1031 Exchange BASICS

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1031 EXCHANGE

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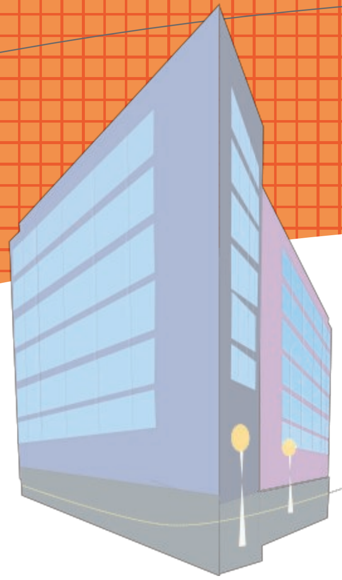

WHAT IS AN EXCHANGE?

Section 1031 of the Internal Revenue Code allows a party in a qualified transaction to sell real property held for business, trade or held for investment purposes to defer capital gains by purchasing "like-kind" property with in the applicable timeframes

WHO SHOULD EXCHANGE?

A taxpayer who has real property that may net them a gain upon the sale (generally property that has been substantially depreciated for tax purposes and/or has appreciated in fair market value.

WHY EXCHANGE?

Defer paying capital gain taxes, relief from property management, to diversify, if need to relocate, if would like to change property types.

EXCHANGE RULES

- The real property bought and sold must be held for productive use in trade, business, or held for investment purposes, and both be located in the US.
- The title holder who sells must be the title holder who buys.
- The sale proceeds must be transferred directly from escrow to the Qualified Intermediary (QI).
- The exchanger cannot have constructive or actual receipt of the sale proceeds.
- The replacement property must be of equal or greater value than the property sold.
- The sale proceeds must be invested in a real property also to be held for productive use in trade, business, or held for investment purposes.
- Any cash retained by the taxpayer will be subject to taxation.
- The replacement property must be subject to an equal or greater level of debt than the relinquished property, or the buyer will either have to pay taxes on the amount of the decrease, or have to put in additional cash funds to offset the lower level of debt in the replacement property.
- The replacement property must be identified and escrow closed with in the applicable time frame.

EXCHANGE TIMELINE

Identify replacement property with in 45 days of recordation date on relinquished property. Close on replacement property must occur on the earlier of 180 days from sale of relinquished property, or the date on which tax returns are due for the calendar year in which the relinquished property is sold.

IDENTIFICATION of REPLACEMENT PROPERTY

3 PROPERTY RULE

Exchanger may identify 3 properties without regard to market value.

200% RULE

Identify any number of replacement properties as long as the aggregate value of those properties does not exceed 200% of the value of the relinquished property (Need evidence of value).

95% RULE

Any number of properties may be identified as long as the exchanger purchases at least 95% of the aggregate value of all properties identified.

AVOID COMMON MISTAKES

- Personal Residence do not qualify
- Find a Qualified Intermediary
- Watch your timing/Count your days
- Escrow and Buyer/Seller must be informed there is a QI/1031 Exchange transaction
- Exchanger should Identify replacement and close escrow with applicable time period
- Straighten out any vesting issues prior to close of escrow
- Understand Exchanger's investment objectives and the goals of all parties