



## Keys to a successful 1031 exchange - by David Oheb

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What do actor Robert De Niro, NBA legends Shaquille O'Neal and David Robinson, and New England Patriots owner Robert Kraft all have in common? Yes, that's right, you guessed it, chances are all four commercial real estate investors have successfully taken advantage of the tax benefits of a 1031 exchange.

Often referred to as a "like-kind exchange," Section 1031 of the U.S. Internal Revenue Code (IRC) allows an investor to defer paying capital gains taxes on the sale of an investment property, so long as another like-kind property is purchased with the proceeds from the sale of the relinquished property.

In the most common exchange format, a delayed 1031 exchange, an investor executes a purchase and sale agreement with a buyer prior to acquiring a replacement property.

Using this strategy, an investor has a maximum of 45 days to identify the replacement property and 180 days to complete the purchase.

A 1031 exchange is a delicate transaction and adherence to the rules are imperative. Going in with a plan and knowing the timeline are critical to a successful execution. This is why you need to hit the ground running with the right team.

**Attorney** – In addition to negotiating the sale of your current property, an experienced real estate attorney will coordinate with other team members to ensure that the exchange complies with applicable federal and state laws and regulations.

**CPA** – Exchanges can often become complicated and a seasoned accountant will lay out your options and tax implications associated with each. Additionally, when successfully completing an exchange, an accountant will complete the required tax documents and file it with your tax return for the year in which the exchange occurred.

**Qualified Intermediary** – Given that the sale of the relinquished property is typically not simultaneous with the acquisition of replacement properties, it is mandatory for a QI to hold the proceeds from the sale in a binding trust until a like-kind replacement property is identified and acquired.

**Investment Sales Broker** – In today's market, one of the major challenges is finding a suitable replacement property. Investment sales brokers seek out "1031 buyers" given that they have proof

of funds with their qualified intermediary and are incentivized to move quickly. It is in your best interest to speak with a well-qualified broker who has access to the acquisition opportunities that match your investment criteria and who has the ability to operate on an expedited timeline.

Lender – If you desire a fully tax-deferred exchange, it may be necessary to obtain financing so that the fair market value of the replacement property is equal to or greater than the fair market value of the relinquished property. The key here is to select a lender that can not only meet your timeline but also has a high certainty of execution.

Mortgage Broker – An experienced mortgage broker can elevate the certainty of execution with lenders and will identify and then tackle up-front any potential obstacles that can delay or jeopardize the loan process, run an efficient process to procure the best combination of proceeds, rate, terms, and structure on your behalf, and expedite the loan process via their existing lender relationships.

David Oheb is a vice president at Meridian Capital Group, New York, N.Y.

Oheb is responsible for the origination, underwriting, structuring and closing of fixed and floating-rate commercial mortgages throughout the United States. Oheb has over five years of commercial real estate experience, having personally financed over 70 transactions with a volume of over \$350 million in commercial real estate debt across the nation in nearly all major real estate asset classes. Oheb was awarded the 2016 “Up And Comer Award” by the Young Mortgage Banker’s Association, and has been featured in the Commercial Observer, New York Real Estate Journal, and the New England Real Estate Journal. Prior to joining Meridian in 2013, Oheb graduated from the Boston University’s Questrom School of Business with a Bachelor of Business Administration and a triple-concentration in Real Estate, Finance, and Business Law.

New York Real Estate Journal - 17 Accord Park Drive #207, Norwell MA 02061 - (781) 878-4540