

§ 1.1031(d)-1T

§ 1.1031(d)-1T Coordination of section 1060 with section 1031 (temporary).

If the properties exchanged under section 1031 are part of a group of assets which constitute a trade or business under section 1060, the like-kind property and other property or money which are treated as transferred in exchange for the like-kind property shall be excluded from the allocation rules of section 1060. However, section 1060 shall apply to property which is not like-kind property or other property or money which is treated as transferred in exchange for the like-kind property. For application of the section 1060 allocation rules to property which is not part of the like-kind exchange, see § 1.1060-1(b), (c), and (d) *Example 1 in § 1.338-6(b)*, to which reference is made by § 1.1060-1(c)(2).

[T.D. 8215, 53 FR 27044, July 18, 1988, as amended by T.D. 8858, 65 FR 1237, Jan. 7, 2000; T.D. 8940, 66 FR 9929, Feb. 13, 2001]

§ 1.1031(d)-2 Treatment of assumption of liabilities.

For the purposes of section 1031(d), the amount of any liabilities of the taxpayer assumed by the other party to the exchange (or of any liabilities to which the property exchanged by the taxpayer is subject) is to be treated as money received by the taxpayer upon the exchange, whether or not the assumption resulted in a recognition of gain or loss to the taxpayer under the law applicable to the year in which the exchange was made. The application of this section may be illustrated by the following examples:

Example 1. B, an individual, owns an apartment house which has an adjusted basis in his hands of \$500,000, but which is subject to a mortgage of \$150,000. On September 1, 1954, he transfers the apartment house to C, receiving in exchange therefor \$50,000 in cash and another apartment house with a fair market value on that date of \$600,000. The transfer to C is made subject to the \$150,000 mortgage. B realizes a gain of \$300,000 on the exchange, computed as follows:

Value of property received	\$600,000
Cash	50,000
Liabilities subject to which old property was transferred	150,000
	800,000
Total consideration received	800,000
Less: Adjusted basis of property transferred	500,000
	300,000

Gain realized	300,000
Under section 1031(b), \$200,000 of the \$300,000 gain is recognized. The basis of the apartment house acquired by B upon the exchange is \$500,000, computed as follows:	
Adjusted basis of property transferred	500,000
Less: Amount of money received:	
Cash	\$50,000
Amount of liabilities subject to which property was transferred	150,000
	200,000
Difference	300,000
Plus: Amount of gain recognized upon the exchange	200,000
	500,000
Basis of property acquired upon the exchange	500,000

Example 2. (a) D, an individual, owns an apartment house. On December 1, 1955, the apartment house owned by D has an adjusted basis in his hands of \$100,000, a fair market value of \$220,000, but is subject to a mortgage of \$80,000. E, an individual, also owns an apartment house. On December 1, 1955, the apartment house owned by E has an adjusted basis of \$175,000, a fair market value of \$250,000, but is subject to a mortgage of \$150,000. On December 1, 1955, D transfers his apartment house to E, receiving in exchange therefore \$40,000 in cash and the apartment house owned by E. Each apartment house is transferred subject to the mortgage on it.

(b) D realizes a gain of \$120,000 on the exchange, computed as follows:

Value of property received	\$250,000
Cash	40,000
Liabilities subject to which old property was transferred	80,000
	370,000
Total consideration received	370,000
Less:	
Adjusted basis of property transferred	\$100,000
Liabilities to which new property is subject	150,000
	250,000
Gain realized	120,000

For purposes of section 1031(b), the amount of *other property or money* received by D is \$40,000. (Consideration received by D in the form of a transfer subject to a liability of \$80,000 is offset by consideration given in the form of a receipt of property subject to a \$150,000 liability. Thus, only the consideration received in the form of cash, \$40,000, is treated as *other property or money* for purposes of section 1031(b).) Accordingly, under section 1031(b), \$40,000 of the \$120,000 gain is recognized. The basis of the apartment house acquired by D is \$170,000, computed as follows:

Adjusted basis of property transferred	\$100,000
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