There are countless myths and misconceptions about 1031 exchanges. What follows are a few of the myths heard over and over again in our offices. Here we attempt to set the record straight.

**Myth #4 – You don’t need an exchange company for a simultaneous exchange. – Not true!**

Taxpayers think if they can just sell and purchase the same day, in the same settlement office, they have an exchange without the expense of an exchange company. Hey, they never touched the money!

Unfortunately with this strategy, although they didn’t “touch” the money, they “controlled” the money by instructing the settlement agent to transfer the sale proceeds from one file to another. Control of funds is as fatal to this being a valid exchange as touching the cash would have been. They need an exchange company to document the two transactions as being part of an exchange and to provide the instruction to transfer between the two files.

**Myth #5 – The Buyer (or Seller) has to cooperate. – Not really.**

In a typical delayed exchange the Buyer of the relinquished property and the Seller of the replacement property do not have to do anything in order for the Taxpayer to have an exchange. The IRS rule is only that the Buyer/Seller be notified of the exchange, in writing, prior to closing. Notice only. They don’t have to cooperate. They don’t have to sign anything. They can’t stop the Taxpayer from proceeding with the exchange.

**Myth #6 – Seller can’t do an exchange if there isn’t 1031 language in the contract.**

Language in the contract is not required by the IRS. What is required is exchange documentation be signed prior to transfer (generally the closing). If a Seller decides at the 11th hour to proceed with an exchange they may do so as long as they engage the services of an exchange company, sign the exchange documents prior to transfer and the exchange company assigns into the purchase and sale agreement.
Myth #7 – The only thing an exchange company does is some paperwork. – Far from it!

Yes, the IRS rules require exchange company paperwork for the sale and eventually the purchase. The IRS rules further require that the exchange company to hold the sale proceeds if there is a delay between the sale and the purchase. That work takes no more than a small fraction of a given day.

Knowledgeable exchange companies devote the majority of their personnel time to serving as a resource to the Taxpayers, real estate professionals, attorneys, accountants, lenders, financial planners, etc. who are working through the challenges of an exchange. The experienced staff in high volume exchange companies (such as IPX1031) are on the phone answering questions, providing current information, sharing ideas and strategies they have learned over the years. This cannot be obtained from non-practitioners. While the exchange company cannot provide specific tax or legal advice they can certainly share what they have seen others do in similar situations. Wise is the Taxpayer and their advisors who take advantage of this resource.