



*1031 Exchanges
can be complex.*

Challenging Times Require Creative **Advanced 1031** Exchange Solutions

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The Exeter Edge™ Webinar Etiquette

- Everyone will be in listen only mode
- Please **ask questions** as they come up
 - Use the Q&A function
 - We will unmute phone lines afterward.
 - Use audio pin number
- Please DO NOT....
 - use speaker phones
 - place call on hold (on hold music)
 - use mobile phones (use land line)
 - type or shuffle papers (creating noise)

Exeter 1031 Exchange Services

- Qualified Intermediary (Accommodator)
- Exchange Accommodation Titleholder
- All types of 1031 exchanges, including:
 - Forward
 - Reverse
 - Improvement
 - Zero Equity 1031 Exchanges™
- All 50 states and foreign property
- Real and Personal Property Exchanges
- Call Exeter 24/7 via web site

Office Locations

- Nationwide Offices located in:
 - California Offices:
 - San Diego (Corporate headquarters)
 - Irvine
 - Ontario
 - Bakersfield
 - Fresno
 - San Francisco
 - Kona, Hawaii
 - East Northport, New York
 - Springfield, New Jersey

1031 Exchange Structures

- Regular 1031 Exchanges
 - Forward
 - Delayed
 - Starker
- Reverse 1031 Exchanges
- Improvement 1031 Exchanges
 - Build-to-Suit
 - Construction
- Zero Equity 1031 Exchanges
- Combined Strategies

Advanced 1031 Exchange Strategies

- There is an increased demand for creative and advanced 1031 Exchange strategies and structures because of the current real estate market
- Requires out-of-the-box thinking
- May require multiple 1031 Exchanges combined and integrated to accomplish the investor's goals
- Following discussion provides general outline of strategies and structures

Advanced 1031 Exchange Strategies

- Reverse into Forward 1031 Exchange
- Forward into Reverse 1031 Exchange
- Reverse and Improvement Exchange
- Non-Safe Harbor Reverse Exchange
- Building on Property “already owned”
- Buying promissory notes as replacement property in 1031 Exchange
- Saving Reverse 1031 with related parties
- Zero Equity 1031 Exchange™

Reverse into Forward

- Investor finds investment opportunity and must purchase immediately
- Investor does not have time to list or sell relinquished property in order to structure regular Forward 1031 Exchange
- Investor must therefore structure a Reverse 1031 Exchange to acquire replacement property first

Reverse into Forward

- Transaction details:
 - Purchase price for replacement property acquired and parked in Reverse 1031 Exchange is \$1,000,000
 - Estimated net sales price for relinquished property is \$2,000,000
 - Investor is selling relinquished property for \$1,000,000 more than what is being paid for replacement property
 - Investor does not want boot

Reverse into Forward

- Replacement property is acquired and parked with Exchange Accommodation Titleholder (EAT) pursuant to Rev. Proc. 2000-37
- 45 and 180 day deadlines for Reverse 1031 Exchange begin with parking structure
- Investor identifies relinquished property to be sold in Reverse 1031 Exchange

Reverse into Forward

- Sale of relinquished property is going to generate taxable boot, unless ...
- Sale of relinquished property is split into two separate 1031 Exchanges
- \$1,000,000 of the net sales price is allocated to the Reverse 1031 Exchange and the remaining \$1,000,000 of the net sales price being allocated to a NEW Forward 1031 Exchange

Reverse into Forward

- Qualified Intermediary **ONLY** assigns into a 50% interest of the relinquished property sales contract representing the 50% allocation to the Reverse 1031 Exchange (Exchange #1)
- Qualified Intermediary **ALSO** assigns into the remaining 50% interest as part of a **NEW** Forward 1031 Exchange transaction (Exchange #2)

Reverse into Forward

- Relinquished property closes and 50% of the proceeds are sent to Exchange #1 and 50% to Exchange #2
- Exchange #1 uses the proceeds to “buy” replacement property from EAT and completes Reverse 1031 Exchange
- Exchange #2 starts new 45 and 180 day deadlines as part of NEW Forward 1031 Exchange
- Investor can now ID another replacement property worth \$1,000,000 through Exchange #2

Forward into Reverse

- Investor sells relinquished property and structures Forward 1031 Exchange
- Investor already has replacement property lined up, but it is worth substantially more than the relinquished property
- Investor wants to sell a second relinquished property to use toward purchase of replacement property, but can't list and sell in time

Forward into Reverse

- Transaction details:
 - Sales price for relinquished property in Forward 1031 Exchange is \$2,000,000
 - Estimated net purchase price for replacement property is \$6,000,000
 - Investor is trading up by \$4,000,000
 - Investor wants to “match” this excess purchase value with the sale of a second relinquished property

Forward into Reverse

- Relinquished property is sold and funds wired to Qualified Intermediary
- 45 and 180 day deadlines begin for Forward 1031 Exchange
- Investor identifies \$6,000,000 replacement property to be purchased

Forward into Reverse

- Purchase of replacement property will result in \$4,000,000 excess value that investor wants to “match” with the sale of a second relinquished property
- Purchase of replacement property could be split into two separate 1031 Exchanges
- \$2,000,000 of the net purchase price is allocated to Forward 1031 Exchange and remaining \$4,000,000 of the net purchase price allocated to a NEW REVERSE 1031 Exchange

Forward into Reverse

- Qualified Intermediary assigns into a 1/3 interest of the purchase contract representing the \$2,000,000 allocation as replacement property for the Forward 1031 Exchange (Exchange #1)
- Exchange Accommodator Titleholder assigns into the remaining 2/3 interest as part of a NEW REVERSE 1031 Exchange transaction (Exchange #2)

Forward into Reverse

- Forward 1031 Exchange uses the proceeds to “buy” 1/3 of replacement property to complete Forward 1031 Exchange
- Forward 1031 Exchange has now been completed

Forward into Reverse

- Reverse 1031 Exchange now starts
- EAT buys and parks title to 2/3 of replacement property and starts new 45 and 180 day deadlines as part of NEW REVERSE 1031 Exchange
- Investor can now list and sell a second relinquished property worth up to \$4,000,000 as part of Reverse 1031 Exchange

Reverse and Improvement Exchange

- Often due to owner-user build out requirements such as manufacturing, processing plants, etc.
- Must acquire and build out replacement property prior to selling relinquished property
- Existing operation must continue until new replacement property is ready for operation and occupancy

Reverse and Improvement Exchange

- Acquire and park title to replacement property acquisition with Exchange Accommodation Titleholder
- Arrange for any necessary financing, since relinquished property has not been sold yet
- Complete build out/retrofitting
- Required cost value for 1031 Exchange must be completed within 180 calendar days of parking title

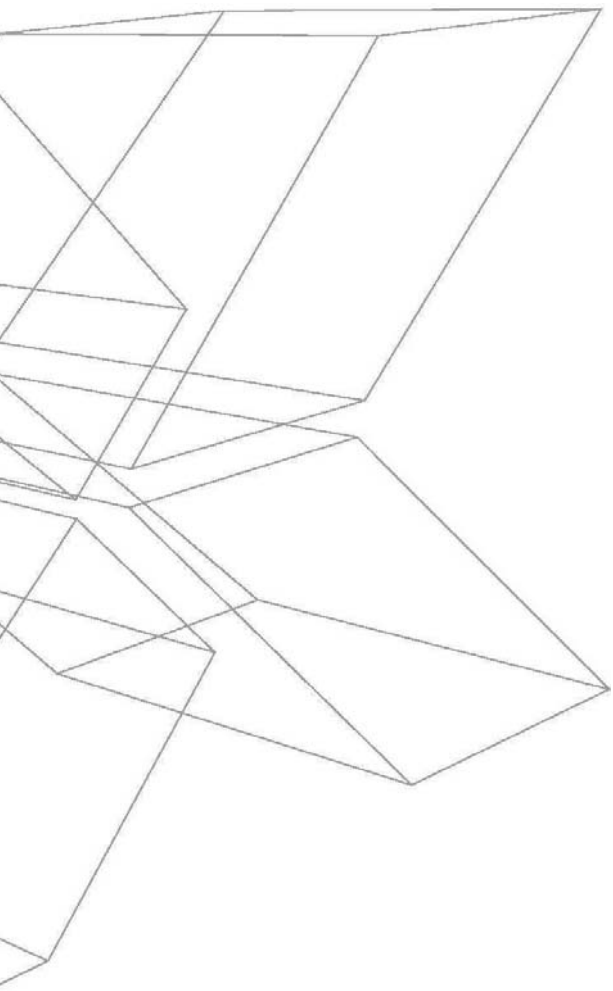
Reverse and Improvement Exchange

- Improvements completed
- Relinquished property sold and funds held by Qualified Intermediary
- Purchase and sale agreement created between investor and EAT
- PSA assigned to Qualified Intermediary, and QI acquires the improved property as the replacement property

Non-Safe Harbor Reverse Exchange

- No IRS guidance at this point
- Some court cases on point, but limited
- Implemented only when safe-harbor structure under Rev. Proc. 2000-37 can not be met, generally in conjunction with Reverse Improvement Exchange requiring in excess of 180 calendar days to complete
- Qualified Intermediary must take on more risk and liability, therefore much more expensive.

Lender Issues

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- An abstract graphic on the left side of the slide, consisting of several overlapping, semi-transparent wireframe cubes or rectangular prisms. The lines are thin and grey, creating a complex, geometric pattern that suggests depth and structure.
- Ensure that lender is comfortable with parking arrangement pursuant to Rev. Proc. 2000-37, including:
 - EAT will be holding title via an LLC
 - EAT (LLC) is the borrower and signs note and deed of trust/mortgage
 - Loan must be non-recourse to EAT
 - Investor can guarantee note
 - Cross collateralization is perfectly O.K.

Building on Property Already Owned

- Generally, will not qualify because you must acquire replacement property that you do not already own
- However, it may be possible if acquired from a related party/entity controlled by investor
- Two Private Letter Rulings
 - PLR 2003-29021
 - PLR 2002-51008

Building on Property Already Owned

- Concept is to create a NEW real property interest that did not exist before
- Relinquished property owned by investor/taxpayer
- Replacement property owned by an entity that is controlled by taxpayer but not the same as taxpayer (i.e. limited liability company with other members)

Building on Property Already Owned

- The related party/entity leases the property to Exchange Accommodation Titleholder for more than 30 years
 - Leases of 30 years or more are considered to be an interest in real property
 - New interest in real property is owned by Exchange Accommodation Titleholder

Building on Property Already Owned

- Exchange Accommodation Titleholder arranges for improvements to the real property
 - The improvements are made pursuant to the terms of the lease
 - The improvements increase the value of the real property interest created by the EAT
- Improvements should not be paid for with 1031 Exchange funds; may need to finance with EAT as borrower

Building on Property Already Owned

- Investor enters into Purchase Agreement with EAT to acquire the leasehold interest and related improvements from EAT as replacement property
- Purchase Agreement is assigned to Qualified Intermediary and QI used 1031 Exchange Funds to acquire parked property from the EAT
- EAT uses the funds to reimburse lender

Buying Promissory Notes in 1031

- Generally, real estate must be exchanged for real estate and personal property must be exchanged for personal property; real estate can not be exchanged for personal property
- So, the acquisition of a promissory note as replacement property will generally not qualify for 1031 Exchange treatment when the relinquished property is real estate

Buying Promissory Notes in 1031

- However, it is possible using the parking arrangement concept under Rev. Proc. 2000-37
- The Exchange Accommodation Titleholder would acquire the promissory note just like it was parking title to real estate

Buying Promissory Notes in 1031

- The note must then be “improved” just like in an Improvement 1031 Exchange by converting it into a real property interest.
- Generally, this is accomplished via a foreclosure sale or deed in lieu of foreclosure
- The EAT now owns a real property interest instead of a promissory note

Buying Promissory Notes in 1031

- The investor executes a Purchase Contract with the EAT for the real property
- The Purchase Contract is assigned to the Qualified Intermediary, and the QI acquires the real property as the replacement property in the investor's 1031 Exchange
- Can be structured via a Forward or Reverse 1031 Exchange

Saving a Reverse 1031 Exchange

- Selling relinquished property to related party
- Two (2) year holding requirement
- However, two (2) holding period may not be applicable based on recent rulings from the IRS and court decisions

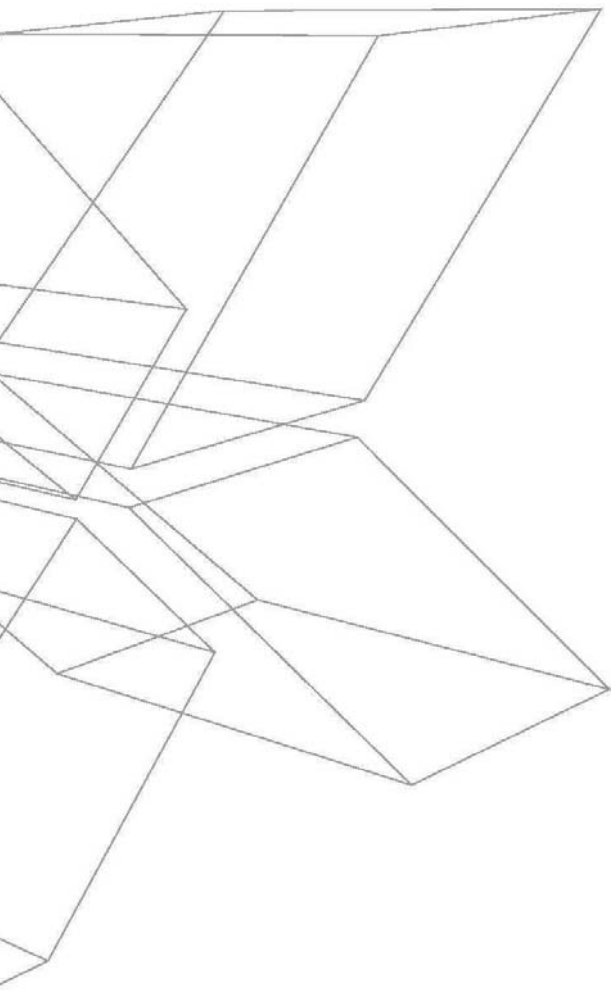
Failed 1031 Exchanges

- Section 453 of the IRC
- Installment Sale Treatment
- 1031 Exchange Fails
 - Fail to identify replacement property within 45 days
 - Fail to acquire replacement property within 180 days
- When is the transaction taxable?
 - Depends on when taxpayer has the right to the 1031 Exchange proceeds

Failed 1031 Exchanges

- It depends on when the investor has/had the right to their 1031 Exchange proceeds
- 1031 Exchange Agreement must have language restricting investor's rights to the funds
- Failed 1031 Exchange is taxable in the year the investor had the right to their 1031 Exchange proceeds

Zero Equity 1031 Exchange™

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- Disposition of property
 - Sale
 - Short Sale
 - Foreclosure
 - Capital gains may still exist
 - What is “sales price?”
 - “Sale price” above cost basis
 - Zero Equity 1031 Exchange™

The Exeter Edge™ Webinars

- The Reality of California Real Estate
 - Thursday, October 1, 2009
- Reverse 1031 Exchanges
 - October 6th and 7th, 2009
- Tax Deferral and Tax Exclusion Strategies
 - Tuesday, October 13, 2009
- Title Holding Trust (Land Trust)
 - Wednesday, October 14, 2009
- Zero Equity 1031 Exchange™
 - Monday, October 19, 2009
- The Exeter Edge™ Webinar Series

Are You Ready to Preserve Your Wealth?

- Set-up a complimentary consultation with Mr. Exeter
- Follow-up email with links
 - Copy of Power Point
 - The Exeter Exchange Newsletter
- Follow-up survey
- Thank you for attending – we look forward to helping you protect your properties.

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