange expenses also include the closing costs you pay on the acquisition of replacement property. In addition, some expenses and receipts that may be reflected on the closing statement (for example, property taxes, rent prorations, security deposits, and repairs) are not exchange expenses. See *Partially Nontaxable Exchanges*, later, and *Like-Kind Exchanges* in Pub. 551.

## **Qualifying Property**

The nonrecognition rules for like-kind exchanges apply only to exchanges of real property, as defined in Regulations section 1.1031(a)-1(a)(3),

held for investment or for productive use in your trade or business and is not held primarily for sale.

In a like-kind exchange, both the real property you give up and the real property you receive must be held by you for investment or for productive use in your trade or business. Buildings, land, and rental property are examples of property that may qualify.

The rules for like-kind exchanges do not apply to exchanges of the following property.

- Real property used for personal purposes, such as your home.
- Real property held primarily for sale.
- Any personal or intangible property that is not defined as an interest in real property in Regulations section 1.1031(a)-3(a)(5).

You may have a nontaxable exchange under other rules. See *Other Nontaxable Exchanges*, later.

A dwelling unit (home, apartment, condominium, or similar property) may, for purposes of a like-kind exchange, qualify as property held for productive use in a trade or business or for investment purposes if certain requirements are met. See Revenue Procedure 2008-16, 2008-10 I.R.B. 547, available at [IRS.gov/irb/ 2008-10 IRB#RP-2008-16](http://IRS.gov/irb/2008-10_IRB#RP-2008-16).

An exchange of the assets of a business for the assets of a similar business cannot be treated as an exchange of one property for another property except to the extent the transaction includes an exchange of like-kind real property. Whether you engaged in a like-kind exchange depends on an analysis of each asset involved in the exchange.

The exchange of noncash assets that are not real property is considered non-like-kind property received or paid. See also Multiple-Property Exchanges, later.

## **Like-Kind Property**

To qualify for the nonrecognition rules, there must be an exchange of like-kind property. Like-kind properties are properties of the same nature or character, even if they differ in grade or quality. The exchange of real estate for real estate is an exchange of like-kind property.

An exchange of city property for farm property, or improved property for unimproved property, is a like-kind exchange.

The exchange of real estate you own for a real estate lease that runs 30 years or longer is a like-kind exchange. However, not all exchanges of interests in real property qualify.



The exchange of a life estate expected to last less than 30 years for a remainder interest is not a like-kind exchange.

An exchange of a remainder interest in real estate for a remainder interest in other real estate is a like-kind exchange if the nature or character of the two property interests is the same.

## **Foreign Real Property Exchanges**

Real property located in the United States and real property located outside the United States are not considered like-kind property.

If you exchange foreign real property for property located in the United States, your gain or loss on the exchange is recognized.

Foreign real property is real property not located in a state or the District of Columbia.

This foreign real property exchange rule does not apply to the replacement of condemned real property.

Foreign and U.S. real property can still be considered like-kind property under the rules for replacing condemned property to postpone reporting gain on the condemnation. See *Postponement of Gain* under *Involuntary Conversions*, earlier.

## **Deferred Exchange**

A deferred exchange is an exchange in which you transfer property you use in business or hold for investment and later receive like-kind property you will use in business or hold for investment. The property you receive is the replacement property. The transaction must be an exchange of property for property rather than a transfer of property for money used to buy replacement property. In addition, the replacement property will not be treated as like-kind property unless the identification and the receipt requirements (discussed later) are met.

If, before you receive the replacement property, you actually or constructively receive money or non-like-kind property in full consideration for the property you transfer, the transaction will be treated as a sale rather than a deferred exchange. In that case, you must recognize gain or loss on the transaction, even if you later receive the replacement property. It would be treated as if you bought the replacement property instead of having acquired it through a like-kind exchange.

If, before you receive the replacement property, you actually or constructively receive money or non-like-kind property in less than full consideration for the property you transfer, the transaction will be treated as a partially taxable exchange. See *Partially Nontaxable Exchanges*, later.

**Actual and constructive receipt.** For purposes of a deferred exchange, you actually receive money or non-like-kind property when

you receive the money or non-like-kind property or receive the economic benefit of the money or non-like-kind property. You constructively receive money or non-like-kind property when the money or non-like-kind property is credited to your account, set apart for you, or otherwise made available for you so that you can draw upon it at any time or so that you can draw upon it if you give notice of intention to do so. You do not constructively receive money or non-like-kind property if your control of receiving it is subject to substantial limitations or restrictions. However, you constructively receive money or non-like-kind property when the limitations or restrictions lapse, expire, or are waived.

The following rules also apply.

- Whether you actually or constructively receive money or non-like-kind property is determined without regard to your method of accounting.

- Actual or constructive receipt of money or non-like-kind property by your agent is actual or constructive receipt by you.
- Whether you actually or constructively receive money or non-like-kind property is determined without regard to certain arrangements you make to ensure the other party carries out its obligations to transfer the replacement property to you. See *Safe Harbors Against Actual and Constructive Receipt in Deferred Exchanges*, later.

**Identification requirement.** You must identify the property to be received within 45 days after the date you transfer the property given up in the exchange. This period of time is called the identification period. Any property received during the identification period is considered to have been identified.

If you transfer more than one property (as part of the same transaction) and the properties are transferred on different dates,

the identification period and the exchange period begin on the date of the earliest transfer.

***Identifying replacement property.*** You must identify the replacement property in a signed written document and deliver it to the person obligated to transfer the replacement property or any other person involved in the exchange other than you or a disqualified person. See *Disqualified persons*, later. You must clearly describe the replacement property in the written document. For example, use the legal description or street address for real property. In the same manner, you can cancel an identification of replacement property at any time before the end of the identification period.

***Identifying alternative and multiple properties.*** You can identify more than one replacement property.

However, regardless of the number of properties you give up, the maximum number of replacement properties you can identify is:

- Three properties regardless of their FMV;  
or
- Any number of properties whose total FMV at the end of the identification period is not more than double the total FMV, on the date of transfer, of all properties you give up.

If, as of the end of the identification period, you have identified more properties than permitted under this rule, the only property that will be considered identified is:

- Any replacement property you received before the end of the identification period;  
and
- Any replacement property identified before the end of the identification period and received before the end of the exchange period,

but only if the FMV of the property is at least 95% of the total FMV of all identified replacement properties. FMV is determined on the earlier of the date you received the property or the last day of the exchange period. See Receipt requirement, later.

***Disregard incidental property.*** For purposes of the identification requirement, do not treat property incidental to a larger item of property as separate from the larger item when you identify replacement property. Property is incidental if it meets both of the following tests.

- If, in a standard commercial transaction, it is typically transferred with the larger item; and
- The total FMV of all the incidental property is not more than 15% of the total FMV of the larger item of property.



For example, furniture, laundry machines, and other miscellaneous items of personal property will not be treated as separate property from an apartment building with an FMV of \$1,000,000, if the total FMV of the furniture, laundry machines, and other personal property does not exceed \$150,000.

**Note.** This rule applies only for purposes of determining whether the identification requirement is met. It does not apply for purposes of determining whether the incidental property is like-kind or non-like-kind for purposes of any gain recognized on the exchange. See *Partially Nontaxable Exchanges*, later, for information on gain recognition relating to the non-like-kind property received in a like-kind exchange.

***Replacement property to be produced.***

Gain or loss from a deferred exchange can qualify for nonrecognition even if the replacement property is not in existence or is being produced at the time you identify it as

replacement property. If you need to know the FMV of the replacement property to identify it, estimate its FMV as of the date you expect to receive it.

**Receipt requirement.** The property must be received by the earlier of the following dates.

- The 180th day after the date on which you transfer the property given up in the exchange.
- The due date, including extensions, for your tax return for the tax year in which the transfer of the property given up occurs.

This period of time is called the exchange period. You must receive substantially the same property that met the identification requirement, discussed earlier.

***Replacement property produced after identification.*** In some cases, the replacement property may have been produced after you identified it

(as described earlier under Replacement property to be produced). In that case, to determine whether the property you received was substantially the same property that met the identification requirement, the property will be considered substantially the same property as identified only if, had production been completed on or before the date you received the replacement property:

- The property received would have been considered substantially the same property as identified, and
- To the extent the property is considered real property under local law.

Do not take into account any variations due to usual production changes. Substantial changes in the property to be produced, however, will disqualify it.

Any additional production on the replacement property after you receive it does not qualify as like-kind property.

To this extent, the transaction is treated as a taxable exchange of property for services.

**Interest income.** Generally, in a deferred exchange, if the amount of money or property you are entitled to receive depends upon the length of time between when you transfer the property given up and when you receive the replacement property, you are treated as being entitled to receive interest or a growth factor. The interest or growth factor will be treated as interest, regardless of whether it is paid in like-kind property, money, or non-like-kind property. Include this interest in your gross income according to your method of accounting.

If you transferred property in a deferred exchange and an exchange facilitator holds exchange funds for you and pays you all the earnings on the exchange funds according to an escrow agreement, trust agreement, or exchange agreement,

you must take into account all items of income, deduction, and credit attributable to the exchange funds.

If, in accordance with an escrow agreement, trust agreement, or exchange agreement, an exchange facilitator holds exchange funds for you and keeps some or all of the earnings on the exchange funds in accordance with the escrow agreement, trust agreement, or exchange agreement, you will be treated as if you had loaned the exchange funds to the exchange facilitator. You must include in income any interest that you receive and, if the loan is a below-market loan, you must include in income any imputed interest.

Exchange funds include relinquished property, cash, or cash equivalent that secures an obligation of a transferee to transfer replacement property, or proceeds from a transfer of relinquished property, held in a qualified escrow account, qualified trust,

or other escrow account, trust, or fund in a deferred exchange.

An exchange facilitator is a qualified intermediary, transferee, escrow holder, trustee, or other person that holds exchange funds for you in a deferred exchange under the terms of an escrow agreement, trust agreement, or exchange agreement.

For more information relating to the current taxation of qualified escrow accounts, qualified trusts, and other escrow accounts, trusts, and funds used during deferred exchanges of like-kind property, see Regulations sections 1.468B-6 and 1.7872-16. If the exchange facilitator is a qualified intermediary, see *Safe Harbors Against Actual and Constructive Receipt in Deferred Exchanges*, later.

**Disqualified persons.** A disqualified person is a person who is any of the following.

1. Your agent at the time of the transaction.
2. A person who is related to you under the rules discussed in chapter 2 under *Nondeductible loss*, substituting “10%” for “50%.”
3. A person who is related to a person who is your agent at the time of the transaction under the rules discussed in chapter 2 under *Nondeductible Loss*, substituting “10%” for “50%.”

For purposes of (1) above, a person who has acted as your employee, attorney, accountant, investment banker or broker, or real estate agent or broker within the 2-year period ending on the date of the transfer of the first of the relinquished properties is your agent at the time of the transaction.

However, solely for purposes of whether a person is a disqualified person as your agent, the following services for you are not taken into account.

- Services with respect to exchanges of property intended to qualify for nonrecognition of gain or loss as like-kind exchanges.
- Routine financial, title insurance, escrow, or trust services by a financial institution, title insurance company, or escrow company.

The rule in (3) above does not apply to a bank or a bank affiliate if it would otherwise be a disqualified person under the rule in (3) solely because it is a member of the same controlled group (as determined under section 267(f) of the Internal Revenue Code, substituting “10%” for “50%”) as a person that has provided investment banking or brokerage services to the taxpayer within the 2-year period ending on the date of the



transfer of the first of the relinquished properties. For this purpose, a bank affiliate is a corporation whose principal activity is rendering services to facilitate exchanges of property intended to qualify for nonrecognition of gain under section 1031 of the Internal Revenue Code and all of whose stock is owned by either a bank or a bank-holding company.

## **Safe Harbors Against Actual and Constructive Receipt in Deferred Exchanges**

The following arrangements will not result in actual or constructive receipt of money or non-like-kind property in a deferred exchange.

- Security or guarantee arrangements.
- Qualified escrow accounts or qualified trusts.
- Qualified intermediaries.

- Interest or growth factors.

**Security or guarantee arrangements.** You will not actually or constructively receive money or non-like-kind property before you actually receive the like-kind replacement property just because your transferee's obligation to transfer the replacement property to you is secured or guaranteed by one or more of the following.

1. A mortgage, deed of trust, or other security interest in property (other than in cash or a cash equivalent).
2. A standby letter of credit that satisfies all the following requirements.
  - a. Not negotiable, whether by the terms of the letter of credit or under applicable local law.
  - b. Not transferable (except together with the evidence of indebtedness that it secures), whether by the terms of the

letter of credit or under applicable local law.

- c. Issued by a bank or other financial institution.
- d. Serves as a guarantee of the evidence of indebtedness that is secured by the letter of credit.
- e. May not be drawn on in the absence of a default in the transferee's obligation to transfer the replacement property to you.

3. A guarantee by a third person.

The protection against actual and constructive receipt ends when you have an immediate ability or unrestricted right to receive money or non-like-kind property under the security or guarantee arrangement.

**Qualified escrow account or qualified trust.** You will not actually or constructively receive money or non-like-kind property

before you actually receive the like-kind replacement property just because your transferee's obligation is secured by cash or cash equivalent if the cash or cash equivalent is held in a qualified escrow account or qualified trust. This rule applies for the amounts held in the qualified escrow account or qualified trust even if you receive money or non-like-kind property directly from a party to the exchange.

An escrow account is a qualified escrow account if both of the following conditions are met.

- The escrow holder is neither you nor a disqualified person. See *Disqualified persons*, earlier.
- The escrow agreement expressly limits your rights to receive, pledge, borrow, or otherwise obtain the benefits of the cash or cash equivalent held in the escrow account.

For more information on how to satisfy this condition, see *Additional restrictions on safe harbors*, later.

A trust is a qualified trust if both of the following conditions are met.

- The trustee is neither you nor a disqualified person. See *Disqualified persons*, earlier. For purposes of whether the trustee of a trust is a disqualified person, the relationship between you and the trustee created by the qualified trust will not be considered a relationship between you and a related person.
- The trust agreement expressly limits your rights to receive, pledge, borrow, or otherwise obtain the benefits of the cash or cash equivalent held by the trustee. For more information on how to satisfy this condition, see *Additional restrictions on safe harbors*, later.

The protection against actual and constructive receipt ends when you have an immediate ability or unrestricted right to receive, pledge, borrow, or otherwise obtain the benefits of the cash or cash equivalent held in the qualified escrow account or qualified trust.

**Qualified intermediary.** If you transfer property through a qualified intermediary, the transfer of the property given up and receipt of like-kind property is treated as an exchange. This rule applies even if you receive money or non-like-kind property directly from a party to the transaction other than the qualified intermediary.

A qualified intermediary is a person who is not a disqualified person (discussed earlier) and who enters into a written exchange agreement with you and, as required by that agreement:

- Acquires the property you give up,
- Transfers the property you give up,

- Acquires the replacement property, and
- Transfers the replacement property to you.

For determining whether a qualified intermediary acquires and transfers property, the following rules apply.

- A qualified intermediary is treated as acquiring and transferring property if the qualified intermediary acquires and transfers legal title to that property.
- A qualified intermediary is treated as acquiring and transferring the property you give up if the qualified intermediary (either on its own behalf or as the agent of any party to the transaction) enters into an agreement with a person other than you for the transfer of that property to that person and, pursuant to that agreement, that property is transferred to that person (that is, by direct deed from you).

- A qualified intermediary is treated as acquiring and transferring replacement property if the qualified intermediary (either on its own behalf or as the agent of any party to the transaction) enters into an agreement with the owner of the replacement property for the transfer of that property and, pursuant to that agreement, the replacement property is transferred to you (that is, by direct deed to you).

A qualified intermediary is treated as entering into an agreement if the rights of a party to the agreement are assigned to the qualified intermediary and all parties to that agreement are notified in writing of the assignment by the date of the relevant transfer of property.

The written exchange agreement must expressly limit your rights to receive, pledge, borrow, or otherwise obtain the benefits of



money or unlike property held by the qualified intermediary.

***Safe harbor method for reporting gain or loss when qualified intermediary***

***defaults.*** Generally, if a qualified intermediary is unable to meet its contractual obligations to you or otherwise causes you not to meet the deadlines for identifying or receiving replacement property in a deferred or reverse exchange, your transaction may not qualify as a tax-free deferred exchange. In that case, any gain may be taxable in the current year.

However, if a qualified intermediary defaults on its obligation to acquire and transfer replacement property because of bankruptcy or receivership proceedings, and you meet the requirements of Revenue Procedure 2010-14, you may be treated as not having actual or constructive receipt of the proceeds of the exchange in the year of sale of the property you gave up.

If you meet the requirements, you can report the gain in the year or years payments (or debt relief treated as payments) are received, using the safe harbor gross profit ratio method. See Revenue Procedure 2010-14, 2010-12 I.R.B. 456, available at [IRS.gov/irb/2010-12\\_IRB#RP-2010-14](http://IRS.gov/irb/2010-12_IRB#RP-2010-14).

***Multiple-party transactions involving related persons.*** If you transfer property given up to a qualified intermediary in exchange for replacement property formerly owned by a related person, you may not be entitled to nonrecognition treatment if the related person receives cash or non-like-kind property for the replacement property. (See *Like-Kind Exchanges Between Related Persons*, later.)

**Interest or growth factors.** You will not be in actual or constructive receipt of money or non-like-kind property before you actually receive the like-kind replacement property just because you are or may be entitled to

receive any interest or growth factor in the deferred exchange. This rule applies only if the agreement under which you are or may be entitled to the interest or growth factor expressly limits your rights to receive the interest or growth factor during the exchange period. See *Additional restrictions on safe harbors* next.

### **Additional restrictions on safe harbors.**

In order to come within the protection of the safe harbors against actual and constructive receipt of money and non-like-kind property discussed above, the agreement must provide that you have no rights to receive, pledge, borrow, or otherwise obtain the benefits of money or non-like-kind property before the end of the exchange period. However, the agreement can provide you with the following limited sets of rights.

- If you have not identified replacement property by the end of the identification period, you can have rights to receive,

pledge, borrow, or otherwise obtain the benefits of the cash or cash equivalent after the end of the identification period.

- If you have identified replacement property, you can have rights to receive, pledge, borrow, or otherwise obtain the benefits of the cash or cash equivalent when or after you receive all the replacement property you are entitled to receive under the exchange agreement.
- If you have identified replacement property, you can have rights to receive, pledge, borrow, or otherwise obtain the benefits of the cash or cash equivalent on the occurrence of a contingency that is related to the exchange, provided for in writing, and beyond your control or the control of any disqualified person other than the person obligated to transfer the replacement property.

## **Like-Kind Exchanges Using Qualified Exchange Accommodation Arrangements**

The like-kind exchange rules do not generally apply to an exchange in which you acquire replacement property (new property) before you transfer relinquished property (property you give up). However, if you use a qualified exchange accommodation arrangement (QEAA), the transfer may qualify as a like-kind exchange. For details, see Revenue Procedure 2000-37, 2000-40 I.R.B. 308, as modified by Revenue Procedure 2004-51, 2004-33 I.R.B. 294, available at [IRS.gov/irb/2004-33\\_IRB#RP-2004-51](https://www.irs.gov/irb/2004-33_IRB#RP-2004-51).

Under a QEAA, either the replacement property or the relinquished property is transferred to an exchange accommodation titleholder (EAT), discussed later, who is treated as the beneficial owner of the property. However, for transfers of qualified indications of ownership (defined later),

the replacement property held in a QEAA may not be treated as property received in an exchange if you previously owned it within 180 days of its transfer to the EAT. If the property is held in a QEAA, the IRS will accept the qualification of property as either replacement property or relinquished property and the treatment of an EAT as the beneficial owner of the property for federal income tax purposes.

**Requirements for a QEAA.** Property is held in a QEAA only if all of the following requirements are met.

- You have a written agreement.
- The time limits for identifying and transferring the property are met.
- The qualified indications of ownership of property are transferred to an EAT.

**Written agreement.** Under a QEAA, you and the EAT must enter into a written agreement no later than 5 business days after the

qualified indications of ownership (discussed later) are transferred to the EAT. The agreement must provide all of the following.

- The EAT is holding the property for your benefit in order to facilitate an exchange under the like-kind exchange rules and Revenue Procedure 2000-37, as modified by Revenue Procedure 2004-51.
- You and the EAT agree to report the acquisition, holding, and disposition of the property on your federal income tax returns in a manner consistent with the agreement.
- The EAT will be treated as the beneficial owner of the property for all federal income tax purposes.

Property can be treated as being held in a QEAA even if the accounting, regulatory, or state, local, or foreign tax treatment of the arrangement between you and the EAT is

different from the treatment required by the written agreement, as discussed above.

***Bona fide intent.*** When the qualified indications of ownership of the property are transferred to the EAT, it must be your bona fide intent that the property held by the EAT represents either replacement property or relinquished property in an exchange intended to qualify for nonrecognition of gain (in whole or in part) or loss under the like-kind exchange rules.

**Time limits for identifying and transferring property.** Under a QEAA, the following time limits for identifying and transferring the property must be met.

1. No later than 45 days after the transfer of qualified indications of ownership of the replacement property to the EAT, you must identify the relinquished property in a manner consistent with the principles for deferred exchanges. See *Identification*



requirement, earlier, under *Deferred Exchange*.

2. One of the following transfers must take place no later than 180 days after the transfer of qualified indications of ownership of the property to the EAT.
  - a. The replacement property is transferred to you (either directly or indirectly through a qualified intermediary, defined earlier under Qualified intermediary).
  - b. The relinquished property is transferred to a person other than you or a disqualified person. A disqualified person is either of the following.
    - i. Your agent at the time of the transaction. This includes a person who has been your employee, attorney, accountant, investment banker

or broker, or real estate agent or broker within the 2-year period before the transfer of the relinquished property.

- ii. A person who is related to you or your agent under the rules discussed in chapter 2 under *Nondeductible Loss*, substituting "10%" for "50%."

- 3. The combined time period the relinquished property and replacement property are held in the QEAA cannot be longer than 180 days.

**Exchange accommodation titleholder (EAT).** The EAT must meet all of the following requirements.

- Hold qualified indications of ownership (defined next) at all times from the date of acquisition of the property until the property is transferred (as described in (2), earlier).

- Be someone other than you or a disqualified person (as defined in (2b), earlier).
- Be subject to federal income tax. If the EAT is treated as a partnership or S corporation, more than 90% of its interests or stock must be owned by partners or shareholders who are subject to federal income tax.

***Qualified indications of ownership.***

Qualified indications of ownership are any of the following.

- Legal title to the property.
- Other indications of ownership of the property that are treated as beneficial ownership of the property under principles of commercial law (for example, a contract for deed).
- Interests in an entity that is disregarded as an entity separate from its owner for federal income tax purposes

(for example, a single-member limited liability company) and that holds either legal title to the property or other indications of ownership.

**Other permissible arrangements.** Property will not fail to be treated as being held in a QEAA as a result of certain legal or contractual arrangements, regardless of whether the arrangements contain terms that typically would result from arm's-length bargaining between unrelated parties for those arrangements. For a list of those arrangements, see Revenue Procedure 2000-37.

## **Partially Nontaxable Exchanges**

In a like-kind exchange in which you realize a gain, if in addition to receiving like-kind property, you also receive money or non-like-kind property, you may have a partially nontaxable exchange. If you realize a gain on the exchange, you must recognize the gain you realize (see *Amount recognized*, earlier)

to the extent of the money and the FMV of the non-like-kind property you receive in the exchange. If you realize a loss on the exchange, no loss is recognized. However, see Non-like-kind property given up, later.

The gain recognized (taxable amount) on the disposition of the like-kind property you give up is the smaller of the following amounts.

1. The amount of gain realized. See Gain or Loss From Sales and Exchanges, earlier.
2. The limit of recognized gain. To figure the limit on recognized gain, add the money you received and the FMV of any non-like-kind property you received. Reduce this amount (but not below zero) by any exchange expenses (closing costs) you paid. Compare that amount to your gain realized.

**Example.** You exchange real estate held for investment with an FMV of \$110,000 and an adjusted basis of \$80,000 for other real estate you now hold for investment. The FMV of the real estate you received was \$100,000. You also received \$10,000 in cash. You paid \$5,000 in exchange expenses.

FMV of like-kind property received.....	\$100,000
Add: Cash received.....	<u>10,000</u>
Total received.....	\$110,000
Minus: Exchange expenses paid.	<u>(5,000)</u>
Amount realized.....	\$105,000
Minus: Adjusted basis of property you transferred.....	(80,000)
<b>Realized gain.....</b>	<b><u>\$25,000</u></b>

Although the total gain realized on the transaction is \$25,000, the recognized (taxable) gain is only \$5,000, figured as follows.

Money received (cash) .....	\$10,000
Minus: Exchange expenses paid..	(5,000)
<b>Recognized gain.....</b>	<b>\$5,000</b>

**Assumption of liabilities.** For purposes of figuring your realized gain, add any liabilities assumed by the other party to your amount realized. Subtract any liabilities of the other party that you assume from your amount realized.

For purposes of figuring the limit of recognized gain, if the other party to a nontaxable exchange assumes any of your liabilities, you will be treated as if you received money in the amount of the liability.

You can decrease (but not below zero) the amount of money you are treated as receiving by the amount of the other party's liabilities that you assume and by any cash you pay or the FMV of non-like-kind property you give up. For more information on the assumption of liabilities, see section 357(d) of the Internal Revenue Code. For more information on the treatment of the assumption of liabilities in a sale or exchange, see Regulations section 1.1031(d)-2.

**Example.** The facts are the same as in the previous example, except the property you gave up was subject to a \$30,000 mortgage for which you were personally liable. The other party in the trade agreed to assume the mortgage. Figure the gain realized as follows.

FMV of like-kind property received.....	\$100,000
Add: Cash received.....	<u>10,000</u>



Mortgage assumed by other party	<u>30,000</u>
Total received.....	\$140,000
Minus: Exchange expenses paid.	<u>(5,000)</u>
Amount realized.....	\$135,000
Minus: Adjusted basis of property you transferred.....	(80,000)
<b>Realized gain.....</b>	<b><u>\$55,000</u></b>

The realized gain is recognized (taxable) gain only up to \$35,000, figured as follows.

Money received (cash) .....	\$10,000
Money received (liability assumed by other party)	30,000
Total money and unlike property received	\$40,000

Minus: Exchange expenses paid.. (5,000)

**Recognized gain..... \$35,000**

**Example.** The facts are the same as in the previous example, except the property you received had an FMV of \$140,000 and was subject to a \$40,000 mortgage that you assumed. Figure the gain realized as follows.

FMV of like-kind property  
received..... \$140,000

Cash..... 10,000

Mortgage assumed by other  
party..... 30,000

Total received..... \$180,000

Minus: Exchange expenses (5,000)

Amount realized..... \$175,000

Minus: Adjusted basis of property you transferred.....	(80,000)
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Minus: Mortgage you assumed...	(40,000)
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<b>Realized gain.....</b>	<b><u>\$55,000</u></b>
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The realized gain is recognized (taxable) gain only up to \$5,000, figured as follows.

Money received (cash)	\$10,000
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Money received (net liabilities assumed by other party):

Mortgage assumed by other party .....	\$30,000
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Minus: Mortgage you assumed.....	(40,000)
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Total (not below zero)	<u>\$0</u>
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Total money and unlike property received.....	\$10,000
Minus: Exchange expenses paid.....	<u>(5,000)</u>
<b>Recognized gain....</b>	<b><u>\$5,000</u></b>

**Non-like-kind property given up.** If, in addition to like-kind property, you give up non-like-kind property, you must recognize gain or loss on the non-like-kind property you give up. The gain or loss is equal to the difference between the FMV of the non-like-kind property and the adjusted basis of the non-like-kind property.

**Example.** You exchange stock and real estate you held for investment for real estate you also intend to hold for investment. The stock you transfer has an FMV of \$1,000 and an adjusted basis of \$4,000. The real estate you exchange has an FMV of \$19,000 and an adjusted basis of \$15,000. The real estate

you receive has an FMV of \$20,000. Your realized gain on the exchange is \$4,000, the FMV of the real estate received (\$20,000) less the sum of the adjusted basis of the real estate given up (\$15,000) and the FMV of the stock you transferred (\$1,000). You do not recognize gain on the exchange of the real estate because it qualifies as a nontaxable exchange. However, you must recognize (report on your return) a \$3,000 loss on the stock because it is non-like-kind property.

**Non-like-kind property received.** If, in addition to like-kind property, you receive non-like-kind property, you must recognize gain on the non-like-kind property you receive.

**Example.** You exchange real estate you held for investment for real estate you intend to hold for investment. The real estate you exchange has an FMV of \$20,000 and an adjusted basis of \$16,000. You receive real estate with an FMV of \$18,000 and other non-

like-kind property with an FMV of \$2,000. The amount of gain realized on the exchange is \$4,000. The amount of gain recognized is limited to the lesser of the realized gain or the FMV of other non-like-kind property received, or \$2,000 calculated as follows

FMV of like-kind property received	\$18,000
Add: FMV of non-like-kind property received .....	2,000
Total .....	\$20,000
Less: Adjusted basis of property given up .....	(16,000)
Realized gain .....	<b>\$4,000</b>
<b>Recognized gain.....</b>	<b>\$2,000</b>

**Basis of property received.** The total basis for all properties (other than money) you receive in a partially nontaxable exchange is

the total adjusted basis of the properties you give up, with the following adjustments.

1. Add both of the following amounts.
  - a. Any additional costs you incur.
  - b. Any liabilities you assumed on the like-kind property received, and
  - c. Any gain you recognize on the exchange.
2. Subtract both of the following amounts.
  - a. Any money and the FMV of any non-like-kind property you receive.
  - b. Any liabilities assumed by the other party on the like-kind property given up, and

- c. Any loss you recognize on the exchange on non-like-kind property given up.

This basis is first allocated to the non-like-kind property received, other than money, up to its FMV on the date of the exchange.

The rest is allocated to the basis of the like-kind property.

For more information on basis, see Pub. 551.

## **Multiple-Property Exchanges**

Under the like-kind exchange rules, you must generally make a property-by-property comparison to figure your recognized gain and the basis of the property you receive in the exchange. However, for exchanges of multiple properties, you do not make a property-by-property comparison if you do either of the following.

- Transfer and receive properties in two or more exchange groups.



- Transfer or receive more than one property within a single exchange group.

In these situations, you figure your recognized gain and the basis of the property you receive by comparing the properties within each exchange group.

**Residual group.** An exchange group is made up of all the like-kind real properties included in the exchange. If the total FMV of the properties transferred in all of the exchange groups differs from the aggregate FMV of the properties received in all of the exchange groups (taking liabilities into account), a residual group is created. The residual group consists of any money or non-like-kind property transferred in the exchange or money or non-like-kind property received in the exchange, but not both.

**Excess liabilities** All liabilities assumed as part of the exchange are offset against all liabilities of which you are relieved.

If there are excess liabilities assumed, the excess amount is netted against the FMV of the properties received in the exchange group. If there are excess liabilities of which you are relieved, the excess amount is allocated among the exchange groups (but not to the residual group) in proportion to the aggregate FMV of the properties received by the taxpayer in the exchange groups.

**Exchange group surplus.** Once the real properties are placed into an exchange group, their FMVs are compared to determine whether there is an exchange group surplus or deficiency. An exchange group surplus is the excess of the aggregate FMV of the properties received (less excess liabilities assumed) over the FMV of the properties transferred. An exchange group deficiency is the excess of the FMV of the properties transferred over the FMV of the properties received (less excess liabilities assumed).

**Gain or loss realized.** The gain or loss realized for each exchange group and the residual group is the difference between the aggregate FMV of the properties transferred and their aggregate adjusted basis. The gain realized with respect to the exchange group is recognized to the extent of the lesser of the gain realized or any exchange group deficiency. Losses realized with respect to an exchange group are not recognized. Gain or loss realized with respect to any non-like-kind property in the residual group is recognized as provided in section 1001 of the Internal Revenue Code or any other applicable provision.

**Example.** You exchange real estate property A with an adjusted basis of \$10,000 and FMV of \$30,000 for properties B, C, and D and \$5,000 in cash. Property B consists of \$20,000 of like-kind property, Property C is like-kind property valued at \$5,000,

and Property D is non-like-kind property valued at \$2,500. Property A is subject to a liability of \$5,000, that is relieved in the transfer, and Property B is subject to a liability of \$7,500 that you assume. The exchange group is made up of the following.

#### Relinquished Property

Property A .....	\$30,000
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#### Replacement Properties

Property B.....	\$20,000
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Property C.....	5,000
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Net liabilities assumed.....	<u>(2,500)</u>
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<b>Total.....</b>	<b><u>\$22,500</u></b>
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Because the FMV of the relinquished property, \$30,000, is greater than the FMV of the replacement properties (less net liabilities assumed), \$22,500,

the exchange group has a \$7,500 exchange group deficiency. The gain realized is computed as follows.

FMV relinquished Property A.....	\$30,000
Basis.....	(10,000)
<b>Gain realized.....</b>	<b>\$20,000</b>

Gain of \$7,500 is recognized on the exchange, the lesser of the exchange group deficiency of \$7,500 and gain realized of \$20,000.

A residual group is created in the amount of \$7,500, consisting of the \$5,000 in cash received in the exchange and Property D (\$2,500). Because no non-like-kind property in the residual group is relinquished, there is no gain or loss on the residual group.

The basis of the replacement properties acquired in a multiple-property exchange is the aggregate adjusted basis of the

relinquished properties, increased by any gain recognized, increased by the exchange group surplus or decreased by the exchange group deficiency, and increased by any excess liabilities you assumed on the replacement property. The aggregate basis is allocated proportionately to each real property received in accordance with its FMV. For more information on basis see Pub. 551.

## **Like-Kind Exchanges Between Related Persons**

Special rules apply to like-kind exchanges between related persons. These rules affect both direct and indirect exchanges. Under these rules, if either person disposes of the property within 2 years after the exchange, the exchange is disqualified from nonrecognition treatment. The gain or loss on the original exchange must be recognized as of the date of the later disposition.

**Related persons.** Under these rules, related persons include, for example, you and a member of your family (spouse, siblings, parent, child, etc.), you and a corporation in which you have more than 50% ownership, you and a partnership in which you directly or indirectly own more than a 50% interest of the capital or profits, and two partnerships in which you directly or indirectly own more than 50% of the capital interests or profits.



*An exchange structured to avoid the related party rules is not a like-kind exchange.*

For more information on related persons, see *Nondeductible Loss* under *Sales and Exchanges Between Related Persons* in chapter 2.

**Example.** You own real property used in your business. Your sister owns real property used in her business. In December 2023, you exchanged your property plus \$15,000 for your sister's property.

At that time, the FMV of your real property was \$200,000 and its adjusted basis was \$65,000. The FMV of your sister's real property was \$215,000 and its adjusted basis was \$70,000. You realized a gain of \$135,000 (the \$215,000 FMV of the real property received, minus the \$15,000 you paid, minus your \$65,000 adjusted basis in the property). Your sister realized a gain of \$145,000 (the \$200,000 FMV of your real property, plus the \$15,000 you paid, minus her \$70,000 adjusted basis in the property).

However, because this was a like-kind exchange and you received no cash or non-like-kind property in the exchange, you recognize no gain on the exchange. Your basis in the real property you received is \$80,000 (the \$65,000 adjusted basis of the real property given up plus the \$15,000 you paid). Your sister recognizes gain only to the extent of the money she received, \$15,000.



Her basis in the real property she received was \$70,000 (the \$70,000 adjusted basis of the real property she exchanged minus the \$15,000 received, plus the \$15,000 gain recognized).

In 2024, you sold the real property you received to a third party for \$220,000. Because you sold property you acquired from a related party (your sister) within 2 years after the exchange with your sister, that exchange is disqualified from nonrecognition treatment and the deferred gain must be recognized on your 2024 return. On your 2024 tax return, you must report your \$135,000 gain on the 2023 exchange. You must also report the gain on the 2024 sale on your 2024 return.

Additionally, your sister must report on her 2024 tax return \$130,000, which is the \$145,000 gain on the 2023 exchange minus the \$15,000 she recognized in 2023.

Her adjusted basis in the property is increased to \$200,000 (its \$70,000 basis plus the \$130,000 gain recognized).

**Two-year holding period.** The 2-year holding period begins on the date of the last transfer of property that was part of the like-kind exchange. If the holder's risk of loss on the property is substantially diminished during any period, however, that period is not counted toward the 2-year holding period. The holder's risk of loss on the property is substantially diminished by any of the following events.

- The holding of a put on the property.
- The holding by another person of a right to acquire the property.
- A short sale or other transaction.

A put is an option that entitles the holder to sell property at a specified price at any time before a specified future date.

A short sale involves property you generally do not own. You borrow the property to deliver to a buyer and, at a later date, buy substantially identical property and deliver it to the lender.

**Exceptions to the rules for related persons.** The following kinds of property dispositions are excluded from these rules.

- Dispositions due to the death of either related person.
- Involuntary conversions.
- Dispositions if it is established to the satisfaction of the IRS that neither the exchange nor the disposition had as a main purpose the avoidance of federal income tax.

## **Other Nontaxable Exchanges**

The following discussions describe other exchanges that may not be taxable.

## **Partnership Interests**

Exchanges of partnership interests do not qualify as nontaxable exchanges of like-kind property. This applies regardless of whether they are general or limited partnership interests or are interests in the same partnership or different partnerships. However, under certain circumstances, the exchange may be treated as a tax-free contribution of property to a partnership. See Pub. 541, Partnerships.

An interest in a partnership that has a valid election to be excluded from being treated as a partnership for federal tax purposes is treated as an interest in each of the partnership assets and not as a partnership interest. See Pub. 541.

## **U.S. Treasury Notes or Bonds**

Certain issues of U.S. Treasury obligations may be exchanged for certain other issues designated by the Secretary of the Treasury

with no gain or loss recognized on the exchange. See *U.S. Treasury Bills, Notes, and Bonds* under *Interest Income* in Pub. 550 for more information on the tax treatment of income from these investments.

## **Insurance Policies and Annuities**

No gain or loss is recognized if you make any of the following exchanges, and if the insured or the annuitant is the same under both contracts.

- A life insurance contract for another life insurance contract, or for an endowment or annuity contract, or for a qualified long-term care insurance contract.
- An endowment contract for an annuity contract or for another endowment contract providing for regular payments beginning at a date not later than the beginning date under the old contract, or for a qualified long-term care insurance contract.

- One annuity contract for another annuity contract.
- An annuity contract for a qualified long-term care insurance contract.
- A qualified long-term care insurance contract for another qualified long-term care insurance contract.

In addition, if certain conditions are met, no gain or loss is recognized on the direct transfer of a portion of the cash surrender value of an existing annuity contract for a second contract, regardless of whether the contracts are issued by the same or different companies. For more information on the applicable contracts, see Revenue Procedure 2011-38, 2011-30 I.R.B. 66, available at [IRS.gov/irb/2011-30\\_IRB#RP-2011-38](https://www.irs.gov/irb/2011-30_IRB#RP-2011-38).

If you realize a gain on the exchange of an endowment contract or annuity contract for a life insurance contract or an exchange of an

annuity contract for an endowment contract, you must recognize the gain.

For information on transfers and rollovers of employer-provided annuities, see Pub. 575, Pension and Annuity Income; or Pub. 571, Tax-Sheltered Annuity Plans (403(b) Plans) for Employees of Public Schools and Certain Tax-Exempt Organizations.

**Cash received.** The nonrecognition and nontaxable transfer rules do not apply to a rollover in which you receive cash proceeds from the surrender of one policy and invest the cash in another policy. However, you can treat a cash distribution and reinvestment as meeting the nonrecognition or nontaxable transfer rules if all of the following requirements are met.

1. When you receive the distribution, the insurance company that issued the policy or contract is subject to a rehabilitation, conservatorship, insolvency, or similar state proceeding.

2. You withdraw all amounts to which you are entitled or, if less, the maximum permitted under the state proceeding.
3. You reinvest the distribution within 60 days after receipt in a single policy or contract issued by another insurance company or in a single custodial account.
4. You assign all rights to future distributions to the new issuer for investment in the new policy or contract if the distribution was restricted by the state proceeding.
5. You would have qualified under the nonrecognition or nontaxable transfer rules if you had exchanged the affected policy or contract for the new one.

If you do not reinvest all of the cash distribution, the rules for partially nontaxable exchanges, discussed earlier, apply.



In addition to meeting these five requirements, you must do both of the following.

1. Give to the issuer of the new policy or contract a statement that includes all of the following information.
  - a. The gross amount of cash distributed.
  - b. The amount reinvested.
  - c. Your investment in the affected policy or contract on the date of the initial cash distribution.
2. Attach the following items to your timely filed tax return for the year of the initial distribution.
  - a. A statement titled "Election under Revenue Procedure 92-44" that includes the name of the issuer and the policy number (or similar

identifying number) of the new policy or contract.

- b. A copy of the statement given to the issuer of the new policy or contract.

## **Property Exchanged for Stock**

If you transfer property to a corporation in exchange for stock in that corporation (other than nonqualified preferred stock, described later), and immediately afterward you are in control of the corporation, the exchange is usually not taxable. This rule applies to transfers by one person and to transfers by a group.