§ 1031. Exchange of property held for productive use or investment

(a) Nonrecognition of gain or loss from exchanges solely in kind

(1) In general

No gain or loss shall be recognized on the exchange of property held for productive use in a trade or business or for investment if such property is exchanged solely for property of like kind which is to be held either for productive use in a trade or business or for investment.

(2) Exception

This subsection shall not apply to any exchange of—

(A) stock in trade or other property held primarily for sale,

(B) stocks, bonds, or notes,

(C) other securities or evidences of indebtedness or interest,

(D) interests in a partnership,

(E) certificates of trust or beneficial interests, or

(F) choses in action.

For purposes of this section, an interest in a partnership which has in effect a valid election under section 761(a) to be excluded from the application of all of subchapter K shall be treated as an interest in each of the assets of such partnership and not as an interest in a partnership.

(3) Requirement that property be identified and that exchange be completed not more than 180 days after transfer of exchanged property

For purposes of this subsection, any property received by the taxpayer shall be treated as property which is not like-kind property if—

(A) such property is not identified as property to be received in the exchange on or before the day which is 45 days after the date on which the taxpayer transfers the property relinquished in the exchange, or

(B) such property is received after the earlier of—

(i) the day which is 180 days after the date on which the taxpayer transfers the property relinquished in the exchange, or

(ii) the due date (determined with regard to extension) for the transferor’s return of the tax imposed by this chapter for the taxable year in which the transfer of the relinquished property occurs.

(b) Gain from exchanges not solely in kind

If an exchange would be within the provisions of subsection (a), of section 1035(a), of section 1036(a), or of section 1037(a), if it were not for the fact that the property received in exchange consists not only of property permitted by such provisions to be received without the recognition of gain, but also of other property or money, then the gain, if any, to the recipient shall be recognized, but in an amount not in excess of the sum of such money and the fair market value of such other property.

(c) Loss from exchanges not solely in kind

If an exchange would be within the provisions of subsection (a), of section 1035(a), of section 1036(a), or of section 1037(a), if it were not for the fact that the property received in exchange consists not only of property permitted by such provisions to be received without the recognition of gain or loss, but also of other property or money, then no loss from the exchange shall be recognized.

(d) Basis

If property was acquired on an exchange described in this section, section 1035(a), section 1036(a), or section 1037(a), then the basis shall be the same as that of the property exchanged, decreased in the amount of any money received by the taxpayer and increased in the amount of gain or decreased in the amount of loss to the taxpayer that was recognized on such exchange. If the property so acquired consisted in part of the type of property permitted by this section, section 1035(a), section 1036(a), or section 1037(a), then the basis shall be assigned to such other property an amount equivalent to its fair market value at the date of the exchange. For purposes of this section, section 1035(a), and section 1036(a), where as part of the consideration to the taxpayer another party to the exchange assumed (as determined under section 357(d)) a liability of the taxpayer, such assumption shall be considered as money received by the taxpayer on the exchange.

(e) Exchanges of livestock of different sexes

For purposes of this section, livestock of different sexes are not property of a like kind.

(f) Special rules for exchanges between related persons

(1) In general

If—

(A) a taxpayer exchanges property with a related person,

(B) there is nonrecognition of gain or loss to the taxpayer under this section with respect to the exchange of such property (determined without regard to this subsection), and

(C) before the date 2 years after the date of the last transfer which was part of such exchange—

(i) the related person disposes of such property, or
(ii) the taxpayer disposes of the property received in the exchange from the related person which was of like kind to the property transferred by the taxpayer, there shall be no nonrecognition of gain or loss under this section to the taxpayer with respect to such exchange; except that any gain or loss recognized by the taxpayer by reason of this subsection shall be taken into account as of the date on which the disposition referred to in subparagraph (C) occurs.

(2) Certain dispositions not taken into account

For purposes of paragraph (1)(C), there shall not be taken into account any disposition—

(A) after the earlier of the death of the taxpayer or the death of the related person,

(B) in a compulsory or involuntary conversion (within the meaning of section 1033) if the exchange occurred before the threat or imminence of such conversion, or

(C) with respect to which it is established to the satisfaction of the Secretary that neither the exchange nor such disposition had as one of its principal purposes the avoidance of Federal income tax.

(3) Related person

For purposes of this subsection, the term "related person" means any person bearing a relationship to the taxpayer described in section 267(b) or 707(b)(1).

(4) Treatment of certain transactions

This section shall not apply to any exchange which is part of a transaction (or series of transactions) structured to avoid the purposes of this subsection—

(i) only the periods the property was held by the person relinquishing the property (or any related person) shall be taken into account under subparagraph (B)(i), and

(ii) only the periods the property was held by the person acquiring the property (or any related person) shall be taken into account under subparagraph (B)(ii).

(D) Special rule for certain property

Property described in any subparagraph of section 168(g)(4) shall be treated as used predominantly in the United States.

(i) Special rules for mutual ditch, reservoir, or irrigation company stock

For purposes of subsection (a)(2)(B), the term "stocks" shall not include shares in a mutual ditch, reservoir, or irrigation company if at the time of the exchange—

(1) the mutual ditch, reservoir, or irrigation company is an organization described in section 501(c)(12)(A) (determined without regard to the percentage of its income that is collected from its members for the purpose of meeting losses and expenses), and

(2) the shares in such company have been recognized by the highest court of the State in which such company was organized or by applicable State statute as constituting or representing real property or an interest in real property.


CODIFICATION

Section 1052(b) of Pub. L. 105–34 provided that:

“(1) IN GENERAL.—The amendment made by this section [amending this section] shall apply to transfers after June 8, 1997, in taxable years ending after such date.

“(2) BINDING CONTRACTS.—The amendment made by this section shall not apply to any transfer pursuant to a written binding contract in effect on June 8, 1997, and at all times thereafter before the disposition of property. A contract shall not fail to meet the requirements of the preceding sentence solely because—

“(A) it provides for a sale in lieu of an exchange, or

“(B) the property to be acquired as replacement property was not identified under such contract before June 9, 1997.”

Effective Date of 1999 Amendment

Section 11701(h) of Pub. L. 101–508 provided that the amendment made by that section is effective with respect to transfers after Aug. 3, 1999.

Section 11703(d)(2) of Pub. L. 101–508 provided that: “The amendment made by paragraph (1) [amending this section] shall apply to transfers after July 18, 1984.”

Effective Date of 1989 Amendment

Section 7601(b) of Pub. L. 101–239 provided that: (1) “IN GENERAL.—Except as provided in paragraph (2), the amendments made by this section [amending this section] shall apply to transfers after July 10, 1989, in taxable years ending after such date.

“(2) BINDING CONTRACT.—The amendments made by this section shall not apply to any transfer pursuant to a written binding contract in effect on July 18, 1989, and at all times thereafter before the transfer.”

Effective Date of 1986 Amendment


Effective Date of 1984 Amendment

Section 7(b) of Pub. L. 98–369, as amended by Pub. L. 99–514, § 2, Oct. 22, 1986, 100 Stat. 2095, provided that: “(1) IN GENERAL.—Except as otherwise provided in this subsection, the amendment made by subsection (a) [amending this section] shall apply to transfers made after the date of the enactment of this Act [July 18, 1984] in taxable years ending after such date.

“(2) BINDING CONTRACT EXCEPTION FOR TRANSFER OF PARTNERSHIP INTERESTS.—Paragraph (2)(D) of section 1031(a) of the Internal Revenue Code of 1986 [formerly I.R.C. 1954] (as amended by subsection (a)) shall not apply in the case of any exchange pursuant to a binding contract in effect on March 1, 1984, and at all times thereafter before the exchange.

“(3) REQUIREMENT THAT PROPERTY BE IDENTIFIED WITHIN 45 DAYS AND THAT EXCHANGE BE COMPLETED WITHIN 90 DAYS.—Paragraph (3) of section 1031(a) of the Internal Revenue Code of 1986 (as amended by subsection (a)) shall apply—

“(A) to transfers after the date of the enactment of this Act [July 18, 1984], and

“(B) to transfers on or before such date of enactment if the property to be received in the exchange is not received before January 1, 1987.

“In the case of any transfer on or before the date of the enactment of this Act which the taxpayer treated as part of a like-kind exchange, the period for assessing any deficiency of tax attributable to the amendment made by subsection (a) [amending this section] shall not expire before January 1, 1988.

“(4) SPECIAL RULE WHERE PROPERTY IDENTIFIED IN BINDING CONTRACT.—If the property to be received in the exchange is identified in a binding contract in effect on June 13, 1984, and at all times thereafter before the transfer, paragraph (3) shall be applied—

Effective Date of 1997 Amendment

Section 1031(a) of the Internal Revenue Code of 1986 (as amended by subsection (a)) shall not expire before January 1, 1988.

The amendment made by that section is effective with respect to transfers after Aug. 3, 1999.

The amendments made by this section [amending this section] shall apply to transfers after July 10, 1989, in taxable years ending after such date.

The amendments made by this section shall not apply to any transfer pursuant to a written binding contract in effect on July 18, 1989, and at all times thereafter before the transfer.”
"(A) by substituting 'January 1, 1989' for 'January 1, 1987', and
"(B) by substituting 'January 1, 1990' for 'January 1, 1988'."

(5) SPECIAL RULE FOR LIKE-KIND EXCHANGE OF PARTNERSHIP INTERESTS.—Paragraph (2)(D) of section 1031(a) of the Internal Revenue Code of 1986 (as amended by subsection (a)) shall not apply to any exchange of an interest as general partner pursuant to a plan of reorganization of ownership interest under a contract which took effect on March 29, 1984, and which was executed on or before March 31, 1984, but only if all the exchanges contemplated by the reorganization plan are completed on or before December 31, 1984.''

Effective Date of 1969 Amendment

Effective Date of 1959 Amendment
Amendment by Pub. L. 85–914 applicable to taxable years beginning after Dec. 31, 1959, see section 203 of Pub. L. 85–914, set out as an Effective Date note under section 1357 of this title.

Effective Date of 1958 Amendment
Amendment by Pub. L. 85–915 applicable to taxable years beginning after Sept. 22, 1959, see section 203 of Pub. L. 85–915, set out as a note under section 1357 of this title.

PLAN AMENDMENTS NOT REQUIRED UNTIL JANUARY 1, 1989
For provisions directing that if any amendments made by title III of Pub. L. 101–508 require an amendment to any plan, such plan amendment shall not be required to be made before the first plan year beginning on or after Jan. 1, 1989, see section 11410 of Pub. L. 101–508, as amended, set out as a note under section 401 of this title.

§ 1032. Exchange of stock for property
(a) Nonrecognition of gain or loss
No gain or loss shall be recognized to a corporation in exchange for money or other property except to the extent hereinafter provided in this paragraph:

(1) Conversion into similar property
If the property so converted, purchases other property similar or related in service or use to the converted property, the gain (if any) shall be recognized except to the extent hereinafter provided in this paragraph.

(A) Nonrecognition of gain
If the taxpayer during the period specified in subparagraph (B), for the purpose of replacing the property so converted, purchases other property similar or related in service or use to the property so converted, or purchases stock in the acquisition of control of a corporation owning such other property, at the election of the taxpayer the gain shall be recognized only to the extent that the amount realized upon such conversion (regardless of whether such amount is received in one or more taxable years) exceeds the cost of such other property or such stock.

(B) Period within which property must be replaced
The period referred to in subparagraph (A) shall be the period beginning with the date of the disposition of the converted property and ending—

(i) 2 years after the close of the first taxable year in which any part of the gain upon the conversion is realized, or

(ii) the date of the enactment of this Act [July 18, 1984] in taxable years ending after such date.