

1990



Department of the Treasury
Internal Revenue Service

Instructions for Form 8824

Like-Kind Exchanges

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

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.

The time needed to complete and file this form will vary depending on individual circumstances. The estimated average time is:

Recordkeeping	27 min.
Learning about the law or the form	22 min.
Preparing the form	54 min.
Copying, assembling, and sending the form to IRS	27 min.

If you have comments concerning the accuracy of these time estimates or suggestions for making this form more simple, we would be happy to hear from you. You can write to both the IRS and the Office of Management and Budget at the addresses listed in the instructions of the tax return with which this form is filed.

General Instructions

Purpose of Form

Use Part I of new Form 8824 to report the exchange of business or investment property for property that is of a like kind. Use Part II of Form 8824 to report the nonrecognition of gain from conflict-of-interest sales by certain members of the executive branch of the Federal government.

Form 8824 is used as a supporting statement for like-kind exchanges reported on other forms, including Form 4797, Sales of Business Property, and the Schedule D for your tax return. Complete and attach a separate Form 8824 for each exchange. See the instructions for Form 4797 or Schedule D for how to report the exchange on those forms.

Additional Information.—For more information on like-kind exchanges, see section 1031 and its regulations, and Pub. 544, Sales and Other Dispositions of Assets.

When To File

File Form 8824 for the tax year in which you transferred the property you gave up to the other party in the exchange.

Related Party Exchanges.—Special rules apply to exchanges made with a **related party**. A related party is your spouse, child, grandchild, parent, brother or sister, or a related corporation, S corporation, partnership (for exchanges after 8/3/90), or trust. See section 1031(f).

If the exchange was made with a related party, you must file Form 8824 for the year of the exchange and also for the 2 years following the year of the exchange. For any of these years, if either you or the related party disposes of the property received in the exchange, the deferred gain or (loss) from line 21 must be reported on your return unless one of the exceptions shown on line 11 applies. See the instructions for line 21.

An exchange that is structured to avoid the related party rules is not eligible for like-kind exchange treatment. See section 1031(f)(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 you also receive other property or money, then the gain, if any, is recognized to the extent of the other property or 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, and certain other assets. See section 1031(a)(2).

Like-Kind Property

Properties are of a like kind if they are of the same kind or class. Real property is of the same kind as other real property, regardless of whether the properties are improved or unimproved. However, real property located in the United States and real property located outside the United States are **not** property of a like kind. See section 1031 and its regulations for more details.

Deferred Exchanges

To qualify as a like-kind exchange, the following requirements must be met:

1. The replacement property to be received by you in the exchange must be identified within 45 days after you transferred the property given up, and
2. You must receive the new property by the earlier of 180 days after you transferred the property given up or the due date of your tax return for the year of the transfer (including extensions).

Property is properly identified by notifying another party to the exchange (other than a related party) of your selection of the property. The identification may also be made in a written agreement for the exchange of properties. See section 1031 and its regulations for more details.

Exchange of Multiple Properties

An exchange of multiple properties occurs if the properties exchanged consist of more than one group of like-kind properties being

transferred **and** received. For example, an exchange of land, vehicles, and cash for land and vehicles would be an exchange of multiple properties. An exchange of land, vehicles, and cash for only land would not be an exchange of multiple properties.

If your exchange was an exchange of multiple properties, or if you received **and** transferred cash or other (not like-kind) property, do not complete lines 12 through 18 of Form 8824. Instead, attach a statement showing the computation of the realized and recognized gain, and enter the correct amounts for lines 19 through 22. Report any gain recognized on Schedule D, Form 4797, or Form 6252, whichever applies.

Line-by-Line Instructions

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

Line 5.—See **Deferred Exchanges**, above.

Line 7.—See **Related Party Exchanges**, above, for the definition of a related party.

Line 11.—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. See **Pub. 537**, Installment Sales, for exceptions where tax avoidance is not a principal purpose.

Lines 12, 13, and 14.—If you gave up other property in the exchange in addition to the like-kind property, enter the fair market value and your adjusted basis of the other property on lines 12 and 13. If you did not give up other property, skip lines 12 through 14, and go to line 15. The gain or (loss) from this property is figured on line 14 and must be reported on your return. Report the gain or (loss) in the same manner as if the exchange had been a sale.

Lines 15 and 18.—Include on line 15 the sum of the following:

- 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 other party—the excess, if any, of any liabilities assumed by the other party (including any mortgages to which the property you gave up was subject) **over** the **total** of: (1) any liabilities you assumed (or to which the property you received was subject), (2) cash you paid to the other party, and (3) the FMV of other property you gave up.

Include on line 18 the sum of the following:

- the adjusted basis of the like-kind property you gave up,

- exchange expenses, if any (including fees paid to an intermediary to perform a deferred exchange), AND
- Net amount paid to other party—the excess, if any, of the **total** of: (1) any liabilities you assumed, (2) cash you paid to the other party, and (3) the FMV of the other property you gave up, **over** any liabilities assumed by the other party.

See the example below for how to figure the amounts to be entered on lines 15 and 18. Also see Regulations section 1.1031(d)-2.

Example. D owns an apartment house with a FMV of \$220,000, an adjusted basis of \$100,000, and subject to a mortgage of \$80,000. E owns an apartment house with a FMV of \$250,000, an adjusted basis of \$175,000, and subject to a mortgage of \$150,000. D transfers his apartment house to E, and receives in exchange the apartment house owned by E and \$40,000 in cash. Each apartment house is transferred subject to the mortgage on it.

D would enter on line 15 only the \$40,000 of cash received from E. The \$80,000 of liabilities assumed by E is not included because it does not exceed the \$150,000 of liabilities D assumed. D would enter \$170,000 on line 18—the \$100,000 adjusted basis, plus the \$70,000 excess of the liabilities D assumed over the liabilities assumed by E (\$150,000 – \$80,000).

E would enter \$30,000 on line 15—the excess of the \$150,000 of liabilities assumed by D over the total of the \$80,000 of liabilities E assumed and the \$40,000 of cash E paid. E would enter on line 18 only the adjusted basis of \$175,000, because

the total of the \$80,000 of liabilities E assumed and the \$40,000 of cash E paid (\$120,000) does not exceed the \$150,000 of liabilities assumed by D.

Line 20. Recognized gain.—If line 20 is more than zero, include the gain from line 20 on the form or schedule on which this exchange is reported.

If you are reporting the recognized gain on the installment method, see section 453(f)(6) to determine the amount taxable this year, and report it on **Form 6252**, Installment Sale Income. Write at the top of Form 6252 “Like-Kind Exchange” or, if the exchange involved a related party, write “Related Party Like-Kind Exchange.”

Line 21—Deferred gain or (loss).—If line 19 is a loss, enter the loss from line 19 on line 21. Otherwise, subtract the amount on line 20, if any, from the amount on line 19 and enter the result.

If the exchange was made with a related party, and either party disposes of the property received in the exchange within 2 years after the last transfer of property that was part of the exchange, the deferred gain or (loss) must be reported on your return in the year of the disposition (unless one of the exceptions on line 11 applies). Report the gain or (loss) in the same manner as if the exchange had been a sale. See **Related Party Exchanges** under **When to File**, on page 1.

Line 22—Basis of like-kind property received.—The amount on line 22 is your basis in the like-kind property you received in the exchange. The basis of other property received in the exchange, if any, is its fair market value.

Conflict-of-Interest Sales

Note: *This section is only to be used 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.*

If you sell property at a gain pursuant to a certificate of divestiture issued by the Office of Government Ethics, you may elect to recognize gain on the sale only to the extent that the amount realized on the sale exceeds the cost of replacement property (permitted property) purchased within 60 days after the sale. Complete Part II of Form 8824 only if the cost of the replacement property exceeds the basis of the divested property.

Basis in the replacement property is reduced by the amount of the gain not recognized. If more than one purchase of replacement property is made, reduce the basis of the replacement property in the order that the property was acquired.

Permitted property is any obligation of the United States or any diversified investment fund approved by the Office of Government Ethics.

Report the sale on Form 4797 or Schedule D, where the transaction would be reported if section 1043 did not apply. For the description, write “Form 8824, section 1043.” If Form 8824, line 30 is zero, write, “EGA 89” in the gain column, but if line 30 is more than zero, enter the gain. Complete all other columns as appropriate.

Line 26.—Enter the amount you received in the sale of the divested property, minus any selling expenses.