

## Can an Easement be Exchanged for Real Property?

Internal Revenue Code Section 1031 does not limit [like-kind property](#) to certain types of real property. The types of real property which can be exchanged is extremely broad. The term refers to the nature or character of the property, rather than its grade or quality. In many cases, an easement can be exchanged for a fee interest.

### QUALIFYING REAL PROPERTY

Real property must be exchanged for like-kind real property. Any real estate *held for productive use in a trade or business or for investment* – whether improved or unimproved – is considered like-kind. Like-kind examples:

- Unimproved for improved property,
- Fee for a leasehold with 30+ years to run,
- Commercial building for vacant land,
- Duplex for a commercial property,
- Single-family rental for an apartment building, and
- Industrial property for a rental resort property.

Although it is important to look to the treatment of easements under the applicable state laws, in most cases an easement is considered like-kind to any other real property held for productive use in a trade or business or for investment.

### QUALIFYING EXCHANGES OF EASEMENTS

An [agricultural conservation easement](#) in perpetuity in a farm found to be real property, for a fee simple interest in real property.

- *IRS Letter Ruling 9232030*

An exchange of agricultural easements over two farms for fee-simple title in a different farm.

- *IRS Letter Ruling 9851039*

A [perpetual conservation easement](#) encumbering real property for the fee-simple interest in either farm land, ranch land, or commercial real property.

- *IRS Letter Ruling 9601046*

A [scenic conservation easement](#), found to be real property under state law, for a fee-simple interest in timber, farm land, or ranch land.

- *IRS Letter Ruling 9621012*

### Compliments of:



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