

## REPLACEMENT PROPERTY IDENTIFICATION RULES

In accordance with the provisions of IRC Section 1031, the replacement property must be identified in writing on or before midnight of the 45th day from the date the relinquished property is transferred. Please refer to sections 4.1 and 4.2 of the Exchange Agreement for this transaction, which summarizes the IRS requirements for identification of replacement property.

Identified replacement property must be “unambiguously” described by the exchanger by street address, including unit number (if applicable), city and state, legal description or “distinguishable name”.

In the event that the Replacement Property consists of improved real property where the improvements are to be produced during the Exchange Period, then, in addition to the street address, legal description, or “distinguishable name”, the identification must include as much detail regarding the construction of the improvements as is practicable at the time the identification is made.

Additionally, IRC Section 1031 limits the number of properties that can be identified. The rules are as follows:

1. **3-Property Rule:** A maximum of three properties may be identified without regard to the fair market value of the properties.  
or
2. **200-Percent (200%) Rule:** Any number of properties may be identified, so long as the aggregate fair market value of the properties identified does not exceed 200% of the aggregate fair market value of the Relinquished Property.  
or
3. **95-Percent (95%) Rule:** The exchanger may identify any number of properties without regard to the aggregate fair market value, so long as exchanger receives 95% of the aggregate fair market value of all identified Replacement Properties prior to the end of the 180 day period.

The list of identified replacement properties can be modified anytime prior to the 45<sup>th</sup> day. To do this, the previous identification must be expressly revoked in writing, signed by the exchanger and hand delivered, mailed, telecopied or otherwise sent to the person to whom the identification was sent. Then, a new identification form can be submitted prior to the 45<sup>th</sup> day. After the 45<sup>th</sup> day an identification cannot be modified or revoked.

In accordance with section (c)(4)(ii)(a) of the IRC Section 1031 Regulations, if you close on replacement property prior to your 45th day, the acquired property will be considered identified property and will count as identified property under the above identification rules.

**It is solely the exchanger’s responsibility to comply with the rules and regulations regarding the 45-day identification period and 180-day exchange completion period. You must acquire ownership of all replacement properties you intend to purchase, within a maximum of 180 days after the close of the sale of the first relinquished property you sold as part of this exchange. Refer to section 3.4 of the Exchange Agreement stating the restrictions regarding your rights to obtain the benefits of the exchange proceeds once you identify property.**

**Please notify API immediately when you have selected a closing agent on any Replacement Properties.**

## REPLACEMENT PROPERTY IDENTIFICATION FORM

**This identification letter must be hand delivered, mailed, telecopied, or otherwise sent to our office prior to midnight, sender's time, on the 45th day following the closing of the Relinquished Property.**

Attn: \_\_\_\_\_  
 Fax #: (916)749-1270  
 Email: info@apiexchange.com

API Order No.: \_\_\_\_\_

Exchanger: \_\_\_\_\_

Relinquished Property: \_\_\_\_\_

Please check the box that indicates the method for identification:

- 3-Property Rule:** A maximum of three properties may be identified without regard to the fair market value of the properties.
- 200-Percent (200%) Rule:** Any number of properties may be identified, so long as the aggregate fair market value of the properties identified does not exceed 200% of the sales price of the Relinquished Property(ies).
- 95-Percent (95%) Rule:** The exchanger may identify any number of properties without regard to the aggregate fair market value, so long as exchanger receives 95% of the aggregate fair market value of all identified Replacement Properties prior to the end of the 180 day period.

	<b>% Interest in Prop.</b> <small>(if less than 100% ownership)</small>	<b>Value</b> <small>(for 200% and 95% Rules)</small>
1. _____	_____	_____
2. _____	_____	_____
3. _____	_____	_____
4. _____	_____	_____
5. _____	_____	_____
6. _____	_____	_____

**Aggregate Fair Market Value: \$** \_\_\_\_\_

If more than 6 properties are to be identified, please add a separate page.

\_\_\_\_\_ **Dated:** \_\_\_\_\_

\_\_\_\_\_ **Dated:** \_\_\_\_\_

Receipt on \_\_\_\_\_ acknowledged by API: \_\_\_\_\_

- If this box is checked, Exchanger hereby revokes all prior replacement property identification forms and replaces them with this Replacement property Identification Form. This option is only available prior to the end of the 45<sup>th</sup> day.

\*For certain eligible taxpayers, these dates may be extended by the IRS in the case of a federally-declared disaster. Consult with your tax advisor and see more information on API's website: www.apiexchange.com

\*\*In accordance with section (c)(4)(ii)(a) of the §1031 regulations, if you close on replacement property prior to your 45th day, the acquired property will be considered identified property and will count as identified property under the above identification rules.