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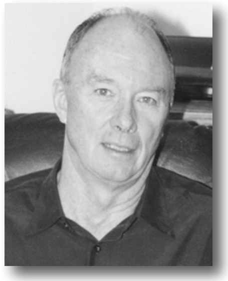

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We have worked successfully with these attorneys. This should not, however, be construed to be a recommendation or endorsement of any particular attorney. There are other qualified attorneys in Hawaii and elsewhere with whom you may consult on your exchange transaction. You should be sure to get competent professional advice on all aspects of your transaction.

10 Questions Regarding 1031

TITLE GUARANTY HAWAII
TITLE GUARANTY
T.G. EXCHANGE, INC.

10 Questions Regarding 1031 Exchange

1. What is a deferred exchange?

A deferred exchange occurs when a taxpayer enters into an agreement to transfer the relinquished property in exchange for property the taxpayer has not yet located or identified. If (i) both properties are used by the taxpayer for business or investment purposes and (ii) the transaction is properly structured pursuant to the requirement of IRC§ 1031, then the taxpayer will not incur any income tax on the disposition of the relinquished property.

2. What is the time period to identify replacement properties?

After entering into an exchange agreement, the taxpayer has forty-five (45) days from the transfer of the relinquished property to identify all replacement properties.

3. How many replacement properties may I identify?

The taxpayer may identify more than one (1) replacement property regardless of the number of relinquished properties transferred as part of the same exchange. However, if the taxpayer fails to acquire all of the replacement properties, the maximum number of properties that a taxpayer may identify is:

(A) Three (3) properties, regardless of their fair market value (the "3-property rule"), or;

(B) Any number of properties as long as their aggregate fair market value does not exceed two hundred percent (200%) of the aggregate fair market value of all relinquished properties transferred (the "200-percent rule").

4. What is the time period to complete the exchange?

The taxpayer must complete the exchange by the earlier of one hundred eighty (180) calendar days after the transfer of the relinquished property or the due date (including extensions) for the taxpayer's tax return.

5. What if the 180th day falls on the weekend or a holiday?

Under the regulations, the taxpayer must complete performance before a weekend or a holiday as there is no automatic extension.

6. Can a taxpayer receive interest on the exchange funds?

Yes. The taxpayer is entitled to receive interest or growth factor with respect to the deferred exchange; provided that, the exchange agreement expressly and correctly limits the taxpayer's rights to receive the interest or growth factor. However, the interest or growth factor will be treated as ordinary interest income, regardless of whether it is paid to the taxpayer in cash or in property.

7. Should I use a qualified intermediary?

Yes. The proper use of a qualified intermediary would protect the taxpayer against further IRS scrutiny under the "safe harbor" provisions of the recent Regulations. However, the intermediary must enter into a written agreement with the taxpayer to acquire and transfer the relinquished property and to acquire and transfer the replacement property.

8. In a simultaneous exchange, should I still use a qualified intermediary?

Yes. Although use of a qualified intermediary is not required, it is a way for the taxpayer to get the protection of the "safe harbor" provisions in the Regulations.

9. Should I retain an exchange attorney when using a qualified intermediary?

Yes. It is good practice to retain an exchange attorney to be responsible for the following 5 tasks: (i) conducting a cost/benefit analysis of the 1031 exchange transaction, (ii) structuring the exchange to qualify under IRC§ 1031, (iii) preparing all necessary exchange documentations, (iv) overseeing the transaction to ensure that all parties have complied with their responsibilities and (v) providing guidance on any additional tax issues that may arise.

It is important to realize that unlike banks and escrow companies, intermediaries are NOT REGULATED by any government agency. Therefore, it would be prudent to have an exchange attorney representing you to draft the exchange agreement, and to ensure that the intermediary will be duly obligated to follow through with its obligations per the contract. Also note that if you choose to rely on the intermediary to perform the function of an exchange attorney, you must keep in mind that the level of expertise provided by the intermediary would be substantially lower than what can be expected from an exchange attorney.

10. Does the intermediary have to be located in the state the transaction takes place?

No. It does not matter whether the intermediary is in the state where the relinquished property or the replacement property is located. However, some states have withholdings taxes, so it is important that the intermediary is familiar with the state laws or that the attorney or CPA is able to take the necessary steps to legally avoid these withholding taxes.

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