IPX 1031 Exchange Topics

The Tax Deferred Exchange

The tax deferred exchange, as defined in §1031 of the Internal Revenue Code, offers taxpayers one of the last great opportunities to build wealth and save taxes. By completing an exchange, the Taxpayer (Exchanger) can dispose of investment or business-use assets, acquire Replacement Property and defer the tax that would ordinarily be due upon the sale. To fully defer the capital gain or recapture tax, the Exchanger must (a) acquire "like kind" Replacement Property that will be held for investment or used productively in a trade or business, (b) purchase Replacement Property of equal or greater value, (c) reinvest all of the equity into the Replacement Property, and (d) obtain the same or greater debt on the Replacement Property. Debt may be replaced with additional cash, but cash equity cannot be replaced with additional debt. Additionally, the Exchanger may not receive cash or other benefits from the sale proceeds during the exchange.

IRC §1031 applies to a broad spectrum of asset types, but it does not apply to exchanges of stock in trade, inventory, property held for sale, stocks, bonds, notes, securities, evidences of indebtedness, certificates of trust or beneficial interests, or interests in a partnership.

An exchange is rarely a swap of properties between two parties. Most exchanges involve multiple parties: the Exchanger, the buyer of the Exchanger's old (Relinquished) property, the seller of the Exchanger's new (Replacement) property, and a Qualified Intermediary. To create the exchange of assets and obtain the benefit of the "Safe Harbor" protections set out in Treasury Regulations 1.1031(k)-1(g)(4) which prevent actual or constructive receipt of exchange funds, prudent taxpayers use a professional Qualified Intermediary, such as Investment Property Exchange Services, Inc. (IPX1031).