

# BUILT FOR SUCCESS

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## Platinum Properties Investor Network

1031 Exchange Section Presented by:

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# 1031 Exchange Section Outline

- Overview of IRC Section 1031
- Section 1031 "Like-Kind" Property
- The Delayed Exchange
- Delayed Exchange Identification Rules
- The Exchange Equation

# IRC Section 1031

## Nonrecognition of Gain or Loss From Exchange Solely of Kind

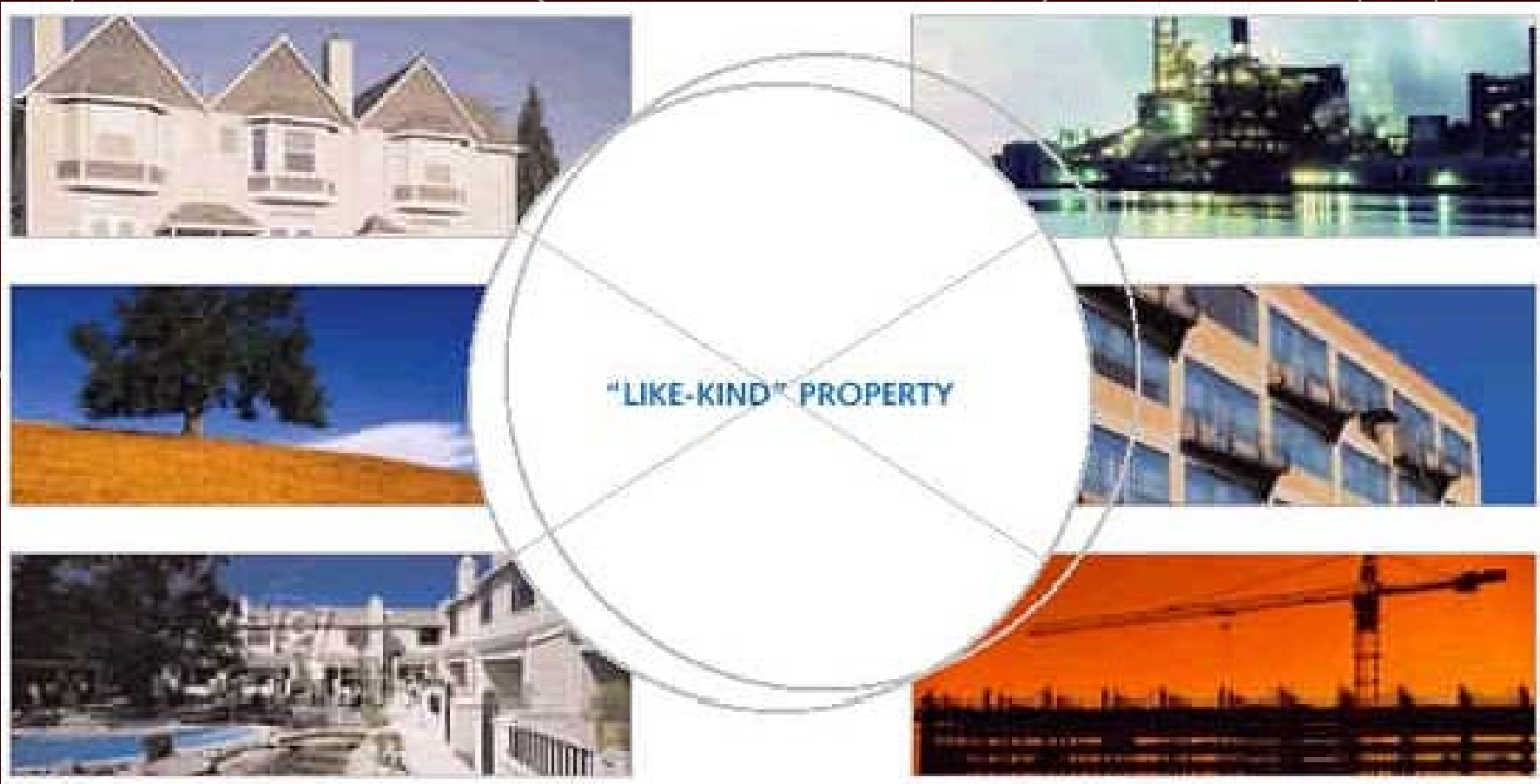
No gain or loss shall be recognized on the exchange of property held for productive use in a trade or business or for investment if such property is exchanged solely for property of like-kind which is to be held either for productive use in a trade or business or for investment.

# IRC Section 1031: Exceptions

- Stock in trade or other property held primarily for sale
- Stocks, bonds, or notes
- Other securities or evidences of indebtedness or interest
- Interests in a partnership
- Certificates of trust or beneficial interest
- Choses in action

# Like-Kind Requirements

## Real Property for Real Property



# Like-Kind Requirements

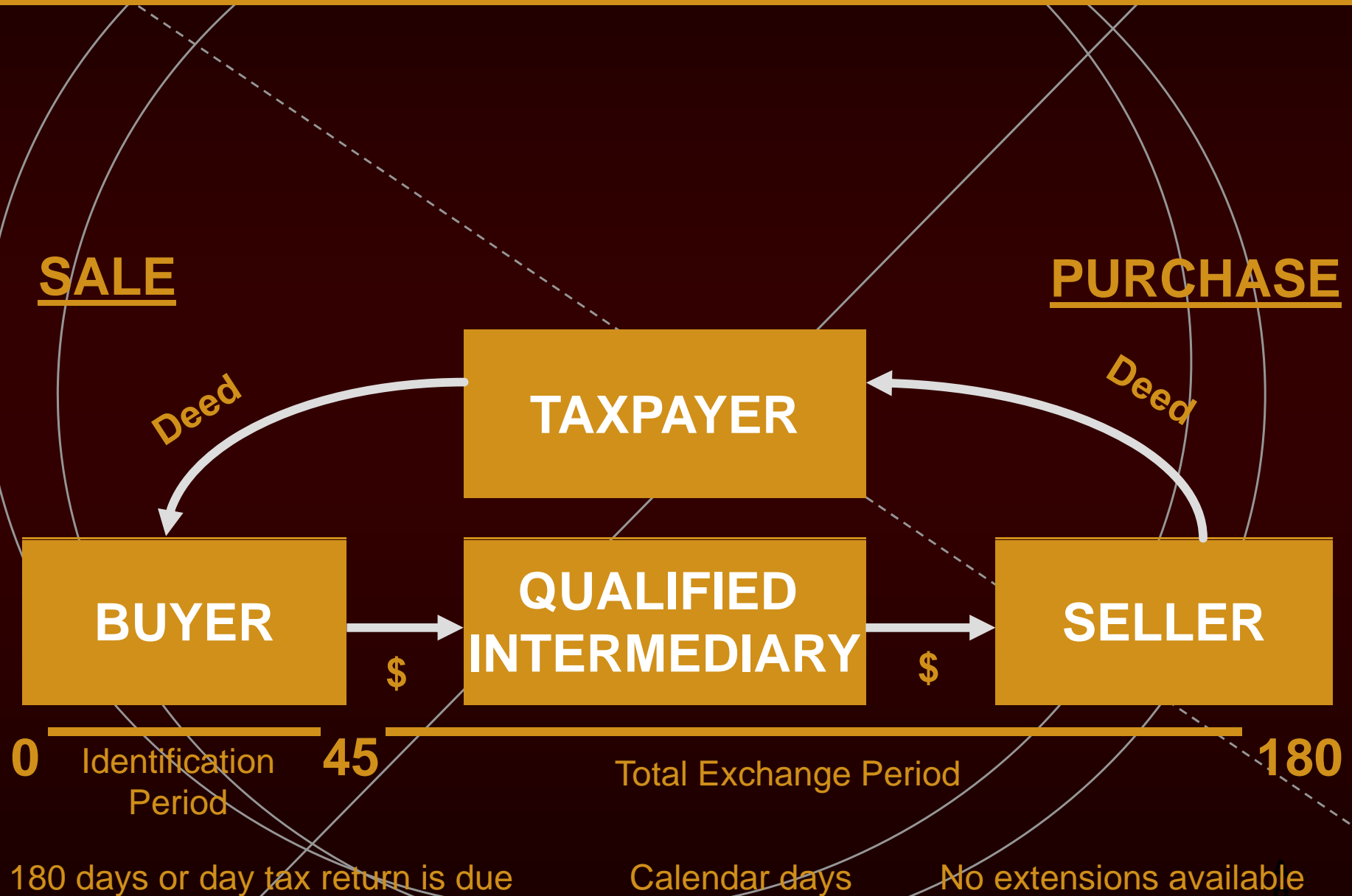
- Like-kind refers to the nature or character of the property, not its grade or quality.
- The taxpayer's intent must be to hold the relinquished and the replacement property for investment, or for productive use in a trade or business.
- Foreign real property is not like-kind to U.S. real property.

# “Like-Kind” Property Issues

## Holding Period Issues:

- There is no safe holding period.
- Time is only one of many factors that IRS can look at to determine an intent to hold for investment.
- Guidelines:
  - A) PLR 8429039 - a holding period of two years was considered sufficient.
  - B) Minimum of one year - taxpayer will reflect in two tax years. Also, in 1989, Congress had proposed a one year holding period.

# The Delayed Exchange



# Time Requirements

## ➤ 45-Day Identification Period:

The taxpayer must identify potential replacement property(s) by midnight of the 45<sup>th</sup> day from the date of sale.

## ➤ 180-Day Exchange Period:

The taxpayer must acquire the replacement property by midnight of the 180<sup>th</sup> day, or the date the taxpayer must file its tax return (including extensions) for the year of the transfer of the relinquished property, whichever is earlier.

# Identification Rules

- **Three Property Rule**: The taxpayer may identify up to three properties of any fair market value.
- **200% Rule**: The taxpayer may identify an unlimited number of properties provided the total fair market value of all properties identified does not exceed 200% of the fair market value of the relinquished property.
- **95% Rule**: If the taxpayer identifies properties in excess of both of the above rules, then the taxpayer must acquire 95% of the value of all properties identified.

# Identification Requirements

## Identification must be:

- Delivered to the Qualified Intermediary or a party related to the exchange who is not a disqualified person
- Made in writing
- Signed and dated by the taxpayer
- Unambiguously describe the property
- Received by midnight of the 45<sup>th</sup> day

# The Exchange Equation

## Two Requirements for Full Tax Deferral:

- Reinvest all net equity
- Acquire property with equal or greater debt
- Exception: A reduction in debt can be offset by the taxpayer adding additional cash

# For more information:



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