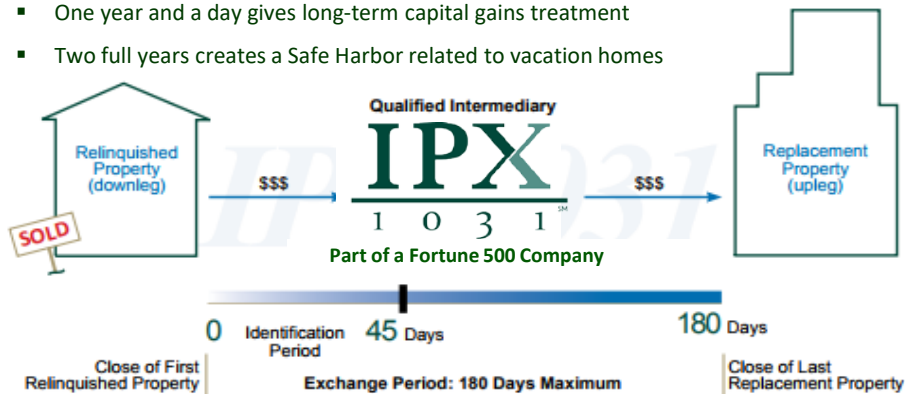




## 1031 Exchange Rules

### 1. Types of real property that qualify:

- Any property that *produces income* or is *held for investment*
- “Like-Kind” is somewhat of a misnomer – any real property can qualify and be exchanged for any other real property – except:
  - Owner occupied personal primary residence
  - Typically fix-&-flips and developers cannot use 1031 exchanges
- “Held-for” requirement:
  - There is no stated period of time to qualify – it is about the seller’s “intent”
  - One year and a day gives long-term capital gains treatment
  - Two full years creates a Safe Harbor related to vacation homes



### 2. 45-Day ID Rule: seller has 45 days from sale closing to identify replacement properties:

- **Three-Property Rule:** exchanger is limited to a maximum of three possible replacement properties
- **200% Rule:** if more than 3 properties ID'd, then the replacement property dollar amount is capped
- **95% Rule:** if exceeding the 200% rule, then exchanger must close on 95% of \$-value of ID'd properties

### 3. 180-Day Rule: exchanger has 180 days to acquire one or more of the identified replacement properties – the exchange is essentially from sale closing to purchase closing

### 4. Qualified Intermediary (QI) or accommodator requirements:

- The seller/exchanger must use a QI
- Seller/exchanger cannot have constructive receipt of sales proceeds (exchange proceeds) – the QI must hold the funds
- QI cannot be the seller's/exchanger's attorney or accountant

### 5. Reinvestment requirement or the *equal-or-up rule*:

- To pay zero taxes (fully defer the gains) buy replacement property that is equal-or-greater in value AND reinvest all cash proceeds
- “Boot” results if exchanger buys down in value or has left over proceeds

### 6. Vesting or title requirements – ownership entity issues:

- Tax return trumps title
- Same taxpayer that owned the relinquished property must acquire the replacement property

**Safety and Security** of exchange funds is a matter of paramount importance. **IPX1031®** routinely provides customers with the following superior safety and security controls for exchange funds:

- \$100 million Fidelity Bond
- \$50 million third party corporate performance guarantee
- \$30 million in Errors & Omissions insurance
- Our insurance certificates are posted on our website [www.ipx1031.com](http://www.ipx1031.com)
- Exchange funds are held in segregated bank accounts for the benefit of the named Exchanger, using the Exchanger's taxpayer identification number
- Disbursement of exchange funds requires written authorization from the Exchanger
- Disbursements require dual authorization and are controlled by our separate Banking Division; sales and administrative staff have no authority or ability to transfer funds
- Regular reconciliation of exchange fund balances by our Banking staff and our parent company
- As part of a large publicly-traded corporation, we are subject to audits, controls, and a level of financial transparency that is not required of privately held businesses

**Expertise & Service** – Our depth of technical expertise and practical experience has developed over many years. Additionally, our professionalism and commitment to our customers are demonstrated every day by the following.

- Regional attorneys and experienced staff available to provide guidance for real estate and personal property exchanges, including delayed, simultaneous, improvement, and reverse exchanges.
- Sales Executives located throughout the country available for accredited seminars and complimentary exchange consultations
- Expert preparation of exchange documents – essential for a timely closing
- Member and leadership role in the Federation of Exchange Accommodators, the national trade association of 1031 Qualified Intermediaries.

**Strength:**

- **IPX1031®** ([www.ipx1031.com](http://www.ipx1031.com)) is a wholly owned subsidiary of **Fidelity National Financial, Inc.** (NYSE: **FNF**) which is a leading provider of title insurance, mortgage services, and diversified services ([www.fnf.com](http://www.fnf.com)). FNF is the nation's largest title insurance company in the U.S. (in 2017 #293 on Fortune 500 Company list)

**Capital gains taxes** are now **30% to 40%** blended or effective rate:

- **15%** &/or **20%** on the appreciation (both tax rates may be applied in phases, depending on the amount of the gain and the taxpayer's AGI)
- **+ 25%** depreciation recapture (§1250 gain, unless it's raw land; accelerated depreciation is recaptured at ordinary income rates under §1245)
- **+ 3.8%** "Obama-care" tax or the ACA tax or the Medicare surtax (NIIT: Net Investment Income Tax §1411)
- **+ 4.63%** State of Colorado
- **Total = 30% to 40%** this is the blended or effective capital gains tax rate
- For example, with a gain of \$10,000 – and if there is no 1031 exchange – the effective capital gains taxes could be \$3,000 to \$4,000. *But all of these taxes may be deferred under a properly structured 1031 exchange*
- There are even strategies whereby some of the capital gain can ultimately be taken **tax free...**