§1031 Exchange News

Can I Buy the Replacement Property First?

Yes, the reverse exchange is a "parking arrangement" that allows the taxpayer to purchase the replacement property first and then sell the relinquished property within 180 days. This allows the taxpayer to acquire a desirable replacement property and eliminate the pressure of the 45-day identification period. The title to either the replacement property or the relinquished property must be "parked" with the Exchange Accommodation Titleholder (EAT).

The first arrangement is parking the replacement property. The taxpayer loans the funds to the EAT to purchase and acquire title to the replacement property. A note and deed of trust is given to the taxpayer of the loaned funds. Once the relinquished property is sold, the sale proceeds are used to pay back the taxpayer's note and the replacement property is exchanged to the taxpayer.

The second arrangement is parking the relinquished property. The taxpayer deeds the relinquished property to the EAT. The EAT leases the relinquished property back to the taxpayer. Once the relinquished property is sold, the sale proceeds are used to pay back the taxpayer's investment into the replacement property.

Additional Issues:

If financing is involved, the lender would most likely 'not' let the Qualified Intermediary to hold title to the replacement property. Therefore, the relinquished property must be transferred to the EAT. This transfer might cause the lender to enforce the 'due on sale' clause and the county to reassess the property and charge property transfer tax fees.

When considering an exchange, we highly recommend that the taxpayer seek counsel of their CPA and attorney to obtain professional and legal advice.

LEARN MORE

1031-exchange guide is available for you to download @ www.jennyleswati.com/invest

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