

Title Considerations for Spouses in 1031 Exchanges



In 1031 exchanges, spouses often want to adjust how property is titled—especially when adding or removing a spouse on the Replacement Property (RP). While this can seem routine, changes to title must be approached carefully to ensure the exchange stays compliant with IRS rules.

General Guideline

Keep title consistent between Relinquished and Replacement Properties.

- If both spouses are on the title to the Relinquished Property (RQ), both should be on the RP title.
- If only one spouse was on the RQ, ideally only that spouse should be on the RP—unless required otherwise.

Common Title Scenarios & Solutions

1. Only one spouse on RQ, but lender requires both on RP

Possible Solution: Legal counsel can prepare a simple agreement stating the co-signing spouse is holding title in trust, with no ownership interest.

2. Only one spouse on RQ, no lender requirements

Possible Solution: Title the RP in a revocable living trust with the non-owner spouse as beneficiary, allowing changes after the exchange closes.

3. Both spouses on RQ, lender prefers only one on RP

Possible Solution: Work with the lender to accommodate both names or consider alternate financing to keep title aligned.

Why It Matters

Aligning title throughout the exchange helps avoid complications with documentation and compliance. Even if tax issues are not immediately triggered, inconsistent vesting can delay or invalidate the exchange if not planned for in advance.

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and **service** that only
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