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Form **8824**

Department of the Treasury
Internal Revenue Service

Like-Kind Exchanges

(and section 1043 conflict-of-interest sales)

► **Attach to your tax return.**

OMB No. 1545-1190

2005

Attachment Sequence No. **109**

Name(s) shown on tax return	**Identifying number**

Part I Information on the Like-Kind Exchange

Note: *If the property described on line 1 or line 2 is real or personal property located outside the United States, indicate the country.*

1 Description of like-kind property given up ►

2 Description of like-kind property received ►

3 Date like-kind property given up was originally acquired (month, day, year)	3	/ /
4 Date you actually transferred your property to other party (month, day, year)	4	/ /
5 Date like-kind property you received was identified by written notice to another party (month, day, year). See instructions for 45-day written notice requirement	5	/ /
6 Date you actually received the like-kind property from other party (month, day, year). See instructions	6	/ /

7 Was the exchange of the property given up or received made with a related party, either directly or indirectly (such as through an intermediary)? See instructions. If "Yes," complete Part II. If "No," go to Part III ☐ **Yes** ☐ **No**

Part II Related Party Exchange Information

8 Name of related party	Relationship to you	Related party's identifying number
Address (no., street, and apt., room, or suite no., city or town, state, and ZIP code)		

9 During this tax year (and before the date that is 2 years after the last transfer of property that was part of the exchange), did the related party directly or indirectly (such as through an intermediary) sell or dispose of any part of the like-kind property received from you in the exchange? ☐ **Yes** ☐ **No**

10 During this tax year (and before the date that is 2 years after the last transfer of property that was part of the exchange), did you sell or dispose of any part of the like-kind property you received? ☐ **Yes** ☐ **No**

*If both lines 9 and 10 are "No" and this is the year of the exchange, go to Part III. If both lines 9 and 10 are "No" and this is **not** the year of the exchange, stop here. If either line 9 or line 10 is "Yes," complete Part III and report on this year's tax return the deferred gain or (loss) from line 24 **unless** one of the exceptions on line 11 applies.*

11 If one of the exceptions below applies to the disposition, check the applicable box:

a ☐ The disposition was after the death of either of the related parties.

b ☐ The disposition was an involuntary conversion, and the threat of conversion occurred after the exchange.

c ☐ You can establish to the satisfaction of the IRS that neither the exchange nor the disposition had tax avoidance as its principal purpose. If this box is checked, attach an explanation (see instructions).

Name(s) shown on tax return. Do not enter name and social security number if shown on other side. | **Your social security number**

Part III Realized Gain or (Loss), Recognized Gain, and Basis of Like-Kind Property Received

Caution: *If you transferred **and** received **(a)** more than one group of like-kind properties or **(b)** cash or other (not like-kind) property, see **Reporting of multi-asset exchanges** in the instructions.*

Note: *Complete lines 12 through 14 **only** if you gave up property that was not like-kind. Otherwise, go to line 15.*

12	Fair market value (FMV) of other property given up	12	
13	Adjusted basis of other property given up	13	
14	Gain or (loss) recognized on other property given up. Subtract line 13 from line 12. Report the gain or (loss) in the same manner as if the exchange had been a sale **Caution:** *If the property given up was used previously or partly as a home, see **Property used as home** in the instructions.*	14	
15	Cash received, FMV of other property received, plus net liabilities assumed by other party, reduced (but not below zero) by any exchange expenses you incurred (see instructions)	15	
16	FMV of like-kind property you received	16	
17	Add lines 15 and 16	17	
18	Adjusted basis of like-kind property you gave up, net amounts paid to other party, plus any exchange expenses **not** used on line 15 (see instructions)	18	
19	**Realized gain or (loss).** Subtract line 18 from line 17	19	
20	Enter the smaller of line 15 or line 19, but not less than zero	20	
21	Ordinary income under recapture rules. Enter here and on Form 4797, line 16 (see instructions)	21	
22	Subtract line 21 from line 20. If zero or less, enter -0-. If more than zero, enter here and on Schedule D or Form 4797, unless the installment method applies (see instructions)	22	
23	**Recognized gain.** Add lines 21 and 22	23	
24	Deferred gain or (loss). Subtract line 23 from line 19. If a related party exchange, see instructions	24	
25	**Basis of like-kind property received.** Subtract line 15 from the sum of lines 18 and 23	25	

Part IV Deferral of Gain From Section 1043 Conflict-of-Interest Sales

Note: *This part is to be used **only** by officers or employees of the executive branch of the Federal Government for reporting nonrecognition of gain under section 1043 on the sale of property to comply with the conflict-of-interest requirements. This part can be used **only** if the cost of the replacement property is more than the basis of the divested property.*

26 Enter the number from the upper right corner of your certificate of divestiture. (**Do not** attach a copy of your certificate. Keep the certificate with your records.) ▶ ________ – ________

27 Description of divested property ▶ ....

28 Description of replacement property ▶ ....

29	Date divested property was sold (month, day, year)	29	/ /
30	Sales price of divested property (see instructions)	30	
31	Basis of divested property	31	
32	**Realized gain.** Subtract line 31 from line 30	32	
33	Cost of replacement property purchased within 60 days after date of sale	33	
34	Subtract line 33 from line 30. If zero or less, enter -0-	34	
35	Ordinary income under recapture rules. Enter here and on Form 4797, line 10 (see instructions)	35	
36	Subtract line 35 from line 34. If zero or less, enter -0-. If more than zero, enter here and on Schedule D or Form 4797 (see instructions)	36	
37	**Deferred gain.** Subtract the sum of lines 35 and 36 from line 32	37	
38	**Basis of replacement property.** Subtract line 37 from line 33	38	

General Instructions

Section references are to the Internal Revenue Code unless otherwise noted.

Purpose of Form

Use Parts I, II, and III of Form 8824 to report each exchange of business or investment property for property of a like kind. Certain members of the executive branch of the Federal Government use Part IV to elect to defer gain on conflict-of-interest sales.

Multiple exchanges. If you made more than one like-kind exchange, you may file only a summary Form 8824 and attach your own statement showing all the information requested on Form 8824 for each exchange. Include your name and identifying number at the top of each page of the statement. On the summary Form 8824, enter only your name and identifying number, “Summary” on line 1, the total recognized gain from all exchanges on line 23, and the total basis of all like-kind property received on line 25.

When To File

If during the current tax year you transferred property to another party in a like-kind exchange, you must file Form 8824 with your tax return for that year. Also file Form 8824 for the 2 years following the year of a related party exchange (see the instructions for line 7 on page 4).

Like-Kind Exchanges

Generally, if you exchange business or investment property solely for business or investment property of a like kind, no gain or loss is recognized under section 1031. If, as part of the exchange, you also receive other (not like-kind) property or money, gain is recognized to the extent of the other property and money received, but a loss is not recognized.

Section 1031 does not apply to exchanges of inventory, stocks, bonds, notes, other securities or evidence of indebtedness, or certain other assets. See section 1031(a)(2). In addition, section 1031 does not apply to certain exchanges involving tax-exempt use property subject to a lease. See section 470(e)(4).

Like-kind property. Properties are of like kind if they are of the same nature or character, even if they differ in grade or quality. Personal properties of a like class are like-kind properties. However, livestock of different sexes are not like-kind properties. Also, personal property used predominantly in the United States and personal property used predominantly outside the United States are not like-kind properties. See Pub. 544, Sales and Other Dispositions of Assets, for more details.

Real properties generally are of like kind, regardless of whether they are improved or unimproved. However, real property in the United States and real property outside the United States are not like-kind properties.

Deferred exchanges. A deferred exchange occurs when the property received in the exchange is received after the transfer of the property given up. For a deferred exchange to qualify as like-kind, you must comply with the 45-day written notice and receipt requirements explained in the instructions for lines 5 and 6.

Multi-asset exchanges. A multi-asset exchange involves the transfer and receipt of more than one group of like-kind properties. For example, an exchange of land, vehicles, and cash for land and vehicles is a multi-asset exchange. An exchange of land, vehicles, and cash for land only is not a multi-asset exchange. The transfer or receipt of multiple properties within one like-kind group is also a multi-asset exchange. Special rules apply when figuring the amount of gain recognized and your basis in properties received in a multi-asset exchange. For details, see Regulations section 1.1031(j)-1.

Reporting of multi-asset exchanges. If you transferred and received (a) more than one group of like-kind properties or (b) cash or other (not like-kind) property, do not complete lines 12 through 18 of Form 8824. Instead, attach your own statement showing how you figured the realized and recognized gain, and enter the correct amount on lines 19 through 25. Report any recognized gains on Schedule D; Form 4797, Sales of Business Property; or Form 6252, Installment Sale Income, whichever applies.

Exchanges using a qualified exchange accommodation arrangement (QEAA). If property is transferred to an exchange accommodation titleholder (EAT) and held in a QEAA, the EAT may be treated as the beneficial owner of the property, the property transferred from the EAT to you may be treated as property you received in an exchange, and the property you transferred to the EAT may be treated as property you gave up in an exchange. This may be true even if the property you are to receive is transferred to the EAT before you transfer the property you are giving up. However, the property transferred to you may not be treated as property received in an exchange if you previously owned it within 180 days of its transfer to the EAT. For details, see Rev. Proc. 2000-37 as modified by Rev. Proc. 2004-51. Rev. Proc. 2000-37 is on page 308 of Internal Revenue Bulletin 2000-40 at *www.irs.gov/pub/irs-irbs/irb00-40.pdf.* Rev. Proc. 2004-51 is on page 294 of Internal Revenue Bulletin 2004-33 at *www.irs.gov/irb/2004-33_IRB/ar13.html.*

Property used as home. If the property given up was owned and used as your home during the 5-year period ending on the date of the exchange, you may be able to exclude part or all of any gain figured on Form 8824. For details on the exclusion (including how to figure the amount of the exclusion), see Pub. 523, Selling Your Home. Fill out Form 8824 according to its instructions, with these exceptions:

1. Subtract line 18 from line 17. Subtract the amount of the exclusion from the result. Enter that result on line 19. On the dotted line next to line 19, enter “Section 121 exclusion” and the amount of the exclusion.
2. On line 20, enter the smaller of:
   a. Line 15 minus the exclusion, or
   b. Line 19.
   Do not enter less than zero.
3. Subtract line 15 from the sum of lines 18 and 23. Add the amount of your exclusion to the result. Enter that sum on line 25.

Property used partly as home. If the property given up was used partly as a home, you will need to use two separate Forms 8824 as worksheets—one for the part of the property used as a home and one for the part used for business or investment. Fill out only lines 15 through 25 of each worksheet Form 8824. On the worksheet Form 8824 for the part of the property used as a home, follow steps (1) through (3) above, except that instead of following step (2), enter the amount from line 19 on line 20. On the worksheet Form 8824 for the part of the property used for business or investment, follow steps (1) through (3) above only if you can exclude at least part of any gain from the exchange of that part of the property; otherwise, complete the form according to its instructions. Enter the combined amounts from lines 15 through 25 of both worksheet Forms 8824 on the Form 8824 you file. Do not file either worksheet Form 8824.

More information. For details, see Rev. Proc. 2005-14 on page 528 of Internal Revenue Bulletin 2005-7 at *www.irs.gov/irb/2005-07_IRB/ar10.html.*

Additional information. For more information on like-kind exchanges, see section 1031 and its regulations and Pub. 544.

Specific Instructions

Lines 1 and 2. For real property, enter the address and type of property. For personal property, enter a short description. For property located outside the United States, include the country.

Line 5. Enter on line 5 the date of the written notice that identifies the like-kind property you received in a deferred exchange. To comply with the **45-day written notice requirement,** the following conditions must be met.

1. The like-kind property you receive in a deferred exchange must be designated in writing as replacement property either in a document you signed or in a written agreement signed by all parties to the exchange.
2. The document or agreement must describe the replacement property in a clear and recognizable manner. Real property should be described using a legal description, street address, or distinguishable name (for example, “Mayfair Apartment Building”).

3. No later than 45 days after the date you transferred the property you gave up:

a. You must send, fax, or hand deliver the document you signed to the person required to transfer the replacement property to you (including a disqualified person) or to another person involved in the exchange (other than a disqualified person), or

b. All parties to the exchange must sign the written agreement designating the replacement property.

Generally, a disqualified person is either your agent at the time of the transaction or a person related to you. For more details, see Regulations section 1.1031(k)-1(k).

Note. If you received the replacement property before the end of the 45-day period, you automatically are treated as having met the 45-day written notice requirement. In this case, enter on line 5 the date you received the replacement property.

Line 6. Enter on line 6 the date you received the like-kind property from the other party.

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

- The 180th day after the date you transferred the property given up in the exchange.
- The due date (including extensions) of your tax return for the year in which you transferred the property given up.

Line 7. Special rules apply to like-kind exchanges made with related parties, either directly or indirectly. A **related party** includes your spouse, child, grandchild, parent, grandparent, brother, sister, or a related corporation, S corporation, partnership, trust, or estate. See section 1031(f).

An exchange made **indirectly** with a related party includes:

- An exchange made with a related party through an intermediary (such as a qualified intermediary or an exchange accommodation titleholder, as defined in Pub. 544), or
- An exchange made by a disregarded entity (such as a single member limited liability company) if you or a related party owned that entity.

If the related party (either directly or indirectly) or you dispose of the property received in an exchange before the date that is 2 years after the last transfer of property from the exchange, the deferred gain or (loss) from line 24 must be reported on your return for the year of disposition (unless an exception on line 11 applies).

If you are filing this form for 1 of the 2 years following the year of the exchange, complete Parts I and II. If both lines 9 and 10 are "No," **stop.**

If either line 9 or line 10 is "Yes," and an exception on line 11 applies, check the applicable box on line 11, attach any required explanation, and **stop.** If no line 11 exceptions apply, complete Part III. Report the deferred gain or (loss) from line 24 on this year's tax return as if the exchange had been a sale.

An exchange structured to avoid the related party rules is not a like-kind exchange. Do not report it on Form 8824. Instead, you should report the disposition of the property given up as if the exchange had been a sale. See section 1031(f)(4). Such an exchange includes the transfer of property you gave up to a qualifed intermediary in exchange for property you received that was formerly owned by a related party if the related party received cash or other (not like-kind) property for the property you received, and you used the qualified intermediary to avoid the application of the related party rules. See Rev. Rul. 2002-83 for more details. You can find Rev. Rul. 2002-83 on page 927 of Internal Revenue Bulletin 2002-49 at *www.irs.gov/pub/irs-irbs/irb02-49.pdf.*

Line 11c. If you believe that you can establish to the satisfaction of the IRS that tax avoidance was not a principal purpose of both the exchange and the disposition, attach an explanation. Generally, tax avoidance will not be seen as a principal purpose in the case of:

- A disposition of property in a nonrecognition transaction,
- An exchange in which the related parties derive no tax advantage from the shifting of basis between the exchanged properties, or
- An exchange of undivided interests in different properties that results in each related party holding either the entire interest in a single property or a larger undivided interest in any of the properties.

Lines 12, 13, and 14. If you gave up other property in addition to the like-kind property, enter the fair market value (FMV) and the adjusted basis of the other property on lines 12 and 13, respectively. The gain or (loss) from this property is figured on line 14 and must be reported on your return. Report gain or (loss) as if the exchange were a sale.

Line 15. Include on line 15 the sum of:

- Any cash paid to you by the other party,
- The FMV of other (not like-kind) property you received, if any, and
- Net liabilities assumed by the other party—the excess, if any, of liabilities (including mortgages) assumed by the other party over the total of (a) any liabilities you assumed, (b) cash you paid to the other party, and (c) the FMV of the other (not like-kind) property you gave up.

Reduce the sum of the above amounts (but not below zero) by any exchange expenses you incurred. See the example on this page.

The following rules apply in determining the amount of liability treated as assumed.

- A recourse liability (or portion thereof) is treated as assumed by the party receiving the property if that party has agreed to and is expected to satisfy the liability (or portion thereof). It does not matter whether the party transferring the property has been relieved of the liability.
- A nonrecourse liability generally is treated as assumed by the party receiving the property subject to the liability. However, if an owner of other assets subject to the same liability agrees with the party receiving the property to, and is expected to, satisfy part or all of the liability, the amount treated as assumed is reduced by the smaller of (a) the amount of the liability that the owner of the other assets has agreed to and is expected to satisfy or (b) the FMV of those other assets.

Line 18. Include on line 18 the sum of:

- The adjusted basis of the like-kind property you gave up,
- Exchange expenses, if any (except for expenses used to reduce the amount reported on line 15), and
- Net amount paid to the other party—the **excess,** if any, of the total of (a) any liabilities you assumed, (b) cash you paid to the other party, and (c) the FMV of the other (not like-kind) property you gave up **over** any liabilities assumed by the other party.

See Regulations section 1.1031(d)-2 and the following example for figuring amounts to enter on lines 15 and 18.

Example. A owns an apartment house with an FMV of $220,000, an adjusted basis of $100,000, and subject to a mortgage of $80,000. B owns an apartment house with an FMV of $250,000, an adjusted basis of $175,000, and subject to a mortgage of $150,000.

A transfers his apartment house to B and receives in exchange B's apartment house plus $40,000 cash. A assumes the mortgage on the apartment house received from B, and B assumes the mortgage on the apartment house received from A.

A enters on line 15 only the $40,000 cash received from B. The $80,000 of liabilities assumed by B is not included because it does not exceed the $150,000 of liabilities A assumed. A enters $170,000 on line 18—the $100,000 adjusted basis, plus the $70,000 excess of the liabilities A assumed over the liabilities assumed by B ($150,000 - $80,000).

B enters $30,000 on line 15—the excess of the $150,000 of liabilities assumed by A over the total ($120,000) of the $80,000 of liabilities B assumed and the $40,000 cash B paid. B enters on line 18 only the adjusted basis of $175,000 because the total of the $80,000 of liabilities B assumed and the $40,000 cash B paid does not exceed the $150,000 of liabilities assumed by A.

Line 21. If you disposed of section 1245, 1250, 1252, 1254, or 1255 property (see the instructions for Part III of Form 4797), you may be required to recapture as ordinary income part or all of the realized gain (line 19). Figure the amount to enter on line 21 as follows:

Section 1245 property. Enter the smaller of:

1. The total adjustments for deductions (whether for the same or other property) allowed or allowable to you or any other

person for depreciation or amortization (up to the amount of gain shown on line 19), or

2. The gain shown on line 20, if any, plus the FMV of non-section 1245 like-kind property received.

Section 1250 property. Enter the smaller of:

1. The gain you would have had to report as ordinary income because of additional depreciation if you had sold the property (see the Form 4797 instructions for line 26), or

2. The larger of:

a. The gain shown on line 20, if any, or

b. The excess, if any, of the gain in item (1) above over the FMV of the section 1250 property received.

Section 1252, 1254, and 1255 property. The rules for these types of property are similar to those for section 1245 property. See Regulations section 1.1252-2(d) and Temporary Regulations section 16A.1255-2(c) for details. If the installment method applies to this exchange:

1. See section 453(f)(6) to determine the installment sale income taxable for this year and report it on Form 6252.

2. Enter on Form 6252, line 25 or 36, the section 1252, 1254, or 1255 recapture amount you figured on Form 8824, line 21. Do not enter more than the amount shown on Form 6252, line 24 or 35.

3. Also enter this amount on Form 4797, line 15.

4. If all the ordinary income is not recaptured this year, report in future years on Form 6252 the ordinary income up to the taxable installment sale income, until it is all reported.

Line 22. Report a gain from the exchange of property used in a trade or business (and other noncapital assets) on Form 4797, line 5 or line 16. Report a gain from the exchange of capital assets according to the Schedule D instructions for your return. Be sure to use the date of the exchange as the date for reporting the gain. If the installment method applies to this exchange, see section 453(f)(6) to determine the installment sale income taxable for this year and report it on Form 6252.

Line 24. If line 19 is a loss, enter it on line 24. Otherwise, subtract the amount on line 23 from the amount on line 19 and enter the result. For exchanges with related parties, see the instructions for line 7 on page 4.

Line 25. The amount on line 25 is your basis in the like-kind property you received in the exchange. Your basis in other property received in the exchange, if any, is its FMV.

Section 1043 Conflict-of-Interest Sales (Part IV)

If you sell property at a gain according to a certificate of divestiture issued by the Office of Government Ethics (OGE) and purchase replacement property (permitted property), you may elect to defer part or all of the realized gain. You must recognize gain on the sale only to the extent that the amount realized on the sale is more than the cost of replacement property purchased within 60 days after the sale. (You also must recognize any ordinary income recapture.) Permitted property is any obligation of the United States or any diversified investment fund approved by the OGE.

TIP *If the property you sold was stock you acquired by exercising a statutory stock option, you may be treated as meeting the holding periods that apply to such stock, regardless of how long you actually held the stock. This may benefit you if you do not defer your entire gain, because it may allow you to treat the gain as a capital gain instead of ordinary income. For details, see section 421(d) or Pub. 525.*

Complete Part IV of Form 8824 only if the cost of the replacement property is more than the basis of the divested property and you elect to defer the gain. Otherwise, report the sale on Schedule D or Form 4797, whichever applies.

Your basis in the replacement property is reduced by the amount of the deferred gain. If you made more than one purchase of replacement property, reduce your basis in the replacement property in the order you acquired it.

Line 30. Enter the amount you received from the sale of the divested property, minus any selling expenses.

Line 35. Follow these steps to determine the amount to enter.

1. Use Part III of Form 4797 as a worksheet to figure ordinary income under the recapture rules.

2. Enter on Form 8824, line 35, the amount from Form 4797, line 31. Do not attach the Form 4797 used as a worksheet to your return.

3. Report the amount from line 35 on Form 4797, line 10, column (g). In column (a), write "From Form 8824, line 35." Do not complete columns (b) through (f).

Line 36. If you sold a capital asset, enter any capital gain from line 36 on Schedule D. If you sold property used in a trade or business (or any other asset for which the gain is treated as ordinary income), report the gain on Form 4797, line 2 or line 10, column (g). In column (a), write "From Form 8824, line 36." Do not complete columns (b) through (f).

Paperwork Reduction Act Notice. We ask for the information on this form to carry out the Internal Revenue laws of the United States. You are required to give us the information. We need it to ensure that you are complying with these laws and to allow us to figure and collect the right amount of tax.

You are not required to provide the information requested on a form that is subject to the Paperwork Reduction Act unless the form displays a valid OMB control number. Books or records relating to a form or its instructions must be retained as long as their contents may become material in the administration of any Internal Revenue law. Generally, tax returns and return information are confidential, as required by section 6103.

The time needed to complete and file this form will vary depending on individual circumstances. The estimated burden for individual taxpayers filing this form is approved under OMB control number 1545-0074 and is included in the estimates shown in the instructions for their individual income tax return. The estimated burden for all other taxpayers who file this form is shown below.

Recordkeeping	1 hr., 38 min.
Learning about the law or the form	27 min.
Preparing the form	59 min.
Copying, assembling, and sending the form to the IRS	33 min.

If you have comments concerning the accuracy of these time estimates or suggestions for making this form simpler, we would be happy to hear from you. See the instructions for the tax return with which this form is filed.