

# IDENTIFICATION RULES

## "IT'S ESSENTIAL TO ADHERE TO THESE REQUIREMENTS"



Compliments of



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Template # 15

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## IDENTIFICATION RULES

The identification period in a delayed exchange begins on the date the Exchanger transfers the relinquished property and ends at midnight on the 45th calendar day thereafter. To qualify for a §1031 tax deferred exchange, the tax code requires identifying replacement property:

- In a written document signed by the Exchanger;
- Hand delivered, mailed, telecopied, or otherwise sent;
- Before the end of the identification period to;
- Either the person obligated to transfer the replacement property to the Exchanger (generally the "Qualified Intermediary") or any other person involved in the exchange other than the taxpayer or a disqualified person.

An identification notice must contain:

- An unambiguous description of the replacement property (i.e. legal description, street or distinguishable name)
- Exchangers should note the address of the relinquished property
- The type of property should be described in a personal property exchange

## ADDITIONAL ISSUES

Exchangers acquiring a property which is being constructed must identify this property and the improvements in as much detail as is practical at the time the identification is made. Exchangers who intend to acquire less than a 100% ownership interest in the replacement property should specify the specific percentage interest. Exchangers should always consult with their tax and/or legal advisors about the specific identification rules and restrictions.

Any properties acquired within the 45-day identification period are considered properly identified. An investor has the ability to substitute new replacement properties by revoking a previous identification and correctly identifying new replacement properties as long as this is done in writing within the 45-day identification period.

Although Exchangers can identify more than one replacement property, the maximum number of properties that can be identified is limited to:

- A) Three properties without regard to their fair market value ("3 Property Rule");
- B) Any number of properties so long as their aggregate fair market value does not exceed 200% of the aggregate fair market value of all relinquished properties ("200% Rule");
- C) Any number of properties without regard to the combined fair market value, as long as the properties acquired amount to at least ninety five percent (95%) of the fair market value of all identified properties ("95% Rule").