The Role of the Qualified Intermediary

The use of a Qualified Intermediary is important in completing a successful IRC §1031 Tax Deferred Exchange. **Investment Property Exchange Services, Inc. (IPX1031)**, as a professional Qualified Intermediary, performs several vital functions in an exchange and operates under the "safe harbor" set out in Treas. Reg. 1.1031(k)-1(g)(4). Although the process of completing an exchange is relatively simple, the rules are complicated and filled with potential pitfalls. IPX1031 has developed a national reputation as an industry leader for Qualified Intermediary services due to our substantial exchange experience and our unyielding commitment to our clients. We work closely with all parties involved to ensure a smooth §1031 Exchange transaction. When choosing a Qualified Intermediary, the two most critical factors for evaluation are safety and security of Exchange Funds and competency of staff.

Acts as a "Qualified" Intermediary

A person who has acted as the taxpayer's employee, attorney, accountant, investment banker or broker, or real estate agent or broker within the two-year period preceding the date of the transfer of the Relinquished Property by the Exchanger is treated as an agent of the Exchanger and is specifically disqualified from being a Qualified Intermediary.

Creates the Exchange of Properties

The IRS stipulates that a reciprocal trade or actual exchange must take place in each exchange transaction. This means the Exchanger must assign to the Qualified Intermediary (1) their contractual interest as seller of the Relinquished Property and (2) their contractual interest as buyer of the Replacement Property. Because the Qualified Intermediary becomes an actual principal in the transaction, a reciprocal trade is created, even when the Exchanger is purchasing the Replacement Property from someone other than the buyer of their Relinquished Property. For IRC §1031 purposes, the Qualified Intermediary is treated as acquiring the Relinquished and Replacement Properties when the Exchanger assigns their rights in the respective purchase and sale contracts to the Qualified Intermediary. It is not necessary for the Qualified Intermediary to be in the chain of title.

Holds Exchange Funds

The Exchanger is prohibited from having actual or constructive receipt of the proceeds from the sale of the Relinquished Property (Exchange Funds), or the ability to pledge, borrow or otherwise obtain the benefits of the Exchange Funds during the exchange or those proceeds will be taxable as boot. Treas.Reg. 1.1031.(k)-1(g)(6). IPX1031, as Qualified Intermediary, will hold the Exchange Funds in a separate bank account held for the benefit of the Exchanger until the funds are used to purchase the Exchanger's Replacement Property.

Prepares Exchange Documents

Proper documentation is necessary for a successful exchange. IPX1031, as the Qualified Intermediary, will prepare an Exchange Agreement, Assignments of Purchase and Sale Agreements, Notices of Assignment to the respective buyer and seller, and provide a blank Replacement Property Identification Notice, among other documents.

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