

1031 Real Estate Exchange

Welcome to the power you deserve, the power to effectively build your wealth with knowledge about the IRC Section *1031 Exchange*.

Too many people mistakenly make themselves liable to pay **capital gains taxes** upon the sale investment property when they plan to purchase a replacement property. They simply haven't been told about the **wealth building strategy** allowed by IRC Section 1031.

On April 25, 1991, the IRS issued deferred exchange regulation-Reg 1.1031(k)-, that allows taxpayers to defer all of the capital gains taxes resulting from the sale of investment property, when they will use a **Qualified Intermediary**, follow the **IRS guidelines**, and use the money to buy more suitable investment property within 180 days of their sale.

This means that you can reinvest the money you would otherwise have lost to capital gains taxes if you will use the extra money to buy more investment property for the purpose of making more money. This can be done within and between all classes of investment property anywhere in the USA. Our Service Team is here to help make **1031 Exchange** as easy and effective for you as possible.

The *1031 real estate exchange* is also often referred to as the *Starker 1031 Exchange* or Starker Exchange, because Starker was the first case in which a non-simultaneous exchange was approved by the court. At first, the IRS disallowed the exchanges because the IRS believed that *1031 real estate exchanges* could only qualify if all *1031 exchange* real estate involved were transferred simultaneously. The IRS said there could be no amount of time between the transfer of the relinquished property and replacement property in an exchange. The Starkers paid their taxes and filed suits in the U.S. District Court in Portland, Oregon. Three court cases ensued, tried by District Judge Gus Solomon:

-The first involved Bruce and Elizabeth Starker (Starker I- 1975). The IRS first filed a deficiency notice against Bruce and Elizabeth Starker. The Starkers paid the tax and sued for a refund. In a very short opinion, the court decided in favor of Bruce and Elizabeth Starker while making no mention of the fact that the exchanges were not simultaneous.

In 1977, the government filed suit against T.J. Starker (T.J. Starker v. U.S., 431 F. Supp. 864 D. C. Ore. 1977). This time the court, the same one that ruled in Starker I, found that there was no exchange and that a taxable sale had taken place. This case reversed the first decision. Judge Solomon wrote he was mistaken in Starker I and stated, "My opinion in Starker I has been given wide publicity. I believe that it is desirable that my opinion in this case be published to prevent the mischief that I believe Starker I has caused." He further wrote that T.J. Starker had exchanged real property for a promise that was not like-kind under the statute. He ruled that the growth factor was taxable as interest.

The third and final case was T.J. Starker's appeal (T.J. Starker v. U.S., 602 F. 2d 1341 9th Cir. 1979). The Ninth Circuit Court ruled that the government was collaterally stopped by Starker I from re-litigating nine of the transfers overturned in Starker II. Most importantly for real estate investors, the Court could not find any requirement for simultaneity in the 1031 tax code. The court ruled in favor of Starker. The delayed exchange was born!

Call our *1031 Exchange Experts* to make a little history of your own.

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