

The Full Stack in One Page

1031 for most of the property + the boot as a structured sale + each payment's gain into a new Opportunity Zone fund.

1. The 1031

Most of the property rolls into replacement real estate. Gain on that part stays deferred.

2. Structured boot

The leftover (boot) is written into the contract before closing and paid to you over years, taxed as paid (§453(f)(6)).

3. Fund ladder

Each payment's gain goes into a new Opportunity Zone fund within 180 days. Each one runs on its own clock.

Model run: \$3M California rental, \$1.8M gain

20-year wealth after tax	Fund +6%	Fund 0%	Fund -30%
Cash sale, pay the tax	\$5.26M	\$5.26M	\$5.26M
Cash sale + whole gain in one fund	\$6.10M	\$4.24M	\$3.67M
1031 + structured boot, no fund	\$5.85M	\$5.85M	\$5.85M
Full stack	\$6.24M	\$5.39M	\$5.14M

Married, \$250,000 other income, sale January 2027, 2026 tax tables carried forward. \$2M 1031 replacement (modeled as a Delaware statutory trust interest, no debt) + \$1M boot paid in 10 level annual payments at 4.5%. Fund returns are net of all fees, no distributions. A taxable portfolio earns 6% before tax. Illustrative engine output, not a forecast.

The break-even. In every case modeled, the fund had to earn about **3.6% to 4% a year after fees** to beat paying the tax and investing the rest (full stack vs the same 1031 without the fund: 3.68% at 20 years, 5.51% at 10). The tax break is worth roughly 0.5 to 0.7 points of return a year. It does not rescue a mediocre fund.

The rules that make it work

- **New rules from 2027** (P.L. 119-21 §70421): money invested after Dec 31, 2026 gets its own 5-year deferral, then a 10% basis step-up (30% in a qualified rural fund), then no federal tax on the fund's growth after 10 years (measured no later than year 30).
- **180 days per payment:** start each window the day a payment arrives, or on December 31 of that year (Reg. §1.1400Z2(a)-1(b)(11)(viii)(B)).
- **2026 sellers:** gain realized in 2026 and invested on or after Jan 1, 2027 gets the new rules (Notice 2026-40 §4.02(2)).
- **Only the gain goes in.** On a \$3M sale with \$1.8M of gain, 60 cents of each principal dollar. In a 1031 the basis rides to the replacement, so boot principal is usually all gain.

What can and cannot go in

Piece of the payment	Into a fund?
Gain on principal	Yes, within 180 days
25% unrecaptured §1250 layer	Yes; keeps its 25% character when it comes back
Interest	No, ordinary income
§1245 recapture	No; ordinary, taxed in the sale year (§453(i))
Basis coming back	Not needed; yours to keep
Gain from a sale to a related party	No

Year 5, California, paperwork

- **Year 5:** each investment's deferred gain comes due, minus the 10% (30%) step-up, or less if the fund fell. Funds usually pay nothing that year. Ten investments, ten bills: plan the cash on day one.
- **California does not conform:** no deferral, no step-up, no exclusion (FTB Pub. 1001; R&TC §18036(e)). It taxes the gain as each payment arrives and the fund's growth at exit. California sellers in the models still kept 89% to 99% of the Texas benefit. Cash sale + one fund can need outside cash for the state tax.
- **Forms:** Form 8949 code "Z" for each deferral; Form 8997 every year (missing it is presumed an inclusion). A missed 180 days means no deferral for that payment.
- **At death:** heirs owe the deferred gain at the 5-year date, no step-up on the fund interest; the 10-year clock carries over.

Questions to ask your CPA

- ☐ How much of each payment is gain, interest and recapture, year by year?
- ☐ Payment-date or December 31 start for each window? Put it in writing.
- ☐ Where does the cash for each year-5 bill come from?
- ☐ What does my state do with the deferral and the fund's growth?

Questions to ask any fund (through a licensed securities professional)

- ☐ All-in fees, including selling commissions (5.5% to 10% in a Form D sample of brokered funds)?
- ☐ Qualified rural fund? Are its properties on the new 2027 zone map?
- ☐ What, if anything, does it pay in year 5? Minimum, lockup, accredited only?

Have boot in your deal? Call or text 213-414-2808 before you open escrow. *Hans Goldstein, a licensed insurance agent (CA Insurance License #4273294), will contact you and may discuss insurance products, including annuities.*

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