



## **1031 exchanges and the role of the real estate agent: Asking the right questions to taxpayer**

January 14, 2008 - Financial Digest

While most real estate transactions that are conducted in the U.S. have a real estate agent involved, not many of them are clear about their role in the 1031 exchange.

What should the role of the agent be with the principals in the transaction and what duties, if any, can the agent perform to help the transaction along?

The agent is the party that should be out in front of the crowd, bringing the taxpayer (exchanger) to the table to sign purchase and sale contracts facilitating the transaction. As it relates to a 1031 exchange, the agent's role, simply stated, is an assistant to the principals. The assistance needed most is to ask the right questions. They are listed below and should be directed to the taxpayer:

- \* Are you considering selling or buying any property for investment or business purposes?
- \* Are you considering putting any of your equity from one property into another?
- \* Are you considering selling any property and buying any other property within six months of each other?
- \* Can I put you in touch with an accommodator who can give you basic information and guide you through your particular facts and situation?
- \* Do you need further advice or information from a tax advisor?
- \* Have you got a clear plan for your real estate?
- \* Should you be considering new categories of real estate or regions for your replacement properties?
- \* Should you start looking for replacement properties now so that you give yourself more time than the prescribed six months from close of the relinquished property?
- \* Are you aware your deposit for the replacement property may come from the exchange account you set up once you have sold your first property in the exchange?
- \* Should I follow up with you once you have closed on your replacement property to track performance and help you decide whether you might want to enter into another exchange on additional properties you may own or to discuss a reverse exchange when new properties become available?

In short, the agent should be the prompter and guide to move the transaction along and open up new questions in the seller's mind to increase possibilities and create an exchange which requires both a sale and a purchase within six months.

What should the agent not do? The agent should not offer tax or legal advice, but instead raise the questions above and guide the client to competent professionals that can offer the client peace of mind in their plans.

If agents fill the role of prompter and raise the questions, more people will investigate and use exchanging to save taxes, which is good for the real estate marketplace. A more fluid real estate

market creates a more vibrant real estate market by encouraging more people to join in it. This translates into more returns for investors.

Additionally, many exchanges do not become reality simply because of lack of planning. Exchanges which require planning include those in which title is held in partnerships or multiple member LLCs. With proper advance planning, a partner may exchange his interest, but many times is not aware that a tax free exchange is even possible.

More wealth is created for investors if the proceeds of a sale are put into the new purchase rather than carving off a healthy portion of profits to the government. The taxpayer who did not conclude the exchange not only gave over some of his hard earned profits unnecessarily, but also, did not necessarily find a replacement property within six months and so the market may have easily moved out of reach as time passes this investor by.

It is easy to see how the real estate agent is in the best position to help investors and generate new opportunities for transactions by suggesting exchanging. The agent can enlighten the investor and help him build wealth through a better real estate plan while the agent becomes distinguished as the one who set the investor on the right track.

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