

§ 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

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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Liabilities to which new property is subject .....	150,000
<b>Total .....</b>	<b>250,000</b>
Less:	
Amount of money received:	
Cash .....	\$40,000
Amount of liabilities subject to which property was transferred .....	80,000
	120,000
Difference .....	130,000
Plus: Amount of gain recognized upon the exchange .....	40,000
Basis of property acquired upon the exchange .....	170,000

(c) E realizes a gain of \$75,000 on the exchange, computed as follows:

Value of property received .....	\$220,000
Liabilities subject to which old property was transferred .....	150,000
<b>Total consideration received .....</b>	<b>370,000</b>
Less:	
Adjusted basis of property transferred ..	\$175,000
Cash .....	40,000
Liabilities to which new property is subject .....	80,000
	295,000
Gain realized .....	75,000

For purposes of section 1031(b), the amount of *other property or money* received by E is \$30,000. (Consideration received by E in the form of a transfer subject to a liability of \$150,000 is offset by consideration given in the form of a receipt of property subject to an \$80,000 liability and by the \$40,000 cash paid by E. Although consideration received in the form of cash or other property is not offset by consideration given in the form of an assumption of liabilities or a receipt of property subject to a liability, consideration given in the form of cash or other property is offset against consideration received in the form of an assumption of liabilities or a transfer of property subject to a liability.) Accordingly, under section 1031(b), \$30,000 of the \$75,000 gain is recognized. The basis of the apartment house acquired by E is \$175,000, computed as follows:

Adjusted basis of property transferred .....	\$175,000
Cash .....	40,000

Liabilities to which new property is subject .....	80,000
<b>Total .....</b>	<b>295,000</b>
Less:	
Amount of money received:	
Amount of liabilities subject to which property was transferred .....	\$150,000
	150,000
Difference .....	145,000
Plus: Amount of gain recognized upon the exchange .....	30,000
Basis of property acquired upon the exchange .....	175,000

**§ 1.1031(e)-1 Exchange of livestock of different sexes.**

Section 1031(e) provides that livestock of different sexes are not property of like kind. Section 1031(e) and this section are applicable to taxable years to which the Internal Revenue Code of 1954 applies.

[T.D. 7141, 36 FR 18792, Sept. 22, 1971]

**§ 1.1031(j)-1 Exchanges of multiple properties.**

(a) *Introduction*—(1) *Overview*. As a general rule, the application of section 1031 requires a property-by-property comparison for computing the gain recognized and basis of property received in a like-kind exchange. This section provides an exception to this general rule in the case of an exchange of multiple properties. An exchange is an exchange of multiple properties if, under paragraph (b)(2) of this section, more than one exchange group is created. In addition, an exchange is an exchange of multiple properties if only one exchange group is created but there is more than one property being transferred or received within that exchange group. Paragraph (b) of this section provides rules for computing the amount of gain recognized in an exchange of multiple properties qualifying for nonrecognition of gain or loss under section 1031. Paragraph (c) of this section provides rules for computing the basis of properties received in an exchange of multiple properties qualifying for nonrecognition of gain or loss under section 1031.