



# January 2025 Newsletter

by **Greg Lehrmann, Attorney**

Double Board Certified • Commercial and Residential Real Estate Law

## **Start the Year Off Right! Requirements for Full Tax Deferral**

### **The Big Picture—Deferring All Tax in a 1031 Exchange**

Some taxpayers performing a 1031 exchange incorrectly assume that they are only required to invest their gain in order to defer all tax. This is an invalid assumption. Gain is defined as sales price minus closing costs minus the current adjusted tax basis. To defer all tax, the taxpayer must reinvest the net sales price minus closing costs, and replace all debt on the property. The adjusted tax basis is not included in this calculation.

### **Why it Matters**

If a taxpayer receives anything of value from the sale of investment property (rather than reinvesting that amount), taxes will be due on those amounts received. In order to defer all tax in a 1031 exchange, the taxpayer must:

1. Reinvest the entire net equity proceeds in one or more “like-kind” replacement properties, and;
2. Incur the same or greater amount of debt that was extinguished on the sale. However, a taxpayer who does not want to incur debt to purchase the replacement property may replace the extinguished debt with additional cash.

### **Where Does “Boot” Fit In?**

The term “boot” refers to any amount of value that the taxpayer elects to receive from the sale that is not reinvested. “Cash boot” refers to cash actually received and “mortgage boot” refers to any shortfall in debt replacement. Taxes may be owed on these amounts. To determine the taxes that may be due, the taxpayer’s tax advisor must first calculate the realized capital gain because this amount serves as a ceiling on taxes that will be owed. That is, the taxpayer will owe tax on the amount of the boot up to the amount of realized capital gain.

### **The Takeaway**

Some taxpayers think that all they have to do to defer all tax is to reinvest their gain in replacement property. However, full deferral requires reinvestment of all equity and replacement of all debt.

## About Us

Greg Lehrmann is the founding member of Excel 1031 Exchange with 42 years of experience in commercial and residential real estate. For the past three decades he has dedicated his career to 1031 exchange work and has handled tens of thousands of exchanges throughout the country.

Mr. Lehrmann is a distinguished attorney double board certified in commercial and residential real estate law by the Texas Board of Legal Specialization. Only 2% of attorneys in Texas meet this exacting standard. He has a B.B.A. with honors in accounting from The University of Texas and a J.D. from The University of Texas School of Law.

Mr. Lehrmann facilitates 1031 transactions while educating and advising attorneys and fellow real estate professionals about the transformative benefits of 1031 exchanges. He has written and spoken extensively about 1031s, and has published numerous articles including:

“§1031 Tax-Deferred Exchanges: Evolving Rules, Greater Opportunities” (July 2002 Tierra Grande)

“Using Advanced §1031 Exchange Strategies to Improve Client Investment Returns”, (Spring 2005 SIOR Professional Report – national publication of Society of Industrial and Office REALTORS®)

“Keeping Uncle Sam Out of The Oil Patch”, (January/February 2008 – Landman national magazine)

“Safe Harbor” (July 2008 Texas Realtor article on vacation-home exchanges.)

Mr. Lehrmann and his wife, Texas Supreme Court Senior Justice Debra Lehrmann, have two sons, Gregory & Jonathan, practicing attorneys, and three beautiful grandchildren.

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## TEXAS REAL ESTATE LICENSEES: NEW 1031 ADDENDUM

The Texas Real Estate Commission adopts new addendum for Section 1031 Exchanges, effective January 3, 2025. Scan this QR Code for more information:



 [www.excel1031exchange.org](http://www.excel1031exchange.org)

 [greg@excel1031exchange.org](mailto:greg@excel1031exchange.org)

 (512) 213-9571

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