Reporting the Like-Kind Exchange of Real Estate Using IRS Form 8824

2014 Tax Return Edition

Compliments of

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for the
Tax Deferred Exchange of Real Estate"

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"This publication is designed to provide accurate and authoritative information in regard to the subject matter covered. It is presented with the understanding that the publisher is not engaged in rendering legal or accounting service. If legal or other assistance is required, the services of a competent professional should be sought".
From a Declaration of Principals jointly adopted by a committee of the American Bar Association and a committee of publishers and associations.

Realty Exchange Corporation
Since 1990

REPORTING THE EXCHANGE

These instructions were originally developed in the early 1990s when the IRS Form 8824 was first created. The IRS Form 8824 is very complicated and uses terms with which most exchangers are not familiar. As exchangers had many questions, this Workbook was published to be of assistance to them to properly report an exchange. While the author is not engaged in rendering legal or accounting service, every effort has been made to insure the guidance is in agreement with the current IRS Form 8824 instructions. Today, many taxpayers use tax preparers or commercial software. These instructions and the use of the enclosed worksheet help exchangers confirm that the other programs are not asking you to pay more taxes. If there is a conflict/difference, you should know why. Do not hesitate to email the author (ed@1031.us) with your worksheet numbers to ask for clarification or explain any differences.

In the early years of exchanging it was common for the property owners to assume the loan on the property they were receiving. Today, most banks/lenders will not allow the assumption of a loan. However, most IRS instructions still provide examples of loans being assumed. This causes major confusion. With the use of the "deferred exchange" rules (IRS regulation 1.1031(k)-(1) for most all 1031 exchanges, owners are getting new loans/mortgages.

1. WHEN DO WE REPORT THE EXCHANGE TO THE IRS? The exchange is reported to the IRS for the tax year in which the first relinquished property is transferred, even if the replacement property(ies) was transferred in the following tax year.

> **Example:** Exchanger settles on relinquished property on Dec. 14, 2014, and then settles on replacement property May 1, 2015.
>
> Exchanger would file IRS Form 8824 with 2014 return, **after filing an on-time request for an extension**.

2. HOW DO WE REPORT THE EXCHANGE? The Exchange is reported on IRS Form 8824, *Like-Kind Exchanges*. The Form 8824 is divided into four parts:

- Part I. Information on the Like-Kind Exchange
- Part II. Related Party Exchange Information
- Part III. Realized Gain or (Loss), Recognized Gain, and Basis of Like-Kind Property Received
- Part IV. Not used for 1031 Exchange – Used only for Section 1043 Conflict of Interest Sales.

If the exchanger has recognized gain, in addition to IRS Form 8824, the exchanger may need to report the gain on IRS Form 4797, Sales of Business Property, Schedule D (IRS Form 1040), Capital Gains and Losses, and/or IRS Form 6252, Installment Sale Income. See paragraph 6 below. IRS has made it clear not to report the sale of exchange property on Form 8949 when reporting an exchange on Form 8824.

If you made more than one like-kind exchange in the same year you should file only one summary Form 8824 and attach your own statement showing all the information requested on Form 8824 for each exchange. Include your name and tax ID number at the top of each page of the statement. On the summary IRS Form 8824, enter only your name and tax ID number, the word "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.

3. COMPLETING PART I – INFORMATION ON THE LIKE-KIND EXCHANGE. For Lines 1 and 2 in Part I, the exchanger should show for real property the address and type of property. For personal property a short description of the property should be entered. All property involved in each exchange is included on the single Form 8824. Include an attachment if additional space is required. Line 5 is normally the date the qualified intermediary was provided the identification of the replacement property. In the event the replacement property settled prior to the 45th day, then separate identification is not required, and the transfer date for the replacement property is shown on Line 5. The date on Line 5 should be and is usually no later than 45 days after the date you transferred the relinquished property as shown on Line 4.

4. COMPLETING PART II – RELATED PARTY EXCHANGE INFORMATION. Part II is only completed when the replacement property was purchased/acquired from a related party, directly or indirectly. A related party includes the exchanger's spouse, child, grandchild, parent, grandparent, brother or sister, or a related corporation, S corporation, partnership, or trust in which the exchanger has over a 50% interest. See IRC Section 1031(f). Before marking YES on Line 7, form 8824 be certain that the other party in to exchange is a related person. For instance an in-law while related, is not a related party for tax purposes. If the exchange is made with a related party (and an exception does not apply), then you must also file Form 8824 for the two years following the year of the exchange. See specific Form 8824 Instructions for Line 7. There have been a number of exceptions and clarifications on related party exchanges. If in doubt a tax advisor should be consulted before claiming the exchange involved a related party. If necessary see specific form 8824 instructions for Line 7 and Part III.

5. COMPLETING PART III – REALIZED GAIN OR (LOSS), RECOGNIZED GAIN, AND BASIS OF LIKE-KIND PROPERTY RECEIVED. Part III is the most important and most difficult part of the form to complete. Part III provides for the reporting of:

a. Ordinary gain (or loss) on 'other property' (i.e. non-like property) given up (see Lines 12, 13, and 14)

b. Ordinary income under the recapture rules (see Lines 21 and 22, and Instructions). *Do not confuse with recapture of Section 1250 depreciation*. There is no recapture if depreciable real property is exchanged for other depreciable real property. If depreciable real property is exchanged for non-depreciable real property (ex: rental house for land) then <u>the total depreciation taken in excess of straight line</u> could be recaptured. If the value of depreciable property received in the exchange (e.g. improvements to the land) exceeds the amount of additional or excess depreciation, then no depreciation will be recaptured. <u>Few properties exist today that have excess depreciation</u>.

c. Multi-Asset Exchanges. Note that multi-asset exchanges are covered in detail in Section 1.1031(j)-1 of the regulations. An exchange is only reported as a multi-asset exchange if the exchanger transferred **AND** received more than one group of like-kind properties, cash or other (not like-kind) property. Few real estate exchanges are multi-asset exchanges. See Page 1 of the Instructions for Form 8824 on multi-asset exchanges and reporting of multi-asset exchanges.

d. Realized Gain, Recognized Gain and Basis of Like-Kind Property Received. This is the primary purpose of Part III and IRS Form 8824.

To complete Part III, starting with Line 15, requires the use of our blank Worksheet on Page 10.

The following example is used throughout this workbook, and a completed Worksheet using this example is on Page 9.

EXAMPLE: To show the use of the Worksheet, we will use the following example of an exchange transaction. In most exchanges all tax is deferred. In this example, however, the exchanger will **buy down in value and receive excess exchange escrow funds**.

1. *Basis*. The cost basis in the property being relinquished (with improvements) is $150,000, and $45,000 has been taken in **depreciation** over a ten-year period. 2. *Relinquished Property*. The relinquished property contract price is $500,000, and the current **debt** to be paid off at settlement is $90,000. The exchanger had $40,000 in exchange expenses, and the $370,000 in proceeds (exchange escrow funds) were placed in a qualified escrow account by the Qualified Intermediary.

3. *Replacement Property*. The replacement property was purchased for $450,000, and a new loan was obtained for $150,000. The cash down payment was $300,000, and exchange expenses were $5,000.

The Worksheet is broken down into the four following steps:

STEP 1 **IT IS IMPORTANT TO READ EACH NOTE !!**

Gain Realized from Property Relinquished. The first step is to determine the amount of total capital gain that is being realized.

1. FMV of Relinquished Property (Note 1: Fair Market Value [FMV] is normally contract price)		$500,000
2. Less: Adjusted Basis		
2a. Cost (with improvements)	$150,000	
2b. Less: Depreciation allowed	– 45,000	–105,000
3. Less: Total Exchange Expenses (Note 2: Exchange expenses are allowable selling expenses for the relinquished property and the acquisition cost of replacement properties. (See Page 12 for Allocation of Exchange Expenses)		
3a. Relinquished Property	$40,000	
3b. Replacement Property	+5,000	-45,000
4. Equals Realized Gain		$350,000

Line 4 is posted to Line 19 on IRS Form 8824

Note: For a Reverse Exchange where the EAT holds the relinquished property the FMV used on Line 1 will be the amount the EAT was able to sell the relinquished property.

STEP 2

Determining Recognized Gain. This is the most important step in the process as it establishes how much of the capital gain realized will in fact be recognized and become taxable income. Line 15 at the end of Step 2 reflects the taxable boot and is transferred to Line 15 on IRS Form 8824.

5. Relief of debt on relinquished property $90,000

6. Less: Debt acquired on replacement property –150,000

7. Equals net relief of liabilities [not less than zero] -0-
These three lines determine if there is any **mortgage boot**.
If debt acquired is less than debt relief, mortgage boot results.
Answer may not be less than zero because excess mortgage cannot offset cash boot.

8. Plus: Cash (down payment) received + 410,000
(Note 3: Cash received is FMV of relinquished property [Line 1] less debt relief [Line 5] less FMV of 'other property' received, including cash and value of owner held notes [Line 13 below])

9. Less: Cash paid (down payment) to seller – 300,000
(Note 4: Cash down payment is normally the difference between replacement property contract price and loan amount, less any seller given closing cost credits/allowances)

10. Less: Total Exchange Expenses (from Line 3 above) – 45,000

11. Equals total cash boot received (not less than zero) $ 65,000

12. Less: FMV of non-like kind 'other property' relinquished. - -0-
Includes credits given and other exchangor paid expenses.
'Other property' is all non-like property, such as personal property like a car, boat or trailer.

13. Plus: FMV of 'other property', cash & Notes received + -0-

14. Equals total NET boot received $ 65,000
Sum of Lines (7 + 11) minus Line 12 and Line 13

15. **Recognized Gain** (Taxable Income) **$ 65,000**
The smaller of Line 4 or 14 above

Line 15 is posted to Line 15 on IRS Form 8824
NOTE: Any cash received by exchagers (sellers) at the relinquihsed property settlement is boot and is taxable.

STEP 3

Realized Gain Deferred. This step determines how much of the realized gain will be deferred.

16. Realized Gain (from Line 4 above)	$ 350,000
17. Less: Recognized Gain (Taxable Income, Line 15 above)	- 65,000
18. Equals **Realized Gain Deferred**	$ 285,000

Line 18 is posted to Line 24 on IRS Form 8824

STEP 4

Basis of New Property. This step determines what the total basis will be in the new like-kind properties. From this basis the proportionate value of the land is subtracted. The balance is the value of the improvements for depreciation purposes. See Paragraph 7 below for the rules on depreciation of the replacement property.

19. FMV of Replacement Property (normally contract price)	$450,000
Line 19 is posted to Line 16 on IRS Form 8824	
20. Less: Realized Gain Deferred (from Line 18 above)	– 285,000
21. Equals **Total Basis in New Property(ies)**	$ 165,000

Line 21 is posted to both Lines 18 and 25 on IRS Form 8824

A completed Form 8824 using the above example is shown on pages 12 and 13.

Completion of IRS Form 8824. With the lines posted from the Worksheet to IRS Form 8824, the remaining open lines in Part III on Form 8824 can then be calculated.

IRS Form 8824 and its instructions are included at the end of this Workbook.

The form is also available at the IRS web site www.irs.gov/pub/irs-pdf/f8824.pdf. At the IRS site you can fill in your information on the IRS Form 8824 and print out a final copy.

6. ADDITIONAL FORMS MAY BE REQUIRED. Once Form 8824 is completed, then any additional forms required may be completed. **If Line 22 on Form 8824 is zero – congratulations – no additional forms are required.**

a. Form 4797, 'Sales of Business Property'. If there is an amount more than zero on Line 22 of the 8824, put that amount on Line 11 of the Schedule D or use Form 4797 to report the exchange of property used in your trade or business or held for production of rents (unless the installment method applies). See IRS instructions for Form 4797.

b. Schedule D, Form 1040, 'Capital Gains & Losses'. For investment property not reported on Form 4797, transfer Line 22, Form 8824 (except installment sale amount), to Line 11 of the Schedule D, Form 1040. See instructions for Schedule D. The IRS in Tax Tip 2012-28 has clearly stated that if reporting a 1031 exchange on IRS Form 8824, do not show the sale on Form 8949.

c. Form 6252, Installment Sale Income. That portion of the amount on Line 22, Form 8824, to be treated as an installment sale is reported on Form 6252. If there is any installment sale income, then it is carried forward from Line 26, Form 6252, and reported on Line 11, Schedule D or Line 4, Form 4797. (See IRS Publication 537, Installment Sales.)

If an exchanger actually receives boot or other exchange escrow funds in the year following the exchange of the first relinquished property, he may delay claiming receipt of the funds until the new year by filing IRS Form 6252, Installment Sale Income.

d. Schedule E and IRS Form 8582, Passive Activity Loss Limitations. If you have suspended passive losses from the rental property you are exchanging, then you may use those losses to offset any taxable boot you may be receiving. Use Worksheet 5 to IRS Form 8582 to determine the amount of allowed loss (Column (c)) for the specific property being exchanged. The Schedule E instructions state "If you have an unallowed rental real estate loss from a prior year after completing Form 8582 you can deduct this year, include the loss on line 22. [of Schedule E]" .

Any suspended passive losses on the exchanged property not used are carried forward to the replacement property (see IRS Publication 925, Passive Activity and At-Risk Rules, and the Instructions for IRS Form 8582).

7. DEPRECIATION OF REPLACEMENT PROPERTY. On February 26,2007, the IRS amended IRS Section 168. It was published in IRB 2007-14 as T.D. 9314. It contains the final regulations for depreciation of replacement property. Under these regulations the general rule remains that the taxpayer must depreciate the remaining relinquished property adjusted basis (called the *exchanged basis*) over the remaining recovery period using the same depreciation method as if it were a continuation of the relinquished property depreciation schedule. However, if the replacement property is not residential, then the remaining exchanged basis and the new excess basis would be depreciated using the 39-year schedule.

Any increase in the basis (called the *excess basis*) will be treated as newly acquired property and will be depreciated over 27.5 or 39 years using a new straight line depreciation schedule. No depreciation will be claimed for the period between the transfer of the relinquished property and the receipt of the replacement property.

The regulation does permit the taxpayer to elect out of the rules and to treat the entire replacement property as a new asset. To make this election, see IRS instructions for IRS Form 4562, *Depreciation and Amortization*.

Example: An exchanger has been taking depreciation for 10 years on a residential rental purchased for $150,000. He has taken $4,500 in depreciation annually leaving an exchanged basis of $105,000. If he purchases a residential replacement property with a total new basis of $165,000 (per Line 25 of IRS Form 8824), his depreciation schedules for the replacement property would be as follows:

Continuation of the Old Schedule for remaining 17.5 years: $4,500 per year for 17.5 years.

New Schedule for amount of Excess Basis for 27.5 years: If the value of the new property depreciable improvements were 82.5%, then the $60,000 increase in basis ($165,000 - 105,000) would be depreciated as follows: $60,000 X 82.5% = $49,500 divided by 27.5 years. The result would be $1,800 in annual depreciation to be taken for 27.5 years.

The total depreciation to be taken annually henceforth would be $4,500 (old schedule) **plus** $1,800 (new schedule) for a total amount of $6,300.

8. EXCHANGE EXPENSES. On Page 11 there is a chart showing the allocation of settlement costs. The exchange expense column lists those expenses that may be incurred in the disposition of the relinquished property and the acquisition of the replacement property.

The allowed exchange expenses are summarized and listed on Line 3 of the Worksheet. Be sure to include any expenses paid outside of closing which are considered exchange expenses. Additional exchange expenses are (a) loan fees paid by seller (exchanger) for buyer of relinquished property, and (b) messenger/notary fees.

Other expenses, called transactional items, paid by the exchanger may be shown on the HUD 1 (settlement statement) in accordance with local standards, and may be paid (like expenses for an exchanger to get a property loan) but are not considered exchange expenses! These real estate transactional items are normally reported on Form 1040, Schedule E, adjustments, rental property expenses, or costs to obtain a loan. See IRS 1.1031(k)-1(g)(7).

9. REPORTING EXCHANGE PROPERTY ALSO QUALIFYING FOR PRINCIPAL RESIDENCE SECTION 121 EXCLUSION. It is possible that the relinquished property being exchanged also qualifies for exclusion of gain as a principal residence under IRC Section 121 (for details see IRS Publication 523, *Selling a Home*).

If you also qualify for the exclusion of gain, **complete IRS Form 8824** according to the instructions with these exceptions:

(a) subtract Line 18 from Line 17. Subtract the amount of the exclusion from the result. Enter that result on Line 19.

(b) on the dotted line next to Line 19, enter "Section 121 exclusion" and the amount of the exclusion.

(c) on Line 20, enter the smaller of Line 15 minus the exclusion, OR Line 19, but not less than zero.

(d) subtract Line 15 from the sum of Lines 18 and 23. Add the amount of the exclusion to the result and enter that sum on Line 25.

For reporting **property partly used as your home,** see additional instructions on Page 2 of IRS Form 8824 instructions. For more details see Revenue Procedure 2005-14 at http://www.irs.gov/pub/irs-drop/rp-05-14.pdf.

10. REVERSE EXCHANGES. If you conducted a reverse exchange in accordance with IRS Revenue Procedure 2000-37, you will have transferred your relinquished property to the Exchange Accommodation Titleholder (EAT), OR you received the replacement property from the EAT at the end of the exchange. These are the transfer dates that are shown in Part I of IRS Form 8824, on Line 4 or Line 6. <u>The date the EAT acquired the replacement property is not recorded on the IRS Form 8824</u>.

11. SECURITY DEPOSITS. Security deposits and advanced rent should be paid or received outside of settlement and not shown on the HUD-1 (Settlement Statement). They might end up being counted as boot rather than adjustments if included on the settlement statement.

12. 3.8% MEDICARE TAX AVOIDANCE. Normally, when a taxpayer sells an investment or rental property the gain will be included in their taxable income and cause them to be subject to the 3.8% Medicare tax. It is clear in IRS regulation Section 1.1411 that all gain deferred in a 1031 exchange is not included in the 3.8% tax calculation.

Worksheet to Complete Part III of Like-Kind Exchange IRS Form 8824
(Bold line numbers on the right refer to IRS Form 8824)

			Form 8824
STEP 1. Gain Realized from Property Relinquished			
1. FMV of Relinquished Property (Note 1: FMV is normally contract price)		$500,000	
2. Less: Adjusted Basis			
2a. Initial Cost (plus improvements)	$150,000		
2b. Less: Depreciation allowed	- 45,000	- 105,000	
3. Less: Total Exchange Expenses (Note 2: Exchange expenses are allowable selling expenses for the relinquished property and the acquisition costs of replacement properties - See page 12)			
3a. Relinquished Property	$40,000		
3b. Replacement Property	+ 5,000	- 45,000	
4. Equals **Realized Gain**		**$350,000**	**(Line 19)**
STEP 2. Recognized Gain			
Mortgage Boot			
5. Relief of debt on relinquished property		$90,000	
6. Less: Debt acquired on replacement property		- 150,000	
7. Equals net relief of liabilities (Not less than zero)		$ 0	(Mortgage Boot)
Cash Boot			
8. Cash (Down Payment) received		$410,000	
(Note 3: Cash received is FMV of relinquished property [Line 1] less debt relief [Line 5] less FMV of 'other non-like property' received, including cash out and value of owner held notes [Line 13])			
9. Less: Cash paid (Down Payment) to seller		- 300,000	
(Note 4: Cash down payment is normally the difference between replacement property contract price and loan amount, less any seller given closing cost credits/allowances)			
10. Less: Total exchange expenses (from Line 3)		- 45,000	
11. Equals total cash boot received (Not less than zero)		$ 65,000	(Cash Boot)
12. Less: FMV of non-like 'other property' relinquished		- $ 0	
13. Plus: FMV of 'other property', cash out & owner held notes received		+ $ 0	
14. Equals Total NET boot received. (Lines 7+11) minus Line 12 plus Line 13)		$65,000	
15. **Recognized Gain (Taxable Income)** - the smaller of Line 4 or 14		$65,000	**(Line 15)**
STEP 3. Realized Gain Deferred			
16. Realized Gain (Line 4)		$350,000	
17. Less: Recognized Gain (Line 15 above)		- 65,000	
18. Equals Realized Gain Deferred		$285,000	**(Line 24)**
STEP 4. Basis of New Property			
19. FMV of Replacement Property (normally contract price)		$450,000	**(Line 16)**
20. Less Realized Gain Deferred (Line 18 above)		- 285,000	
21 Equals Total Basis in New like-kind Property(ies) received		$165,000	**(Lines 25 & 18)**

Worksheet to Complete Part III of Like-Kind Exchange IRS Form 8824
(Bold line numbers on the right refer to IRS Form 8824)

			Form 8824
STEP 1. Gain Realized from Property Relinquished			
1. FMV of Relinquished Property (Note 1: FMV is normally contract price)		$___________	
2. Less: Adjusted Basis			
2a. Initial Cost (plus improvements)	$___________		
2b. Less: Depreciation allowed	- $___________	- $___________	
3. Less: Total Exchange Expenses (Note 2: Exchange expenses are allowable selling expenses for the relinquished property and the acquisition costs of replacement properties - See page 12)			
3a. Relinquished Property	$___________		
3b. Replacement Property	+ $___________	- $___________	
4. Equals **Realized Gain**		$___________	**(Line 19)**
STEP 2. Recognized Gain			
Mortgage Boot			
5. Relief of debt on relinquished property		$___________	
6. Less: Debt acquired on replacement property		- $___________	
7. Equals net relief of liabilities (Not less than zero)		$___________	(Mortgage Boot)
Cash Boot			
8. Cash (Down Payment) received		$___________	
(Note 3: Cash received is FMV of relinquished property [Line 1] less debt relief [Line 5] less FMV of 'other non-like property' received, including cash out and value of owner held notes [Line 13])			
9. Less: Cash paid (Down Payment) to seller		- $___________	
(Note 4: Cash down payment is normally the difference between replacement property contract price and loan amount, less any seller given closing cost credits/allowances)			
10. Less: Total exchange expenses (from Line 3)		- $___________	
11. Equals total cash boot received (Not less than zero)		$___________	(Cash Boot)
12. Less: FMV of non-like 'other property' relinquished		$___________	
13. Plus: FMV of 'other property', cash out & owner held notes received		+ $___________	
14. Equals Total NET boot received. (Lines 7+11) minus Line 12 plus Line 13)		$___________	
15. **Recognized Gain (Taxable Income)** - the smaller of Line 4 or 14		$___________	**(Line 15)**
STEP 3. Realized Gain Deferred			
16. Realized Gain (Line 4)		$___________	
17. Less: Recognized Gain (Line 15 above)		- $___________	
18. Equals Realized Gain Deferred		$___________	**(Line 24)**
STEP 4. Basis of New Property			
19. FMV of Replacement Property (normally contract price)		$___________	**(Line 16)**
20. Less Realized Gain Deferred (Line 18 above)		- $___________	
21 Equals Total Basis in New like-kind Property(ies) received		$___________	**(Lines 25 & 18)**

LIKE KIND EXCHANGE ALLOCATION OF SETTLEMENT COSTS

RELINQUISHED PROPERTY HUD 1 Line #	Item (1)	Exchange Expense (3)	Non-Exchange Expenses 1040 Schedule E Adjustment/Expense	Debt Relief
700	Commission	X		
800	Loan Fees	X		
1100	Title Charges	X		
1200	Recording Fees	X		
1300	Additional Charges	X		
	Termite	X		
	Courier Fees	X		
	Exchange Fees	X		
406 - 412	Pre-paid by Seller		X	
	HOA/Condo Fee		X	
	Taxes		X	
504	Pay-off of Mortgage Principal			X
	Pay-off Interest		X	
	Lender Charges		X	
510 - 519	Items Unpaid by Exchanger			
	Taxes		X	
	HOA/Condo Fees		X	
	Escrow for Repairs		X	

REPLACEMENT PROPERTY HUD 1 Line #	Item	Exchange Expense (3)	Non-Exchange Expenses 1040 Schedule E Adjustment/Expense	Loan Costs
700	Commission	X		
800	Loan Fees			X
801 - 802	Loan Points			X (2)
803	Appraisal Fee			X
900	Prepaids		X	
	Interest		X	
	Insurance		X	
100	HOA/Condo Fee		X	
1000	Lender Reserves (Taxes + Insurance)		X (4)	
1100	Title Charges	X		
	Title Insurance	X		
1200	Recording Fees	X		
1300	Additional Charges	X		
	Exchange Fees	X		
	Termite	X		
	Courier Fees	X		
	Survey	X		

(1) Include items paid outside of closing (POC). (2) Points paid for loan are amortized over the life of the loan. (3) Exchange expense relates to the costs to dispose of relinquished property and costs to acquire replacement property. (4) Deductible when paid by lender.

Form **8824**

Department of the Treasury
Internal Revenue Service

Like-Kind Exchanges

(and section 1043 conflict-of-interest sales)

▶ **Attach to your tax return.**

▶ **Information about Form 8824 and its separate instructions is at *www.irs.gov/form8824*.**

OMB No. 1545-1190

2014

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:

Single Family Home, 123 Baker Street, Anytown, VA

2 Description of like-kind property received:

Single family Home, 456 Beach Road, Anyplace, NC

3	Date like-kind property given up was originally acquired (month, day, year)	3	11/12/2014
4	Date you actually transferred your property to other party (month, day, year)	4	12/15/2014
5	Date like-kind property you received was identified by written notice to another party (month, day, year). See instructions for 45-day written identification requirement	5	12/30/2014
6	Date you actually received the like-kind property from other party (month, day, year). See instructions	6	1/20/2015

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 sell or dispose of any part of the like-kind property received from you (or an intermediary) in the exchange or transfer property into the exchange, directly or indirectly (such as through an intermediary), that became your replacement property? . . . . ☐ **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 one of its principal purposes. If this box is checked, attach an explanation (see instructions).

For Paperwork Reduction Act Notice, see the instructions. Cat. No. 12311A Form **8824** (2014)

Form 8824 (2014) Page 2

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			14	
	Caution: *If the property given up was used previously or partly as a home, see* **Property used as home** *in the instructions.*				
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	$65,000
16	FMV of like-kind property you received			16	$450,000
17	Add lines 15 and 16			17	$515,000
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	$165,000
19	**Realized gain or (loss).** Subtract line 18 from line 17			19	$350,000
20	Enter the smaller of line 15 or line 19, but not less than zero			20	$65,000
21	Ordinary income under recapture rules. Enter here and on Form 4797, line 16 (see instructions)			21	$0
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	$65,000
23	**Recognized gain.** Add lines 21 and 22			23	$65,000
24	Deferred gain or (loss). Subtract line 23 from line 19. If a related party exchange, see instructions			24	$285,000
25	**Basis of like-kind property received.** Subtract line 15 from the sum of lines 18 and 23			25	$165,000

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 or judicial officers of the Federal Government (including certain spouses, minor or dependent children, and trustees as described in section 1043) 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	MM/DD/YYYY
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	

Form **8824** (2014)

2014 Instructions for Form 8824

Department of the Treasury
Internal Revenue Service

Like-Kind Exchanges (and section 1043 conflict-of-interest sales)

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

General Instructions

Future developments. For the latest information about developments related to Form 8824 and its instructions, such as legislation enacted after they were published, go to *www.irs.gov/form8824*.

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 and judicial officers of the Federal Government use Part IV to elect to defer gain on conflict-of-interest sales. Judicial officers of the Federal Government are the following:

1. Chief Justice of the United States.
2. Associate Justices of the Supreme Court.
3. Judges of the:

a. United States courts of appeals,

b. United States district courts, including the district courts in Guam, the Northern Mariana Islands, and the Virgin Islands,

c. Court of Appeals for the Federal Circuit,

d. Court of International Trade,

e. Tax Court,

f. Court of Federal Claims,

g. Court of Appeals for Veterans Claims,

h. United States Court of Appeals for the Armed Forces, and

i. Any court created by Act of Congress, the judges of which are entitled to hold office during good behavior.

Multiple exchanges. If you made more than one like-kind exchange, you can 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*, later, for details.

Like-Kind Exchanges

Generally, if you exchange business or investment property solely for business or investment property of a like kind, section 1031 provides that no gain or loss is recognized. 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, interests in a partnership, certificates of trust or beneficial interests, 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).

TIP *If you exchanged stock in a mutual ditch, reservoir, or irrigation company, see the discussion later.*

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 timing requirements for identification and receipt of replacement property explained in the instructions for *Line 5* and *Line 6*, later.

If you make a deferred exchange using a qualified intermediary (QI), the transfer of the property given up and receipt of like-kind property is treated as a like-kind exchange. If you fail to meet the timing requirements because of the QI, your transaction will not qualify as a deferred exchange and any gain may be taxable in the year you transferred the property. However, if the QI defaults on its obligation to acquire and transfer replacement property because of bankruptcy or receivership proceedings and you meet certain requirements, you may be able to report the gain in the year or years payments are received. For the requirements, see Rev. Proc. 2010-14, 2010-12 I.R.B. 456, available at *www.irs.gov/irb/2010-12_IRB/ar07.html*.

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 your 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 cannot 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, 2004-33 I.R.B. 294, is available 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 for at least a total of two years 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. 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, 2005-7 I.R.B. 528, available at *www.irs.gov/irb/2005-7_IRB/ar10.html*.

Exchange of stock in a mutual ditch, reservoir, or irrigation company. The exchange of stock in a mutual ditch, reservoir, or irrigation company may qualify for the nonrecognition of gain or loss under section 1031.

The nonrecognition of gain or loss on the exchange may apply if, at the time of the exchange:

1. The company is a section 501(c)(12)(A) organization (determined without regard to the percentage of income collected from members for the purpose of meeting losses and expenses), and

2. The shares of stock in the company have been recognized by the highest court in the state in which the company was organized or by an applicable statute of that state as constituting or representing real property or an interest in real property.

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 identification of the like-kind property you received in a deferred exchange. To comply with the **45-day written identification requirement,** the following conditions must be met.

1. The like-kind property you receive in a deferred exchange is 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 describes 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 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 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 identification 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 you or the related party (either directly or indirectly) dispose of property received in an exchange before the date that is 2 years after the last transfer which was part of 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 qualified 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.

CAUTION *If, after the exchange, you own replacement property that a related party sold into the exchange through an unrelated party such as a qualified intermediary, you should not check this box unless you can establish that tax avoidance was not one of the principal purposes for the structure of your transaction. If one of the principal purposes for the structure of your transaction was tax avoidance, do not report the transaction on Form 8824. Instead, you should report the disposition of the property given up as if the exchange had been a sale.*

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.

See the example in the instructions for line 18.

Reduce the sum of the above amounts (but not below zero) by any exchange expenses you incurred.

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 sections 1.1252-2(d) and 1.1254-2(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, earlier.

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) or the Judicial Conference of the United States (or its designee) and purchase replacement property (permitted property), you can 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, Taxable and Nontaxable Income.*

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 your 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 your 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	10 hr., 17 min.
Learning about the law or the form	1 hr., 59 min.
Preparing the form	2 hr., 14 min.
Copying, assembling, and sending the form to the IRS	10 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.