1031 Exchange FAQs

1. WHAT IS A QUALIFIED INTERMEDIARY (QI)?

A Qualified Intermediary, or QI, **is an unrelated third party used to facilitate the 1031 exchange transaction.**

2. CAN I DO AN EXCHANGE WITH MORE THAN ONE PROPERTY?

Yes, you are allowed to exchange multiple properties. You can relinquish multiple properties for one replacement property, or vice-versa you can exchange one relinquished property for multiple replacement properties. The key is you want your replacement property(ies) to be equal or greater in value than your relinquished property(ies) to avoid taxable boot, and you must ensure that the replacement property(ies) follow one of the 3 Exchange Rules.

3. DOES THE NAME OF THE TITLE FOR MY REPLACEMENT PROPERTY MATTER?

Yes, with few exceptions, **the title to the replacement property must be in the same name, or entity**, as the relinquished property was held.

4. CAN I REFINANCE THE RELINQUISHED PROPERTY PRIOR TO THE EXCHANGE OR THE REPLACEMENT PROPERTY AFTER THE EXCHANGE?

While there is nothing in the Regulations on this question, **for technical reasons it is considered bad practice to refinance in anticipation of entering an exchange.** Refinancing after an exchange to pull some equity out is considered proper.

5. AM I ALLOWED TO USE EXCHANGE FUNDS FOR IMPROVEMENTS ON REPLACEMENT PROPERTY?

Yes, as long as your exchange is structured properly. The best method to accomplish this is to have a Special Purpose Entity acquire title to the replacement property, the Special Purpose Entity will complete the improvements and then you, as the exchanger, will acquire the replacement property from the Special Purpose Entity through a built-to-suit or improvement exchange.

6. WHAT IS A REVERSE EXCHANGE?

A reverse exchange is an exchange where the replacement property is purchased before the relinquished property is sold. Reverse Exchanges are more complex and your QI should be involved in all steps and planning to ensure it is completed in accordance with IRC § 1031.

7. CAN SOME OF THE MEMBERS OF AN LLC DO THEIR OWN EXCHANGE OR CASH OUT AT THE TIME OF THE SALE OF THE PROPERTY?

The IRS Code does not allow members/partners to do his or her own exchange, only the entity can do so. Given enough pre-planning, there is a technique referred to as a "drop & swap" whereby certain members/partners can drop their interest from the entity and enter the exchange individually and not at a member/partner.

For more information or
to setup your 1031
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