EXETER
1031 Exchange Services LLC

Build and Maintain Your Wealth with Tax Deferral/Exclusion Strategies for Real Estate

We have answers.
Go ahead, ask.

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The Exeter Edge™ Webinar Etiquette

- Everyone will be in listen only mode
- We do want to encourage questions
- Please **ask questions** as they come up
- Use the Q&A function
- Questions will be read off and addressed as they come up.

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

Exeter Fiduciary Services, LLC

- Private, Professional Fiduciary
- Qualified Trust Accounts
- Title Holding Trusts (Land Trusts)
- Deferred Sales Trusts™

Tax Deferral/Exclusion Strategies

- 1031 exchange (investment property)
- 1033 exchange (condemnation)
- 1034 exchange (repealed in 1997)
- 121 exclusions (primary residence)
- 721 exchange (upREIT or 1031/721)
- 453 installment sales
- Self-Directed IRAs, including Traditional, Roth, SEP & SIMPLE IRAs
- Other options available, so seek legal, tax and financial counsel

Overview of the 1031 Exchange

- Applies only to property held for rental, investment or business use
- Need Qualified Intermediary
- Qualified use property
- Like kind requirement
- 45 days to ID replacement property
- 180 days to complete 1031 Exchange
- Step-up in cost basis

Recent Changes in 1031 Exchanges

- Revenue Procedure 2008-16
- Vacation property & Second home can now qualify for 1031 exchange treatment if……

- Must be held for 24 months
- Must be rented for at least 14 days/yr
- Personal use must be limited to no more than 14 days/yr or 10% of the number of days rented

1031 Exchanges in Today's Market

- Distressed dispositions:
  - Short Sale
  - Deed in lieu of foreclosure
  - Foreclosure
- These are forced sales
  - You may still have taxable gain if "sale price" exceeds cost basis
- Can structure a Zero Equity 1031 Exchange™

Overview of the 1033 Exchange

- Section 1033 of the IRC
- No third party required to hold funds
- 1033 Exchanges are involuntary conversions either via:
  - Eminent domain (condemnation)
  - Natural disaster (act of God)
- Longer time frames for reinvestment
- May have less flexibility in like kind property

Overview of the 1033 Exchange

- Eminent domain issues:
  - Threat of eminent domain vs. actual eminent domain
  - Three (3) years to reinvest, except primary residences have four (4)
  - Like kind same as 1031 exchange

Overview of the 1033 Exchange

- Natural disaster issues:
  - Actual loss required
  - Timeframes begin with destruction
  - Two (2) years to reinvest, except primary residences have four (4)
  - Like kind is similar or related in service or use (not like 1031 Exchange)

Overview of the 1033 Exchange

- No identification requirement
- Trade equal or up in value
- No requirement to reinvest equity or replace debt
- Can pull cash out without taxes

Overview of the 1034 Exchange

- Repealed in 1997
- Applied to sale of primary residences
- Buy new home within two years
- Trade equal or up in value
- Rolled over gain into new home
- Replaced with Section 121

Overview of the 121 Exclusion

- Section 121 of the IRC
- Tax free exclusion on sale of primary residence (home) ("121 Exclusion")
- Own and live in property as primary residence for 24 out of last 60 months
- Tax free exclusion up to $250,000 per person ($500,000 for married couple)
- Tax free vs. tax deferred

Overview of the 121 Exclusion

- What if gain far exceeds $500,000?
- Combined 1031 Exchange and 121 Exclusion strategies available
- Congress keeps changing the playing field
- Primary residence into rental property
- Rental property into primary residence

Recent Changes – 1031/121

- Primary residence converted into rental property
  - Revenue Procedure 2005-14
  - Move out and convert to rental
  - Rent for at least 12 months or more
  - Hold as rental for up to three years
  - Then sell and use 1031/121 strategy
  - Full 121 exclusion if sold within the three year window
  - 1031 Exchange excess gain

Recent Changes – 1031/121

- Rental property converted into your primary residence
- Tax Act of 2004
  - New purchase (not part of 1031)
    - No change
    - Move in and live in the property for at least 24 months; then sell
  - Property purchase thru 1031 Exchange
    - Hold for five years because acquired as part of a prior 1031 exchange
    - Intent to hold for investment important

Recent Changes – 1031/121

- Housing Act of 2008
- Applies if rental usage is first
- Gain to be allocated between use
  - Qualified use (primary residence)
  - Non-qualified use (non-primary)
- Gain allocated to qualified use is still tax free up to $250,000/$500,000
- Gain allocated to non-qualified use is now taxable

Overview of the 721 Exchange

- Section 721 of the IRC
- 1031/721 or **up**REIT
- Tax deferred conversion into REIT
- Two step process:
  - 1) Sell property thru 1031 Exchange and buy fractional interest in property selected by the REIT and hold
  - 2) Fractional interest contributed into upREIT

Overview of the 721 Exchange

- Benefits:
  - Tax deferred into REIT
  - Better diversified inside of REIT
  - No property management headaches
  - More liquid
  - Easier to give away at death
  - Still receives step up in cost basis
- Negative
  - No longer qualifies for future 1031 Exchange when you sell REIT

Overview of Section 453

- Section 453 of the IRC
- Seller carry back notes (financing)
- Contract for Deeds; Land Contracts
- Installment sale treatment
  - Depreciation recapture recognized in year of sale
  - Capital gain deferred over term of note and recognized on prorata basis with principal payments

1031 Exchanges in Today's Market

- Seller carry back notes
  - Included inside 1031 exchange
  - Excluded from 1031 exchange
- Deferred Sales Trusts™
  - When 1031 Exchange fails
  - When 1031 Exchange not suitable
  - Gain is taxable, but deferred
  - www.exeterdst.com

uDirect
IRA Services, LLC

How to Self-Direct Your Retirement Savings

uDirect IRA Services, LLC does not render tax, legal, accounting, investment, or other professional advice. If tax, legal, accounting, investment, or other similar expert assistance is required, the services of a competent professional should be sought.

Who Are We?

uDirect
IRA Services, LLC

THE GREAT STATE OF
AE & TRUST
www.TrusteeAmerica.com
Est. 2007
NEVADA

Self-Direction
Why Haven't I Heard About This?

- Few attorneys are knowledgeable
  - About self-directed plans
- Few CPAs are knowledgeable
  - About self-directed plans
- IRS rules have allowed self-direction since IRAs were created in mid-1970s

What’s the Difference?

Typical IRA

- Stocks
- Bonds
- Mutual Funds
- CD’s

Self-Directed IRA

- Rental Property
- Notes
- Private Stock
- LLC’s
- Tax Liens
- Foreign Property
- Raw Land
- Etc.

What About Losses?

Losses

- Cannot be <u>written off</u> taxes

- Cannot be <u>replaced</u> in the retirement plan

Typical Retirement Plans

- Not self-directed
- Investments limited to those approved by
  - Plan created by your employer
  - Bank
  - Brokerage firm

What Are The Limits?

A Self-Directed IRA can invest in anything EXCEPT

1. Life Insurance Policies
2. Collectibles
    1. Artworks
    2. Coins
    3. Collectible Cars
    4. Antiques
    5. Gems
    6. Stamps
    7. Rugs

What if your funds are with your current employer?

Your plan will probably **NOT** allow you to self-direct

Must wait until you leave the company

To rollover retirement plan

You can request an “in-service” transfer from your current plan administrator.

Prohibited Transactions (IRS Publication 590)

Internal Revenue Service
United States Department of the Treasury

- Borrowing money from the IRA
- Selling property to it.
- Using it as security for a loan.
- Buying property for personal use (present or future) with IRA funds.

Disqualified Person

- Disqualified persons include your fiduciary and members of your family (spouse, ancestor, lineal descendant, and any spouse of a lineal descendant).

Qualified Persons

- Aunts & Uncles
- Cousins
- Brothers & Sisters
- Unrelated friends
- Nieces & Nephews

Prohibited Transactions

- Neither you nor any disqualified people may benefit from IRA
- Cannot buy, sell or exchange property between plan and
  - Self or
  - Disqualified people
- Cannot provide goods, services or facilities

Self-Directed IRA - Structure

- You

- Your IRA

- TPA
- Custodian

Buying Real Estate With Your IRA

Pros

1. Capital gains are tax free
2. Positive cash flow is tax free
3. No time limit for holding property
4. IRA can borrow money
   - Leverage your investment
5. Potential to earn a larger rate of return on invested capital

Buying Real Estate With Your IRA

Cons

1. No tax advantages of owning real estate
2. No deduction for capital losses
3. You are solely responsible for all gains or losses
4. You cannot replace losses

Your IRA Can Take A Loan!

- Loan must be **non-recourse**
  - Upon default, lender can seize subject property only
- Upon default, lender cannot
  - Seize other IRA plan assets
  - Seize your personal assets

Non-Recourse Loans

- Few lenders to choose from
  - Must be a portfolio loan
  - Cannot be sold on the secondary market
- Larger down payment required
  - 40% to 45%
- Cannot personally guarantee the loan

Personal Guarantees

- Personal guarantees by the IRA owner not permitted
- Can be personally guaranteed by a third party
  - Must not be a "disqualified" person
  - Disqualified people are
    - Ascendants
    - Descendants
    - Spouse and self
    - And others

Buying Real Estate - The Process

- Open a self-directed account
- Shop for a property
- Remember, it's the IRA that is the buyer
- Custodian to sign "Offer to Purchase"
- Submit a Buy Direction Letter for earnest money deposit
- Funds wired to closing from your IRA
- Fund & Record
- Rents are made payable to your IRA

Example

Father & Son buy a house

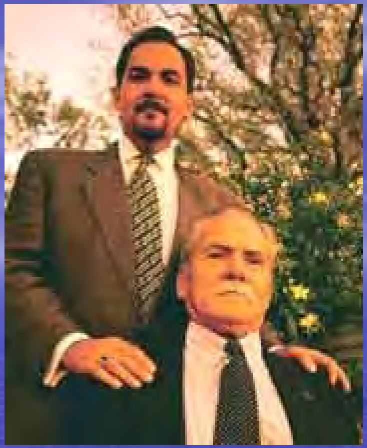
Father: 50% Cash

Son: 50% Traditional IRA

Title reads as:

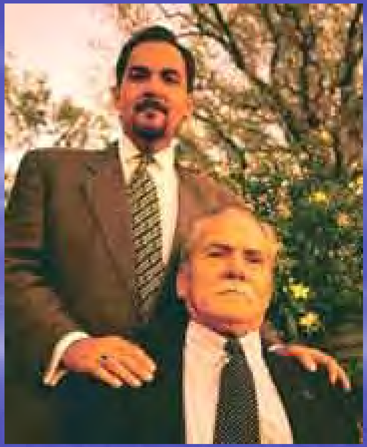
Custodian FBO Father 50%, Son's IRA 50%, TIC

Disqualified?



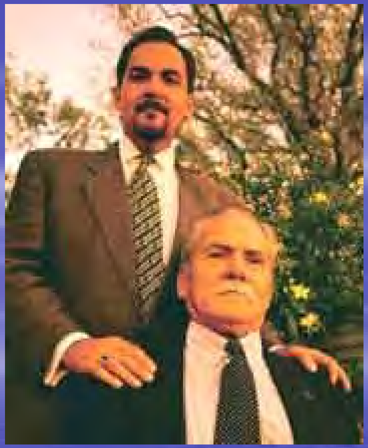
- Before the deal
  - Father has no ownership
  - Son's Traditional IRA has no ownership
- Because this is a new deal
  - Father and son do not have to worry about the "disqualified person" rule

Disqualified?



- After the deal
  - The “disqualified person” rule comes into effect
- Neither Father nor Son can live in the condo
  - No one who is disqualified to either of them can live in the house
    - Ascendants, descendants, etc.

After the deal….



- After the deal
- Neither Father nor Son can ***ever*** buy out each other's ownership
  - They are disqualified to each other
- Expenses and profits are split
  - 50% to Father
    - Taxable
  - 50% to Son's Traditional IRA
    - Tax-deferred

What if the IRA depletes its reserves?

1. Make your yearly contribution
2. Liquidate other assets in the IRA
3. Transfer money from other retirement accounts
4. Bring on a partner
   – Not a disqualified person
5. IRA can get a loan
6. Sell the asset

3 Types of Plans

- IRAs
  - Individual Retirement Accounts
  - What you are doing for your own retirement
- Qualified Plans
  - ERISA controlled
  - Typically, what an employer provides you
- Other Plans
  - Education
  - Health

Types Of Self-Directed Plans

IRAs	Qualified Plans	Other Plans
Traditional	401K/ 457/ 403b	Coverdell
Roth	Defined Benefit	Health Savings Account
SEP	Profit Sharing	
Simple	Individual K	
Spousal		

2010- *Tax Increase Prevention and Reconciliation Act* (TIPRA)

- Beginning in 2010 and thereafter, you may convert regardless of income
- Convert your traditional IRA to a Roth IRA
- Pay taxes owed on the conversion over two years
- The income limits still apply in 2010 for CONTRIBUTIONS
- The income limits being removed only apply to CONVERSIONS
- Enjoy a huge potential windfall by taking advantage of the opportunity

How Do I Self-Direct?

1. Complete an application
    1. Provide copy of driver’s license
    2. Copy of statement
2. Fund your account
    1. Annual Contribution
    2. Transfer
    3. Rollover
3. Tell us what you want to invest in

For More Information

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