



Ann Sullivan

# §1031 Exchange Basics

by Jamie Landry

Strong growth in Canyon Lake has spurred the purchase and sale of rental properties and small businesses. The investor can minimize tax liabilities when selling or purchasing business or certain investment property by using

the §1031 or Like-Kind Exchange.

It is first important to note what types of property qualify for §1031 treatment. Investment or business property that does not qualify includes property held for sale, stocks, bonds, partnership interests, or personal-use assets. Additionally, remember that a primary and secondary residence will qualify for exclusion of the gain under §121, assuming requirements are met.

To execute a Like-Kind Exchange, the taxpayer must follow procedure. Most simply, deeds can be exchanged at closing. However, most taxpayers do not have their next purchase secured at the time of sale. In such a case, he or she can sell the current property but must have an intermediary hold the proceeds of the sale (arranged ahead of time). The taxpayer then has 45 days from the closing to identify a new property and 180 days to purchase the property. If the value of the new property meets or exceeds the value of the property sold, the gain will be deferred.

If, however, the new property costs less than the property sold, the taxpayer must recognize a gain to the extent that cash or other

consideration is received. For example, assume a taxpayer sells a rental property for which he/she paid \$100,000 for \$250,000. The taxpayer identifies and purchases another rental for \$200,000 (the new property must be similar in nature to the property sold). Rather than recognizing a gain on \$150,000, the taxpayer must only recognize a gain of \$50,000, the difference between the sale and purchase prices of the old and new properties.

Please consult an accounting or real estate professional before entering into a Like-Kind Exchange. As with most tax laws, §1031 has many requirements and exceptions.

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by Cindy Wharton

## Data backup

Have you ever really sat down and thought about what information is stored on your computer? They have become so commonplace that people just take them for granted. It is so simple to just keep your schedule and records on it that the process becomes second nature. But what if all of it suddenly disappeared? Are you prepared? More often than not, the true answer is no.

Every day, there are people who thought they were protected that receive a very unpleasant surprise when they find out they aren't. For instance, here are a few examples:

Company A had their server successfully running daily backups. But nobody ever checked to make sure it was backing up the right data – it wasn't.

Company B had a tape backup system on their server and a person designated to do backups every day. Unfortunately when that person left the company that was one task that fell through the cracks and wasn't passed on. The person had been gone for almost 3 years when their hard drive failed.

Company C does backups every single day to make sure nothing is lost. Unfortunately all the backups are maintained right there next to the server. When lightning started a fire in the computer room, it's not hard to imagine the problems.

A laptop was being used for maintaining an entrepreneur's entire business, including records, email, calendar, etc. One night at a restaurant it disappeared.

A CEO was using a laptop for business. He also owned a digital camera and had a vast amount of photos stored on the hard drive – it was almost full. The laptop went bad with no backups.

A student used their laptop for all their school projects. They also used it to download music. All it took was one infected music file to

destroy a month's worth of work.

The list of possibilities could go on and on but I think you get the point. You just never know what tomorrow is going to bring and unfortunately there is no rewind button. The time to prevent a disaster is *before* it happens to you!

There is an inexpensive and reliable way to protect your data: offsite backup. For as little as about \$1 a day, about the cost of a soda or bottle of water, an offsite backup service can safely and painlessly protect you. It never gets too busy and forgets or just gets complacent. Every day it goes out and finds what information has changed on your system and records your latest changes, even while you are sleeping. It just happens!

Cindy Wharton is the owner of Local Tech Service. For more information on how you can avert disaster before it strikes contact Local Tech Service at 830-708-2692 or visit [www.LocalTechService.com](http://www.LocalTechService.com).



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## Inge and Heinz Buchholz

by Natalie Avalos

*You make a living by what you get. You make a life by what you give. – Winston Churchill*

Inge and Heinz Buchholz are no strangers to heartache and turmoil. Both are survivors of the German war and have seen much in their lifetime. Heinz came to America in 1938 as a 17-year-old, forced to leave his parents behind in an unsafe country, but he managed to become successful and find his lovely bride of 53 ½ yrs.

The Buchholz's have raised two lovely daughters and now have grandchildren and great grandchildren of whom they are very proud. After raising their own daughters, Heinz and Inge still had more love and compassion to offer others, and found their way to New Life Children's Center. There were only four girls then (they now house 60). The girls would walk to local stores and get snacks and "soda pops", as Heinz refers to it so sweetly. There were no fences and the couple often took the children to dinner at a local Chinese restaurant. Inge recalls a young girl who was troubled and often violent to the staff. She ordered the hottest dish

on the menu because she boldly said she could take it. Halfway through, tears ran down her face because of the spicy dish. They all had a great laugh and the experience truly warmed Inge's heart to the girls.

Many of the girls who come to New Life arrive scared and very guarded and it is people like Inge and Heinz that help to break the barriers of hardened hearts. They volunteered for many opportunities like buying ice cream and delivering it to the cottages through the Angels group that still exist today. Soon they were offered to participate in starting a local Points Store for the girls to shop at when they earn points for good behavior. Heinz, who is wonderful with math and calculations, came up with a way to make it all work. Their love for others and their obvious dedication to these young girls sustained them for fifteen years at New Life. They recently retired.

Over the holidays the girls made a thank you wreath for them and Dr. Henry, CEO of New Life, presented them with an award to honor their dedication. The Point Store has now been turned into a quaint boutique named after them. It's now called the Buchholz Boutique and is only available to New life residents.

*If you would like to stop by for a tour, donate goods for the boutique or volunteer, call Natalie Avalos at New Life at 964-4390.*

## Environment sensitive pest management

by Kenn Brown

Why environment sensitive pest control? Because the majority of insecticides are *poisons!* Read the labels on them. They have all sorts of cautions: keep away from children and pets, use only recommended amounts, etc. Since World War II most pesticides have been nerve poisons. Probably less than one percent of pest control is environment sensitive, integrated pest management.

Most pest control companies that call themselves environment sensitive have poisons on their trucks and possibly apply with equipment that had poison in it on the last job. Yet, pest control can be maintained using natural products and the control can be long lived.

*Carpenter ants* are the most misunderstood insects around. *Only* ant bait will control them. Some other fire ant baits are effective, but an environment sensitive bait is available that works.

*Subterranean termites*, when swarming, are sometimes confused with swarming ants. Subterranean termite wings are longer than its body; ant wings are shorter than its body. Use less toxic termiticides such as borate (boric acid), if possible.

Pier-and-beam buildings can be treated with borates that have an unlimited residual effectiveness. The ground beneath pier-and-beam construction should also be sprayed since molds and wood rot are prevented or remediated in the process, as well.

Borate treatment of a new wood-framed building is the best treatment available and will provide protection until it is exposed to continuous running water. Boron is an essential element for good joints and bones in our body, so it's not harmful to use it in your home.



Borate is effective on most insects, as well. Pre-treating wood with a safe solution during construction is important. This treatment should be done on a new building when the building is wrapped in tarpaper or Tyvek.

*Scorpions* are another pest that can be controlled with environment sensitive methods. Control becomes effective the day of service.

Residential pest control using natural products (instead of poisons) inside your home will now last a year. No contract is needed for recurring treatment. Prevention during construction is best. If you have concerns, you can apply natural products yourself or call a professional that is knowledgeable about alternatives to poisoning your environment and you.

*Kenn Brown is licensed by the Texas Structural Pest Control Board in Pest, Termite and Landscaping (trees). He has some new products and methods now being tested by USDA, the US Forest Service, Texas State and Mississippi State Universities. Call 866-527-7400 or email kenn@environmentsensitive.com for more information.*

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## Duties of an executor

by Carrie E. Campbell, J.D.



An Executor (or Executrix) is the person appointed by the probate court to represent the Estate of a deceased person (Decedent) who died leaving a valid Last Will and Testament. The most likely person to be appointed is that individual or institution nominated by the Decedent in his or her Will. The court will appoint a different Executor only if the nominated party and/or alternates listed in the Will are not legally qualified, have resigned or predeceased the Decedent. Whether or not an Executor is permitted to act independently of the court without posting a bond is also determined by the express language of the Will.

Once the appointment is made, an Executor has the primary duty of gathering the assets of the Estate and notifying creditors. The law requires that an Executor notify all creditors having a secured claim against the Estate (ie, mortgage company or vehicle lien holder) by certified mail. The executor may also notify non-secured creditors (such as credit card companies). Furthermore, a notice must be published in a local newspaper to let unknown creditors know of their right to make a claim against the Decedent's Estate. The Executor is also responsible for filing the Decedent's last individual income tax return and any Estate tax returns if the Estate remains open long enough to owe taxes.

In the meantime, the Executor must file an Inventory with the probate court listing the assets and a reasonable estimate of the Estate's value. Once this is complete and proof of the notification to creditors is filed, the Executor has no further duty to the report to the Court so long as he or she is permitted to act independently. However, the Executor still has the ongoing duty to the heirs of the Estate to make a fair distribution of the net assets based upon the provisions of the Will.

Should you have any questions regarding the responsibilities of an Executor or any other Probate matter, consult with an attorney experienced with Probate matters.

*Carrie Campbell is the managing law partner in the firm of Mounger & Campbell, LLP. She is also a wife, mother of two girls, and is a member of the Rotary Club of Wimberley, Friends of the Wimberley Village Library, and the Operations Committee for the new Community Center. The office is located at 173 FM3237, Bldg. B, in Wimberley. She can be reached at 512-847-1308.*

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