

Tax Season Issues

Exchangers must report their exchange on the tax return for the year in which the exchange begins. The exchange is reported on Form 8824, "Like-Kind Exchanges." This form requests the date of the exchange transaction, the date properties were "identified", and financial information obtained from the closing/settlement statement. For the sale of depreciable rental or business property, the Exchanger will also need Form 4797, "Sale of Business Property." For the sale of non-depreciable investment property, the Exchanger will need Form 1041 Schedule D, "Capital Gains and Losses." Rev. Rul. 72-456 and Treas. Reg. §1.1031(k)-1(g)(7)(ii) provide information on the tax treatment of closing costs in an exchange. Rev. Rul. 72-456 deals specifically with broker commissions, but is considered a guideline for treatment of other closing costs. Generally, closing costs reduce realized gain on the relinquished property, reduce cash boot received and are added to the basis of the replacement property. Proposed Regulations (REG-168745-03) relating to IRC §263(a) require capitalization of transaction costs incurred to facilitate acquisition of real estate or personal property, including the Qualified Intermediary's fee.

If the Exchanger sells relinquished property after October 18th, then they actually have fewer than 180 days in which to complete their exchange, unless they file for an extension. The actual deadline for completing an exchange ("the Exchange Period") is the earlier of either 180 days from the date on which the Exchanger transfers the relinquished property, or the due date, including extensions filed by the Exchanger, for the Exchanger's tax return for the year of the transfer of the relinquished property. The IRS generally has three years in which to audit a tax return. However, this statute of limitations is extended if a taxpayer fails to report more than 25% of their gross income. Often the tax savings generated by an exchange will be significant enough to activate this extension of the three year audit period.

Brief Exchanges

Investment Property Exchange Services, Inc. cannot provide advice regarding specific tax consequences. Investors considering an IRC §1031 tax deferred exchange should seek the counsel of their accountant and attorney to obtain professional and legal advice. © 2008 Investment Property Exchange Services, Inc.