



**CERTIFIED EXCHANGE SPECIALIST®**

**Candidate Bulletin of Information**

A Voluntary Certification Program offered through  
the FEA for Exchange Practitioners

## THE FEDERATION OF EXCHANGE ACCOMMODATORS

The Federation of Exchange Accommodators, Inc. (FEA) is a not-for-profit organization that is the nation's largest trade organization comprised primarily of tax deferred exchange professionals who specialize in aiding property owners to defer capital gains tax through an Internal Revenue Code Section 1031 exchange ("1031 Exchanges"). With approximately 200 member companies located in every state, the FEA has served its members and the general public for over a decade in such capacities as governmental advocate and liaison, educational resource and ethics administrator.

The CES®, or Certified Exchange Specialist® designation is awarded to applicants who meet requirements in ethics, in experience acting as a Qualified Intermediary in 1031 Exchanges, and in demonstrated technical knowledge of the regulation and industry practice of acting as a Qualified Intermediary in 1031 Exchanges. The CES® Certification Council ("Certification Council") administers the CES® program and awards the CES® designation to professional individuals who successfully meet its standards. A roster of Certified Exchange Specialists® is available for dissemination to the public. Below are the current members of the Certification Council:

### **CES® Certification Council**

#### **Kelly Pearl, CES®, Chair**

California Bank & Trust Exchange Services  
San Diego, CA

**Michael A. Anderson, CES®**  
Exchange Services, LLC  
Zions Bank  
Salt Lake City, UT

**Lee David Medinets, CES®**  
Madison Exchange, LLC  
Lakewood, NJ

**Ryan S. Auer, CES®**  
Stockman Bank  
Billings, MT

**Pierre Priestley, CES®**  
Investment Property Exchange  
Services, Inc.  
Chicago, IL

**Stacy Conner, CES®**  
Ten Thirty One LLC  
Salem, OR

**Wayne Roitsch, CES®**  
The Texas 1031 Exchange Company  
Seguin, TX

**Marissa LoCascio, CES®**  
1031 CORP.  
Collegeville, PA

**Susan Umstead, CES®**  
1031 CORP.  
Collegeville, PA

*FEA Board Liaison:*

**Kelly Pearl, CES®**

California Bank & Trust Exchange Services  
San Diego, CA

The Certification Council retains an outside consulting firm to provide assistance with the development and implementation of the examination and the overall management of the Certified Exchange Specialist® program. The consulting firm specializes in the conceptualization, development, and implementation of the examination. The consulting firm assists organizations with the development of professional credentialing programs.

# HISTORY

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## HOW WAS THE CERTIFIED EXCHANGE SPECIALIST® PROGRAM DEVELOPED?

The eligibility requirements and examination materials for the Certified Exchange Specialist® program were developed based on the judgments of the Certification Council, a representative, national panel of experts regarding the current state of knowledge in I.R.C. §1031 exchange practice. The Council defined the body of knowledge for 1031 exchange accommodation and determined the content areas appropriate for the examination. The content of the examination is based on this body of knowledge. A detailed content outline can be found on pages 10 - 13.

The examination questions are written by and reviewed by the Certification Council and further reviewed by its independent outside consultant prior to being selected for the examination. After the examination, the questions are analyzed statistically to identify any hidden flaws. Questions that appear to be flawed are discussed by the Certification Council and the consulting firm to determine if the question(s) should be deleted from scoring entirely or if credit should be given for more than one answer. After these issues are resolved, the examination is scored.

The examination question bank for the Certified Exchange Specialist® program is updated on a regular basis to reflect current Section 1031 exchange law and practice. Individual questions that have been shown by statistical analysis to be unclear or unfair will be modified or deleted from the pool.

The CES® examination has been designed to meet testing industry standards for validity and reliability.

Validity is the degree to which the content of the examination reflects the knowledge required to competently perform the responsibilities of an exchange specialist.

Reliability is the accuracy of the examination scores (i.e., the degree to which the examination scores are free from measurement error).

## **WHAT IS THE PURPOSE OF THE CERTIFIED EXCHANGE SPECIALIST® PROGRAM?**

The purposes of the Certified Exchange Specialist® program are to:

- establish nationally recognized standards of knowledge and ethical conduct for exchange specialists;
- assess the level of knowledge demonstrated by exchange specialists in a valid and reliable manner;
- encourage professional development in the exchange accommodation field;
- formally recognize professional individuals who meet the requirements set by the Certification Council; and
- serve the public by encouraging quality Section 1031 exchange services.

The Certification Council, with the assistance and advice of professionals in relevant fields, has developed a credential that recognizes accepted levels of expertise in the profession with the goal of improving professional standards in Section 1031 exchange services. However, no certification program can guarantee professional competence. In addition, given the frequent changes in the profession, neither the Certification Council nor FEA warrant that the examination materials at all times reflect the most current state of Section 1031 exchange practice. The Certification Council welcomes constructive comments and suggestions from the public and the profession.

## **WHAT ARE THE BENEFITS OF THE CES® DESIGNATION?**

Exchange practitioners who obtain the CES® designation could potentially experience one or more of the following benefits:

- verification of their knowledge by an independent organization – a way to prove that they have the knowledge needed for the job;
- professional growth and development;
- enhanced professional credibility;
- enhanced job opportunities; and
- increased client referrals.

The potential benefits of the CES® designation for employers include:

- increased productivity;
- less training time needed to bring employees “up to speed”; and
- a competitive advantage in promoting services to clients.

## **GETTING READY FOR THE EXAMINATION**

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### **WHO CAN TAKE THE EXAMINATION?**

The Certification Council requires candidates to meet the following requirements in order to be eligible to apply to sit for Certified Exchange Specialist® examination:

1. A high school diploma or GED.
2. A minimum of three (3) years out of the past seven (7) years of full-time equivalent work experience at a Qualified Escrow, Trust, or Intermediary Company as defined below. "Full-time work experience" must include substantial time spent counseling taxpayers and their advisors (e.g., lawyers, accountants, and real estate professionals) on issues relating to tax-deferred exchanges under IRC Section 1031. "Full-time work experience" does not include those periods where significant time was devoted solely to such tasks as data input, accounting, and company marketing. Qualifying work experience may be an aggregate accumulation and does not have to be consecutive years and may either be direct, such as an owner or employee, or indirect, such as in an independent contractor status. The Application Review and Approval Committee will take into account only that work experience accrued during the seven (7) year period from the date of the review of the candidate's application for certification.

A Qualified Escrow, Trust, or Intermediary company, as defined under Treasury Regulation Section 1.1031(k)-1(3) and (4), is any sole proprietorship, partnership, limited liability company, trust, corporation, association, or any other going concern whose primary business is that of facilitating like-kind exchanges under Internal Revenue Code Section 1031 and the Treasury Regulations promulgated thereunder.

3. No prior felony convictions for any crime involving fraud, embezzlement, misappropriation of funds, or conversion of property of another.

Any candidate who meets the eligibility requirements can apply to sit for the CES® examination.

## HOW MUCH DOES IT COST TO SIT FOR THE EXAMINATION?

The fees for taking the CES® examination are as follows:

	<i>Application Fee</i>	<i>Early Bird Fee*</i>
Per candidate	\$500	\$400

\*Early Bird Fee Deadlines for Fall 2014:

- Nashville, Tennessee                      September 10, 2014                      Limited to 50 applicants

Payment must be made by check, cashier's check or money order and must be made payable to the FEA; payment may also be made online through the CES® website. **NO OTHER FORM OF PAYMENT WILL BE ACCEPTED.** Failure to submit the fee in the requested form **along with a completed application and one (1) passport-size photo** will result in the rejection of your application.

A non-refundable fee of \$100 is included in the application fee. This \$100 charge is incurred upon receipt of your application. If for some reason you fail to meet the eligibility requirements at the time of application, your application and documentation will be returned to you. Your fee will be refunded, less the \$100 non-refundable portion.

## HOW DO I REGISTER?

You must complete the CES® Application which can be found at [www.1031ces.org](http://www.1031ces.org) to register for the examination. Please read all the information included in this Bulletin and follow all instructions carefully.

Payment of the application fee must accompany your completed application, along with one (1) passport-size photograph. Only the CES® Application found on the CES® website or supplied by the FEA office will be accepted. Before mailing your application, be sure to review carefully the information and specific instructions on page 21.

All applications must be **received** by the deadline on the application form. If you are mailing your application, please allow sufficient transit time. Applications received after the deadline will be rejected and your fee will be refunded less the \$100 non-refundable portion.

### Application Deadlines for 2014

- Nashville, Tennessee                      FEA Annual Conference                      August 8, 2014

When your application has been reviewed and accepted, you will receive an acknowledgment letter and your name will be entered on the roster of eligible candidates.

Approximately ten (10) days before the examination, you will receive an Admission Letter containing your identification (ID) number, photograph and specific information about the date, time, and location of the testing site. *Please keep a record of your ID number, as you will need it after the examination if you have any inquiries regarding your examination scores.*

If you lose your Admission Letter or have not received it five (5) business days before the examination date, please contact the FEA immediately so that another packet can be sent to you.

You must bring your Admission Letter to the examination site on the examination date. **You will NOT be admitted without this document.**

If, for any reason, you have registered but are unable to take the examination, you may request a refund of the examination fee, less the \$100 non-refundable portion, up to seven (7) days prior to the examination date. However, after this deadline there will be no refund of examination fees. If you wish to take the examination at a future date, you must meet all eligibility requirements in effect at the time of the application, complete a new application form, and submit the application fee.

## **WHEN IS THE EXAMINATION GIVEN?**

The examination will be given on the date and at the location listed on the enclosed application form.

## **WHAT IS THE FORMAT FOR THE EXAMINATION?**

You will take the examination in a single, two and one-half (2.5) hour session. The examination will consist of 120 multiple-choice questions. Each question contains four options or choices, only one of which is the correct or best answer. You will be asked to select the correct or best answer from these options. Sample questions can be found on pages 12 - 13.

## **WHAT DO I NEED TO KNOW FOR THE EXAMINATION?**

### **Content Outline**

The following is a detailed outline of the four major content areas of the examination, with an indication (in parentheses) of the approximate percentage of the examination devoted to each area:

#### **I. EXCHANGE PROCEDURES (25%)**

##### *Consult with client*

Circumstances in which an exchange is inadvisable

Tax and other benefits of an exchange

Confidentiality requirements of exchange information

Conversion of a sale into a deferred exchange

Distinction between tax advice and exchange information



### *Administer client funds*

Timing effects of various "Collected Funds/Good Funds Laws"  
Treatment and reporting of interest earnings  
Responsibility for and preparation of Form 1099-INT  
Internal accounting controls applied to client funds

### *Secure client funds*

Acceptable investment vehicles for client funds  
Fidelity bonding  
Methods of securing client funds

### *Document transactions*

Minimum documentation required by law  
Purposes of exchange documentation  
Basic conveyance documents and their effects

## **II. THIRD-PARTY RELATIONSHIPS (10%)**

### *Communicate with and educate clients and other related parties*

Suggested exchange language for transaction documentation  
Common drafting issues in the Agreement of Transfer  
Real estate professionals' duties and restrictions  
Common exchange questions

### *Facilitate settlement with closing agents*

Closing agents' compliance with exchange instructions  
1099-S reporting issues  
Common state reporting issues

## **III. LEGAL, COMPLIANCE AND TECHNICAL ISSUES (60%)**

### *Assure compliance and legal soundness of transaction*

Personal property exchange issues  
Combination exchanges (part reverse, part forward)  
Evolution of current law  
Safe-harbor rules under IRC §1031  
Qualifying and non-qualifying property and issues concerning conversion of use  
Function and requirements of Form 8824  
Timing requirements for exchanges  
Identification requirements

Safe harbor reverse exchange (Revenue Procedure 2000-37)  
Mixed-use property (personal and business/investment-use) and personal residence issues (Section 121)  
Related party issues  
Installment sales (Section 453)  
Improvement exchange issues  
Dealer and developer status  
Basic terminology and structure related to IRC §1031  
Partnership and limited liability company issues  
Disregarded entities  
Corporation issues  
Multi-asset exchanges (personal property and real property)  
Recognizing involuntary conversions (Section 1033)  
Common vesting issues  
Multiple exchange property issues  
State and federal tax terms and calculations to determine gain  
Constructive receipt issues  
Essential requirements for an exchange  
Tenancy-in-common programs (Revenue Procedure 2002-22)  
"Boot" issues  
"Step" transactions

***Monitor transaction for soundness and timeliness***

State transfer tax issues  
Common misconceptions regarding IRC §1031  
Foreign Investment Real Property Tax Act (FIRPTA) issues (Section 1445)  
Issues related to state income- and capital gains taxes

**IV. ETHICAL AND PROFESSIONAL PRACTICE STANDARDS (5%)**

***Comply with applicable laws, regulations and standards of practice***

Role of and acts prohibited by a qualified intermediary  
Definition of a "disqualified person"

***Maintain and enhance knowledge and skills associated with exchange activities***

CES® continuing education requirements

***Promote ethical behavior***

Disclosure requirements relating to potential conflicts of interest  
Ethical standards for CES® Designees  
Use and limitations of CES® designation

Please note that the questions from each content area will be mixed throughout the examination. The questions will NOT be presented in content area order on the examination.

### Sample Questions

- 1) According to United States Treasury Regulations, which of the following is a required element of a valid exchange agreement between a qualified intermediary and taxpayer?
  - A. Value and equity replacement requirements
  - B. Identification requirements
  - C. Restrictions to the taxpayer's right to exchange proceeds
  - D. A statement of non-agency relationship
  
- 2) Assuming that it was received within the 45-day identification period and contained the proper identification elements, which of the following is a valid identification?
  - A. An e-mail correspondence from the taxpayer's realtor to the qualified intermediary
  - B. A handwritten letter prepared by the taxpayer and sent to his or her accountant
  - C. A typewritten letter prepared by the taxpayer's attorney and sent to the qualified intermediary
  - D. A handwritten letter signed by the taxpayer and sent to the seller of the replacement property
  
- 3) A taxpayer exchanges one relinquished property in November and a second relinquished property in February. The replacement property was identified in December and acquired in April. The exchange must be reported during the year in which the
  - A. first relinquished property is sold
  - B. second relinquished property is sold
  - C. replacement property was identified
  - D. replacement property was acquired
  
- 4) According to the Deferred Exchange Treasury Regulations, which of the following properties would qualify for tax deferral?
  - A. Rental property now used as the taxpayer's personal residence
  - B. Property acquired at a government auction 30 days ago that the taxpayer is remodeling and has listed for sale
  - C. A vacant lot located in a residential subdivision
  - D. An interest in a limited-liability company
  
- 5) Which of the following sections of the Internal Revenue Code focuses on the disposition of United States real estate property interest by nonresident alien individuals and foreign corporations?
  - A. Section 1031
  - B. Section 1033

- C. Section 1245
- D. Section 1445

- 6) A taxpayer exchanges a relinquished property with a net sales price of \$198,500 after deducting allowable closing costs and an adjusted basis of \$49,300. The taxpayer completes the exchange by reinvesting all the equity into a replacement property with a cost of \$173,500, including allowable closing costs.

The recognized gain is

- A. \$24,300
  - B. \$25,000
  - C. \$34,200
  - D. \$59,200
- 7) When transferring the relinquished property to the buyer, which of the following charges against the purchase price commonly found on a settlement statement would be considered boot?
- A. Real estate commissions
  - B. An exchange fee to the qualified intermediary
  - C. Recording fees
  - D. Security deposits
- 8) Which of the following parties is qualified to act as the intermediary for a taxpayer?
- A. An attorney who handled a sale and purchase transaction 18 months prior to the sale of the relinquished property
  - B. The executor of the estate of the taxpayer's mother's estate, of which the taxpayer is a beneficiary
  - C. An employee of a corporation in which the taxpayer owns 15% of the stock
  - D. A taxpayer's aunt

**Answer Key:**

- 1) C
- 2) D
- 3) A
- 4) C
- 5) D
- 6) B
- 7) D
- 8) D

Please note that the difficulty of these sample questions may not be representative of the overall difficulty of the examination.

Standard CES® Term	Different Variations
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## References

The following is a list of references that may be helpful in reviewing for the examination. This list is intended for use as a study aid only. The CES® Council does not intend the list to imply endorsement of these specific references, nor are the examination questions necessarily taken from these sources.

Internal Revenue Code Section 1031	Treasury Regulation Section 1.1031
Revenue Procedures	Revenue Rulings
Technical Advice Memoranda	Field Service Advice
Foreign Investment in Real Property Tax Act	Taxpayer Relief Act of 1997
FEA Code of Ethics	CES® Code of Ethics

## STANDARD CES® TERMINOLOGY

Taxpayer	Exchangor, Exchanger, client, investor
Qualified Intermediary	Intermediary, QI, accommodator, facilitator, qualified escrow holder
Purchase & Sale Agreement	<i>Formally referred to as Agreement for Transfer.</i> Agreement of Sale, sales contract, agreement, sale and purchase contract or agreement, qualified escrow account, Offer & Acceptance, O & A, Real Estate Sales Contract, Earnest Money Agreement, Sale and Purchase Agreement
Exchange Funds Account	The term “exchange funds account” refers to the exchange funds being held by the qualified intermediary or other qualified escrow holder. Some other variations of Exchange Funds Account are Escrow, trust account, escrow account, qualified trust account, escrow/trust account, qualified escrow account, exchange equity account.
Tax Advisor	Accountant, CPA, enrolled agent, financial advisor, tax attorney
Real Estate Agent	Real estate professional, real estate agent or broker, REALTOR®, listing agent, selling agent, broker
Settlement Agent	Title agent or officer, closing officer, escrow officer, settlement officer, closer, closing agent, closing attorney, settlement attorney
Exchange Funds	Proceeds, funds, sale proceeds, exchange proceeds, net proceeds from sale, exchange accounts
Deferred Exchange Treasury Regulations	Treasury regulation 1.1031, deferred exchange regulations, 1031 regulations, the regs
IRC §1031	IRC Section 1031, §1031, The code, Section 1031
Exchange Accommodation Titleholder	Accommodation titleholder, EAT
Transactional Costs	closing costs, sales expenses, costs of sale, acquisition costs, settlement costs
Limited Liability Company	LLC
Settlement	escrow, closing, transfer of ownership, refers to the conveyance of property from a buyer to a seller
Legal Advisor	Attorney , legal counsel, lawyer
Parked/Parking	Refers to period while property is held or parked by EAT during a reverse exchange
Disregarded Entity	Single member limited liability company (LLC), living trust, land trust
Living Trust	Intervivos Trust, Family Trust, Disregarded Trust, Grantor Trust
Exchange Cooperation Clause	Disclosure to Exchange, Disclosure & Cooperation Clauses, Cooperation Clauses, Exchange Intent Clauses, Intent Language

## HOW DO I PREPARE FOR THE CES® EXAMINATION?

The Certification Council offers the following suggestions for preparing for the CES® examination:

1. Review the examination content outline and ask yourself the following questions:
  - Do I have a good understanding of the content area?
  - Do I use this knowledge area regularly in my practice?

Plan your studying based on your answers to these questions. For example, for content areas you have a good understanding of and use every day, you may only need to do a quick review to prepare for the examination, whereas for areas with which you are less familiar, you may decide that you need more in-depth study or training before taking the examination.

When planning your studying, you should also think about what percentage of the examination questions are devoted to each major content area (this information is on pages 10 - 13). If you are not very familiar with a content area that will include a significant proportion of the examination questions, you probably should spend some additional time studying this area.

2. Decide which resources will best help you to prepare for the examination. The references listed on page 15 of this Bulletin may be helpful when you are reviewing the content areas included on the examination. (Note: The listing of these references is intended for use as a study aid only. Neither the Certification Council nor the FEA intends the list to imply endorsement of specific texts, nor are the questions on the examination taken directly from these texts.)

You may choose to study on your own or you may decide to take a course or workshop to gain a better understanding of one or more content areas. If you know other exchange practitioners in your area who are taking the examination, you may want to form a study group. You may want to ask your employer to establish educational training sessions.

3. Answer the sample questions in this Bulletin to help familiarize you with the types of questions that will be on the examination.

# TAKING THE EXAMINATION

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## WHAT ARE THE REQUIREMENTS DURING THE EXAMINATION?

The examination will be given under strict security. You will be required to show photo identification in order to enter the testing site and trained proctors will supervise the examination. Irregularities observed during the examination, such as creating a disturbance, giving or receiving unauthorized information or aid to or from other examinees, or attempting to remove examination materials or notes from the testing room, may be sufficient cause to end your participation in the examination, or to invalidate or cancel your scores. Irregularities may be identified by observation or suspicion by the examination proctors or may be evidenced by subsequent statistical analysis of answer sheets. The Certification Council reserves the right to investigate each incident of misconduct or irregularity.

### Testing Site Requirements

1. You must present an Admission Letter and separate photo identification (e.g., passport, driver's license) at the testing site in order to take the examination. **NO EXCEPTIONS TO THIS REQUIREMENT WILL BE MADE.**
2. You should arrive at the testing site approximately 45 minutes prior to the examination to allow sufficient time for you to check-in and locate your seat. **Late arrivals will not be admitted to the examination.**
3. You may not use devices with memory capabilities, personal digital assistants, cellular phones, audible beepers, or books or papers in the testing room. Note, talking is prohibited during the examination.
4. Unauthorized visitors will not be allowed at the examination site.
5. Only water will be allowed in the testing room. All other food and beverages are prohibited.

Before you take the examination, you will be asked to sign the following statement:

*Due to the confidential nature of this examination, I agree that I will not copy or retain examination questions or transmit them in any form to any other person or organization.*

If you do not sign this statement, you will be dismissed from the testing center or your examination results will be invalidated.

The theft or attempted theft of the examination or the copying or disclosure of examination questions is punishable by law.



## **HOW ARE SPECIAL TESTING ARRANGEMENTS MADE?**

The Certification Council will make reasonable efforts to accommodate eligible candidates, who provide documented evidence of their disability or need for special arrangements, with auxiliary aids and services that do not present an undue burden to the Certification Council and do not fundamentally alter the measurement of the knowledge the examination is intended to test. If you require special testing arrangements, you must inform the Certification Council of your needs by means of a written request for special accommodations submitted along with a timely application. The Certification Council alone determines what accommodation efforts are considered reasonable, and not an undue burden

## **HOW IS THE EXAMINATION SCORED?**

Your performance on the examination will be measured against a predetermined standard of knowledge. This standard is the level of knowledge that can reasonably be expected of individuals with basic competence in Section 1031 exchange accommodation. You will NOT be measured against the performance of the other individuals taking the examination. This means that if everyone who takes the examination meets the knowledge standard, everyone will pass.

The passing score for the CES® examination is set by a national panel of experts representative of the field of Section 1031 exchange accommodation. These experts reviewed each examination question, evaluated the difficulty of the question, and made a judgment as to how a professional with basic competence would perform on the question. These judgments are analyzed statistically to determine the passing score.

## **WHAT INFORMATION WILL I RECEIVE ABOUT MY SCORE?**

The examination is designed only to distinguish those who have the basic level of knowledge from those who do not. There is no evidence that someone who receives a very high score on the examination will be a noticeably better professional than someone whose score falls exactly at the passing point. Therefore, if you pass the examination, you will be informed only that you have successfully completed the certification process. You will NOT be notified of your actual score.

If you fail the examination, you will be notified of your score and the minimum score required to pass, and will receive a diagnostic report showing your performance in each content area. This information is provided to assist you in deciding whether to retake the examination and how to plan your study efforts for future examinations.

## **WHEN WILL I RECEIVE MY EXAMINATION RESULTS?**

The Certification Council will mail the examination results approximately 6 - 8 weeks after the examination. **TO PROTECT THE CONFIDENTIALITY OF YOUR EXAMINATION SCORE, NO RESULTS WILL BE GIVEN OVER THE TELEPHONE, VIA FAX OR E-MAIL.**

### Request for Hand Scoring

If you fail the examination you may ask that your examination be re-scored by hand to verify the reported score. Requests must be in writing and must be accompanied by a check, cashier's check, or money order in the amount of \$45, made payable to the FEA. Requests for hand scoring can be honored only up to 6 months after the testing date.

### Retaking the Examination

There is no limit on the number of times that you may apply for and take the examination. However, a 6-month waiting period will be enforced. A new application form and all applicable fees must be submitted each time reexamination is requested and you must meet all eligibility requirements in effect at the time of the application.

### Appeals

An applicant may appeal his/her test results, in accordance with such policies and procedures as developed or amended by the Certification Council. If you have an issue with your test results or rescored test results, you may appeal the results in writing, setting forth your reasoning and including necessary documentation as applicable. The appeal must be addressed to the Executive Director of FEA. The CES® Examination Committee will consider the written appeal from the examinee at its next regular meeting. In the event that the Review Committee determines that the examinee's appeal warrants further discussion, the examinee will be able to appeal the results in person at the next regular meeting of the Appellate Board. The decision of the Appellate Board is final.

Please note that the examination booklets are destroyed immediately after the examination and answer sheets are destroyed 6 months after the examination date.

### Nondiscrimination Policy

The Certification Council does not discriminate against any person on the basis of age, gender, sexual orientation, race, religion, national origin, medical condition, physical disability, or marital status.

## WHAT ARE THE GUIDELINES FOR USE OF THE CES® DESIGNATION?

### Guidelines for Use of CES® Designation

Candidates who pass the examination will receive a certificate suitable for framing. Certified Exchange Specialists® who are awarded the certificate may state that they have obtained the CES® designation. Possession of the CES® designation is not intended to confer status as an expert in the 1031 exchange accommodation industry, nor is it intended to restrict their practice in any way.

### Continuing Education

Candidates who pass the examination will need to: (i) pay the applicable renewal fee and (ii) provide the Certification Council with proof that you have earned twenty (20) hours of approved continuing education credit during the prior two (2) year period. If you do not meet the renewal requirements prior to the expiration of your certification period, you must take the exam to regain the CES® designation.

### Revocation of CES® Designation

The CES® designation may be revoked under the following circumstances:

- Conviction of, or a guilty or nolo contendere plea, to a criminal offense involving fraud, embezzlement, misappropriation of funds, conversion of property, theft, forgery or any crime involving the property of another;
- Submission of falsified or misleading application or examination;
- Violation of the CES® standards, policies, or procedures;
- Failure to adhere to the CES® Code of Ethics (see page 23);
- Failure to maintain continuing education requirements;

Before any designation is revoked, the CES® Designee will be provided with a notice of the reason for the proposed revocation and an opportunity to explain their position to the CES® Review Committee and in accordance with such other policies as may be established by the Certification Council.

# COMPLETING THE APPLICATION

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## Application Instructions

Before completing the application form, read this Candidate Bulletin of Information. Information given in the application is subject to verification. Complete the entire application. Incomplete applications will be returned.

Please print or type all information on the application.

Attach the application fee in the form of a check, cashier's check, or money order along with one (1) passport-size photograph.

Your application must be postmarked on or before the Application Deadline published in this Candidate Bulletin of Information.

### **Mail your application to:**

CES® Application  
FEA Headquarters  
1255 SW Prairie Trail Parkway  
Ankeny, IA 50023-7068

### **Complete application package must include:**

- Completed application form.
- Completed and signed verifications of employment from current and previous employers verifying a minimum of three (3) years out of the past seven (7) years of full-time equivalent work experience at a Qualified Escrow, Trust, or Intermediary Company as defined on page 7 of this Bulletin.
- Application fee in the form of a check, cashier's check, or money order made out to FEA.
- One (1) passport-size photograph.

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**IMPORTANT NOTICE:** An incomplete application package will **NOT** be processed and will be returned to the applicant. The application fee will be refunded less the \$100 non-refundable portion.

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**CODE OF ETHICS AND CONDUCT  
FOR THE  
CERTIFIED EXCHANGE SPECIALIST®**

**CODE OF ETHICS AND CONDUCT  
FOR THE  
CERTIFIED EXCHANGE SPECIALIST®**

**PREAMBLE**

The Certified Exchange Specialist® ("CES®") designation exists:

- To formally recognize individuals who have demonstrated, through experience, testing, and continuing education, their knowledge of IRC Section 1031 rules and regulations pertaining to like-kind exchanges and their ability to facilitate exchanges for the general public;
- To provide a designation that will give the public confidence that they are dealing with a professional who has demonstrated knowledge of the intricacies of like-kind exchange theory and practice, and who subscribes to a Code of Ethics; and
- To encourage member exchange professionals to increase their knowledge of IRC Section 1031 Deferred Exchange Treasury Regulations and related guidance, and to maintain and expand knowledge in the subject through continuing education.

Ethical behavior and practices form and inform everything about how a CES® designee ("Designee") interacts with clients, colleagues, and those in related professions. Entrusted with sensitive information, and custodians of assets that may include title to real or personal property, cash and other proceeds from the sale of such assets, the Designee recognizes that the fiduciary nature of the industry imposes obligations beyond those of ordinary commerce. The Designee, therefore, zealously strives to maintain the standards of their profession and to share with their fellow designees a common responsibility for its integrity and honor.

Given this high purpose, it is incumbent on the Designee to uphold the following standards set forth in this Code of Ethics and Conduct for the Certified Exchange Specialist® ("Code"); to protect the integrity of the industry; to honor a client's privacy and right to fair, accurate and knowledgeable service; and to safeguard the public's trust.

It is incumbent to encourage fair and healthy competition within the industry. At the same time, it is recognized that cooperative industry relationships are critical to the industry's success.

Consequently, each Designee pledges to observe the letter and the spirit of this Code and to operate within the industry in accordance with the principles and practices advocated herein.

**ARTICLE I**

A Designee shall keep reasonably informed of all laws, including statutes, regulations and the interpretation thereof, legislation, the principles and rules of this Code (and any future amendments thereof), and other developments that affect IRC §1031 exchanges and the qualified intermediary profession ("Body of Knowledge").

A Designee shall conduct business in a manner displaying the highest degree of professionalism, bringing credit to the industry and the CES® designation. A Designee shall speak truthfully and act in accordance with accepted principles of honesty, integrity and fair dealing.

## **ARTICLE II**

Protection of the public against fraud, misrepresentation, and other illegal practices in the qualified intermediary profession shall be the duty and responsibility of each Designee, and he shall not actively participate in any such fraud, misrepresentation or other illegal practices. A Designee shall not commit acts of fraud, embezzlement, misappropriation of funds, conversion of the property of another, theft, forgery or such similar acts as may be defined by local, state or federal law. A Designee who is convicted of such an act, or enters a plea of "guilty", "no contest", "nolo contendere" or similar plea in a court of law responding to a charge thereof, shall immediately notify the CES® Certification Council (the "Council") of that fact, in writing. A Designee who holds any other professional designation or license, which designation or license is suspended or revoked, or who voluntarily relinquishes such designation or license, due to activities concerning fraud, embezzlement, misappropriation of funds, conversion of the property of another, theft, forgery or any crime (misdemeanor or felony) shall immediately notify the Council, in writing of such. A Designee shall not voluntarily participate in any act which it knows to be contrary to the standard of conduct set forth in this Code, even if directed to do so by the employer, the Taxpayer, his agent, or advisor.

A Designee shall be alert to activity of his company/employer. If the Designee observes any activity which is known to be illegal or fraudulent, the Designee shall report such, or see that such is reported to company executives in accordance with the firm's applicable procedures. In the absence of established reporting procedures or in the event such procedures are compromised, and then the Designee shall report such knowledge to appropriate law enforcement authorities and immediately notify the Council in writing.

## **ARTICLE III**

It is the duty of a Designee to act in such a manner as to preserve the trust and confidence of the Taxpayer. Without prior permission from the Taxpayer, a Designee shall not reveal the contents of any exchange file to any party other than the Exchanger, or its duly authorized agent, except in the case of a subpoena being presented, or when otherwise required by law or to those parties as expressly authorized by the Taxpayer.

## **ARTICLE IV**

A Designee who is not licensed to practice law, accountancy, or other licensed or regulated profession shall not engage in activities which constitute such practice. The Designee shall recommend in all cases that the parties involved in an exchange transaction seek tax and legal counsel.

## **ARTICLE V**

If recommending products or services to the Taxpayer, the Designee shall disclose to the Taxpayer that it may receive a financial benefit, such as a commission or referral fee, as a result of such recommendation. The Designee shall not recommend or suggest to a Taxpayer the use of services of another organization or business entity in which they or their employer have a direct or indirect interest without full disclosure of such interest at the time of recommendation or suggestion. At no time shall a Designee accept any illegal payment of any kind whatsoever.

It is the duty of a Designee to disclose to its Taxpayers those circumstances, relationships, and interests, if any, which might constitute a conflict of interest. This disclosure shall be made when the Designee knows or learns of the conflict of interest.

## ARTICLE VI

A Designee shall act in the best interest of the Taxpayer. The Designee shall diligently and honestly pursue the Taxpayer's legitimate objectives, and shall perform all reasonable, necessary, and appropriate acts in a timely manner.

The Designee, consistent with his position within the qualified intermediary firm (the "QI Firm") and subject to his knowledge of the qualified intermediary company policies, shall have the duty to provide and follow fully integrated, written exchange documents which shall clearly explain the fees to be charged and any interest to be paid to the Taxpayer; provide copies of all exchange documents including documents received from the closing agent to the Taxpayer or to the Taxpayer's designated authorized representative.

If the Designee has knowledge of, or if he has a position within the QI Firm where he, directly or indirectly, handles exchange funds, the Designee shall have the duty: to keep the exchange proceeds in a stable financial institution or other reliable investment program unless the Taxpayer expressly requests an alternative investment; ensure the value or marketability of any promissory notes or other property held by the Designee as "exchange credits" are not compromised by the actions of the Designee; ensure that the exchange funds are liquid and immediately available to the Taxpayer when needed by the Taxpayer as a part of the 1031 exchange transaction; and give a full accounting of funds to which the Taxpayer is entitled at the end of the exchange.

## ARTICLE VII

A Designee shall cooperate with other Designees in all matters affecting the exchange industry as a whole. This includes, but is not limited to, the sharing of knowledge and experience through active participation in CES® educational programs, reporting violations of the Code to the Council's Ethics and Discipline Committee in writing, and active participation in CES® activities.

## ARTICLE VIII

A Designee shall hold the exchange industry in the highest esteem and shall avoid criticizing or denigrating the industry as a whole. A Designee shall avoid defaming other Designees or QI Firms, whether directly or through innuendo. A Designee shall not compete in a manner that damages the cooperative relationships within the industry as a whole and particularly among Designees. A Designee shall not compete in a way that brings disrepute to the industry or to the designation.

The Designee shall, when having the opportunity, promote the industry as a whole and promote the CES® designation program. Such actions may include but are not limited to participation in education programs, broadening of the Body of Knowledge within the CES® community when possible, support of and participation in the Council, and reporting violations of the Code to the Council's Ethics and Discipline Committee. The Designee will conduct his business in such a manner as to promote higher business standards and practices and the higher ethical standards of the profession.

## ARTICLE IX

The Designee shall maintain his competence through continuous professional education as appropriate to job requirements and that meets the continuing education requirement of the designation; and shall promote continuous advancement in the skills, knowledge, development, and competence of other Designees in their own professional careers.



**ETHICS AND DISCIPLINE COMMITTEE**  
**ARTICLE X**

The Council has established an Ethics and Discipline Committee (“Ethics and Discipline Committee”). Upon approval of the Council’s Executive Committee, the Ethics and Discipline Committee may issue ethics advisory opinion letters based on hypothetical and/or actual situations with due care to the privacy for any individual raising the issue upon which such ethics advisory opinion letter(s) may have been based. Such hypothetical and/or actual ethics advisory opinion letters may be disseminated on the "members only" section of the CES® website and at CES® meetings and conferences.

**ARTICLE XI**

The use of any particular gender (masculine, feminine or neuter) and any particular number (singular or plural) herein is for convenience, only. No inference is to be drawn therefrom. The correct gender and number should be freely substituted throughout as the context may dictate.



## CHARGES OF MISCONDUCT AND ENFORCEMENT

- A. The Council will respond to allegations made against a Designee for purported violations of the Code of Ethics when the complaint is made in the following manner:
- In writing;
  - Signed by the person making the complaint (the "Complainant"), along with the Complainant's contact information, for use in the event the Ethics and Discipline Committee requires additional information or otherwise needs to contact the Complainant;
  - Using the form attached hereto as Exhibit B
  - Addressed to the Council at the following address: 100 North 20<sup>th</sup> Street, 4<sup>th</sup> Floor, Philadelphia, Pa. 19103-1443;
  - Specifically identifying the Designee thereof involved in the purported violation of the Code of Ethics;
  - Describing in as much detail as possible the conduct that allegedly is a violation of the Code of Ethics
  - Accompanied by all relevant documentation that is readily available to the Complainant;

The Complainant is urged to maintain confidentiality and privacy to the extent practical. Delivery of a complaint by the complainant to the Designee is discouraged.

- B. The Ethics and Discipline Committee Chair shall provide the other members of the Ethics and Discipline Committee with a copy of the complaint and any attachments thereto. Within two (2) weeks of receipt of the complaint, the Chair of Ethics and Discipline Committee, as determined by the Council, ("Chair of the Ethics and Discipline Committee") shall provide the accused Designee ("Respondent") with a copy thereof, which shall be sent by certified mail or other similar means, to the address of the Respondent on file with the Council. The Ethics and Discipline Committee shall notify the Respondent by way of a transmittal letter sent with the above referenced copy of the complaint, whether a response is required, or whether the complaint is being summarily dismissed because it is clearly without merit. A copy of said transmittal letter shall be provided to the Complainant, unless no address was provided, by certified mail or other similar means.
- C. No party is required to be represented by counsel at any stage in the proceedings. However, any party may be so represented at their own discretion, and at their own cost. At no time will any investigation or other portion of the process be delayed by more than thirty (30) days so that a party may obtain such representation.
- D. A Respondent shall have thirty (30) days from receipt of the complaint to file a preliminary response to the Ethics and Discipline Committee Chair. An extension of up to fifteen (15) days may be granted by the Ethics and Discipline Committee upon written request and showing of good cause, provided such request is received by the Committee Chair within the thirty (30) day period. Failure to make a timely preliminary response shall constitute a failure to cooperate with the Ethics and Discipline Committee's investigation admittance of all material facts and allegations as set forth in the complaint. Additionally, such failure to cooperate may form the basis of a separate complaint and violation, and any member of the Ethics and Discipline Committee with personal knowledge of this failure to cooperate may file a complaint regarding such actions or inactions.

The preliminary response shall include: all relevant documentation; the names, addresses, telephone numbers and other means of contacting any witnesses to the events and a statement of all relevant facts and circumstances that would reasonably be relied upon to contradict the allegations as set forth in the complaint. The Chair of the Ethics and Discipline Committee will forward a copy of the preliminary response to the Complainant by certified mail or similar means, allowing the Complainant fifteen (15) additional days to further response. There shall be no further submissions from either party except upon the specific, written request of the Ethics and Discipline Committee.

- E. Upon receipt of the written submissions of the parties, the Ethics and Discipline Committee shall determine if any further investigation is necessary. If the Ethics and Discipline Committee determines that further investigation is necessary, it may appoint one of its members to conduct such further investigation on behalf of the full Committee. The Respondent must cooperate with such investigation, and shall encourage others with relevant information, including but not limited to its employees, to do so as well.
- F. Upon receipt of the written submissions of the parties, and the results of any further investigation, the Ethics and Discipline Committee shall have up to thirty (30) calendar days to conduct its review and prepare its report to the Council. The report shall contain a narrative stating: the specific section(s) of the Code alleged to have been violated; a review of the documentation that sets out the facts that were not in dispute; a review of the submissions and testimony submitted by the parties; and a recommendation of action to be taken by the Council.
- G. The Council shall make a decision regarding the matter within thirty (30) calendar days of receipt of the Ethics and Discipline Committee Report. The Council shall notify the Complainant and Respondent in writing of its decision by certified mail or similar means. The decision of the Council shall be the final determination of the matter. Shown as Appendix A is a chart outlining the time elapsed for the process described in these procedures. Resolution of the matter may be accomplished, if feasible, in a shorter time frame.
- H. Upon a finding by the Council that the Respondent has failed to meet the standards of conduct imposed by the Code of Ethics and Conduct, the Council shall impose a penalty or penalties from among the following: (i) private letter of reprimand, not to be made part of the Respondent's file; (ii) private letter of reprimand to be made part of the Respondent's file, which file shall not be disseminated to the public without appropriate Court Order; (iii) public reprimand to be listed on a publicly accessible portion of the CES® website, and to be made part of the Respondent's file; (iv) suspension of the Respondent's credentials as a Designee including any and all rights and privileges associated therewith, said suspension to be listed on a publicly accessible portion of the CES® website and to be made part of the Respondent's file (such suspension may include conditions imposed by the Council for reinstatement; or (v) permanent revocation of the Respondent's credentials as a CES® Designee, said revocation to be listed on a publicly accessible portion of the CES® website and to be made part of the Respondent's file.
- I. To the extent that the Ethics and Discipline Committee determines, after adequate investigation, that the Respondent may be guilty of criminal activity, the Ethics and Discipline Committee shall immediately report such determination to the Council. To the extent that the Council determines that the Respondent may be guilty of criminal activity, the Council may report its findings to the appropriate authorities.
- J. In the event a Respondent continues to claim to be a credentialed Designee after suspension or revocation, the Council may, at its option, pursue such other legal remedies as may be available to it in any or all of the jurisdictions in which the Respondent maintains offices, or in the home jurisdiction of the Council, or in such other venues as permitted by law.

## Appendix A

Description	Time	Cumulative time elapsed if no extension	Cumulative time elapsed if extension applies
Receipt of Complaint by Ethics and Discipline Committee	Start		
Ethics and Discipline Committee disseminates the Complaint to Committee Members and the Respondent	2 weeks	2 weeks	
Respondent files response	2 weeks	4 weeks	
Respondent request an extension to respond	2 weeks		6 weeks
Ethics and Discipline Committee prepares report for Council	2 weeks	6 weeks	8 weeks
Council makes decision and communicates to Complainant and Respondents	4 weeks	10 weeks	12 weeks

## Appendix B

### CERTIFIED EXCHANGE SPECIALISTS®

#### COMPLAINT OF VIOLATION OF THE CODE OF ETHICS AND CONDUCT

This form may be used to submit a complaint to the Ethics and Discipline Committee that alleges a violation of the CES® Code of Ethics and Conduct by a Designee.

Send completed form to:      **Ethics and Discipline Committee**  
**CES® Certification Council**  
**1255 SW Prairie Trail Parkway**  
**Ankeny, IA 50023-7068**

<u>Information about the Complainant</u>
Name of complainant:
Address:
Daytime phone number:

<u>Identify the Person who is the Subject of your Complaint</u>
Name of person who is the subject of your complaint:
Address:
Office held:

<u>Identify the Provision of the Code of Ethics and Conduct Believed to have been Violated</u>
<p>You may find the complete text of the CES® Code of Ethics and Conduct on the Certified Exchange Specialists® website at <a href="http://www.1031ces.org/ethics">www.1031ces.org/ethics</a>. You may also obtain a copy of the CES® Code of Ethics and Conduct by calling the CES® Certification Council at (215) 673-2554.</p> <p>Code provision(s) believed to have been violated:</p>

**Nature of the Complaint**

Provide a statement of the facts known or believed by you to be true that form the basis of the complaint, including the approximate dates of the acts alleged. You may attach your statement on a separate sheet(s) of paper. Any further information that might support your allegations should be submitted with this complaint, including but not limited to, the names and addresses of other persons with personal knowledge of the facts alleged, documents or other evidentiary material.

**Certification**

I affirm that the facts stated in this complaint are true to the best of my knowledge.

\_\_\_\_\_  
Signature of

\_\_\_\_\_  
Date

**Investigation of Complaints by the Ethics and Discipline Committee**

Any person may submit a complaint to the CES® Ethics and Discipline Committee alleging a violation of the CES® Certification Council's Code of Ethics and Conduct by a Designee. The Council may not consider any alleged violation wherein the Complaint Form is not signed, or is anonymous, illegible, or otherwise provides insufficient information on which the Committee may act.

The procedures to be followed by the Ethics and Discipline Committee are available online along with the CES® Code of Ethics and Conduct.

*You may obtain a copy of the CES® Code of Ethics and Conduct online at [www.1031ces.org](http://www.1031ces.org).*