Can I move into a 1031 Exchange Property?

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What Investors Need to Know Before Converting a 1031 Replacement Property to a Primary Residence

Using a 1031 replacement property as your future home can be a **savvy tax strategy**—deferring gains now and potentially unlocking primary residence benefits later.

Short answer: Yes—you can move into a property acquired through a 1031 exchange, but only after meeting specific IRS requirements designed to ensure the property was held for investment first.

A 1031 replacement property must initially be acquired for **investment or business use**, not personal use. After a required holding period and proper rental activity, the IRS allows the property to be converted to your primary residence.

Minimum Holding Period Before Moving In (Safe Harbor)

Under Revenue Procedure 2008 16, for a residential 1031 replacement property to be considered legitimately "**held for investment,**" the IRS expects the following:

You must:

- Rent the property at **fair market rent** for at least **14 days per year**
- Do this for **two consecutive years**
- Limit your personal use to:
    - No more than **14 days per year**, or
    - No more than **10% of the total days the property is rented** (whichever is greater)

After meeting this **two year investment period**, you can typically convert the property to your primary residence without jeopardizing the exchange.

Converting the Property to Your Primary Residence

After the two year safe harbor:

- You may move into the property
- The property becomes your primary residence

However, the taxpayer **cannot immediately claim the full home sale exclusion under §121**. This is where the special **five year rule** comes into play.

Using the §121 Exclusion After a 1031 Exchange

(The $250,000–$500,000 tax free gain exclusion)

When the taxpayer eventually sells the property, to qualify for the §121 exclusion you must:

- **Own the property for at least five years** (a special rule for former 1031 properties), and
- **Lived in the property as your primary residence for at least two of those five years**

Important:

- Only the gain attributable to the period **after** the taxpayer moves in qualifies for exclusion under §121.

If You Move In Too Early

Moving into a 1031 property before establishing it as a legitimate investment can cause serious IRS issues:

- The IRS may argue the purchase was **never eligible** for a 1031 exchange
- The **entire exchange may be disallowed**
- You could owe **full capital gains taxes** on the relinquished property, plus **interest and penalties**

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