

1031—Vacation Homes. It has long been debatable as to whether a vacation home qualifies for 1031 tax-deferral treatment. It is clear that unimproved vacant land held for investment qualifies and that rental property used fewer than 14 days (or less than 15% of the time it is rented out) by the owner qualifies. The property may even be used by the owner for maintenance purposes without it becoming a personal residence. However, what if a vacation home is never rented out, held and used by the owner only and remains vacant when the owner is not there—is it investment property for purposes of a 1031 exchange? The definition of qualified property is unproductive real estate held by one other than a dealer for future use or future realization of the increment in value, is held for investment and not primarily for sale. Although it may still be considered more aggressive, in a 1981 Private Letter Ruling (PLR 8103117), the IRS allowed 1031 treatment of a vacation home where a taxpayer intended to acquire the property for personal enjoyment and an investment. The IRS had stated that the house and lot that had been acquired was “to be held for the same purposes as the properties exchanged therefore: to provide for personal enjoyment of the community and to make a sound real estate investment.” This seems to support the argument that personal enjoyment of the property may not prevent it from qualifying for 1031 tax-deferral treatment. As always, check with your tax advisor as to whether your property will qualify for 1031 treatment.