

# Why You Need a Title Holding Trust!

We have answers.

*Go ahead, ask.*



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*Exeter Fiduciary Services, LLC*

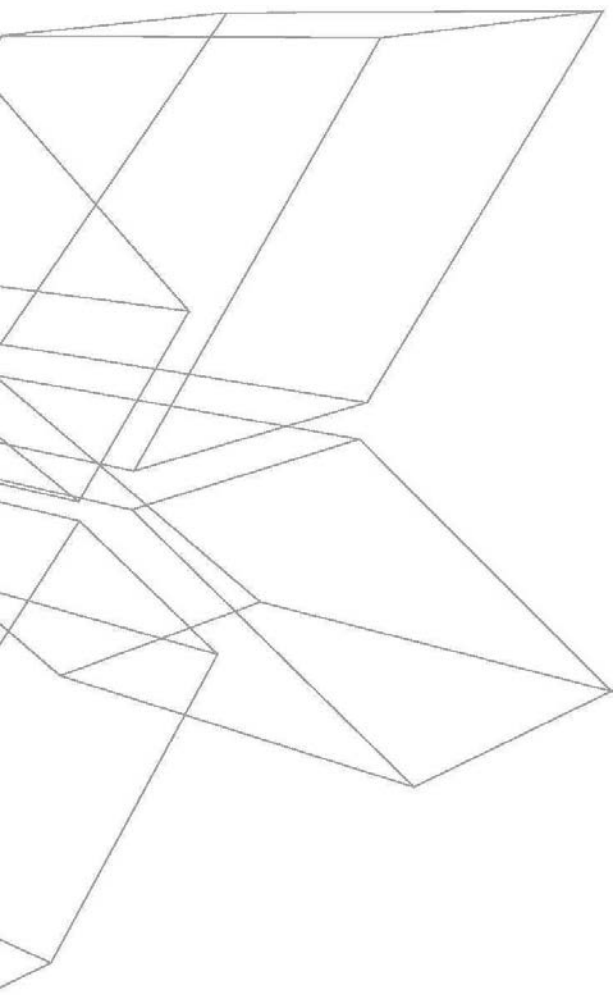
## The Exeter Edge Webinar Series

The Exeter Edge Webinar Series strives to provide investors with educational programs to help them build their wealth by making better informed investment decisions.

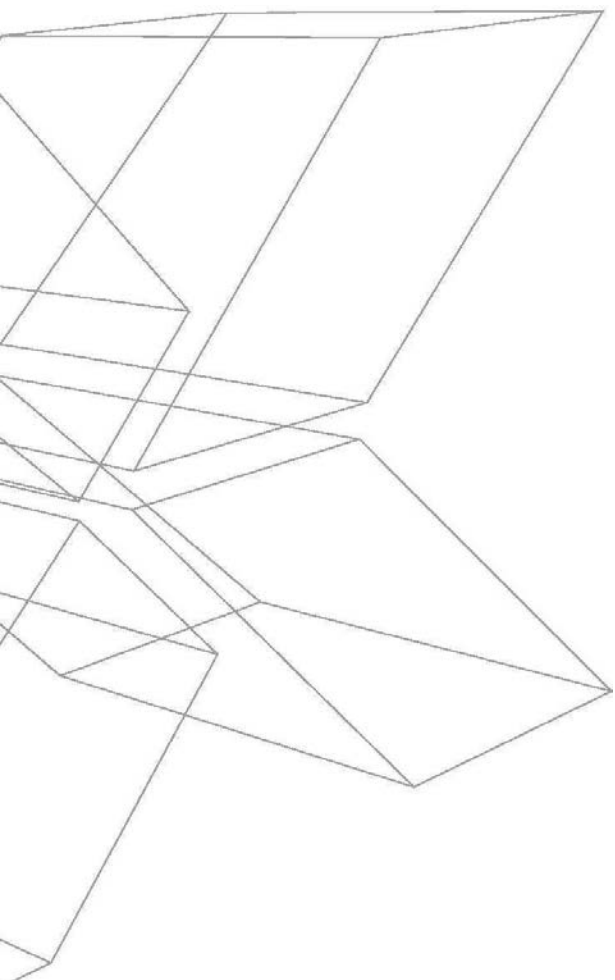
## The Exeter Edge™ Webinar Etiquette

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

## Exeter Fiduciary Services, LLC

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- Private, Professional Fiduciary
  - Title Holding Trusts (Land Trusts)
  - Qualified Trust Accounts (1031s)
  - Settlement, dissolution, dispute resolution trust accounts
  - Self-Directed IRAs (coming soon)

## Exeter 1031 Exchange Services, LLC

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

## History of the Land Trust

- Dates back to the early 1500's under King Henry VIII
- Illinois Land Trust introduced in the late 1800's
- Title Holding Trusts introduced in California in early 1900's
- Referred to as **Title Holding Trusts** and **Land Trusts**, and even Blind Trusts, Business Trusts (they are not Blind Trusts or Business Trusts)

## Your Title Holding Trust

- Non-recorded trust agreement
- Fully revocable at anytime
  - Can terminate or amend trust at any time
  - Can terminate or amend even after death
- Grantor trust
  - Similar to Family Living Trusts
  - Yet, has significant differences
- Pass-thru entity
- Disregarded entity

### Parties to the Title Holding Trust

- Trustor (Grantor or Settlor)
  - Person/entity setting up the trust
- Beneficiary (Primary)
  - Living Trust – no present interest
  - Title Holding Trust – Present interest (controlling interest)
- Successor beneficiary
  - No current interest in trust
  - Future interest only
  - Always name one if beneficiary is natural person (i.e. can die)



## Parties to the Title Holding Trust

- Trustee
  - Exeter Fiduciary Services, LLC
  - Has no discretionary authority
  - Beneficiary must provide written authorization & direction for Trustee to act
- Power of direction
  - General (unlimited)
  - Specific (limited)

## Benefits of a Title Holding Trust

- Confidentiality/Privacy of Ownership
  - Those concerned about litigation:
    - Executives, managers, highly compensated individuals, etc.
    - Investors, realtors, developers, contractors
  - Those worried about privacy/stalking:
    - Politicians, judges, law enforcement, celebrities, stalking victims
  - Acquisitions/Negotiations
    - Example: Walt Disney/Disneyworld

## Benefits of a Title Holding Trust

- Living Trust vs. Title Holding Trust
  - Similar, and yet very different!
- Living Trust
  - Trustee holds legal, equitable and beneficial interests of ownership
- Title Holding Trust
  - Trustee holds only legal title
  - Beneficiary holds equitable title
  - Beneficial interest is personal property; not real property (very important)

## Benefits of a Title Holding Trust

- Avoids probate administration
- Avoids ancillary probate for out of state real property owners
- Easy succession of ownership
- Estate planning benefits
  - No need to change current plans
  - Integrates with existing trusts

## Benefits of a Title Holding Trust

- Ease of transferring ownership
  - Partial distribution of property
  - Easy to make gifts to kids or others
  - Assignment of beneficial interest
    - Considered conveyance of underlying property held in Title Holding Trust

### Benefits of the Title Holding Trust

- Protection against liens and judgments
  - Co-owners of real estate
  - Real vs. personal property interest
- Avoids clouds against title
  - Death, Divorce, Bankruptcy
  - Litigation, Settlements, judgments,
  - Federal, State vs. local tax liens
    - Income tax
    - Property tax
- Avoids partition actions/charging orders

### Benefits of a Title Holding Trust

- Multiple beneficiaries
  - Ease of administration
  - Executing documents
    - Purchase and sale agreements
    - Loan documents
    - Notes, deeds, etc.
- No registered agent for service

## Benefits of a Title Holding Trust

- Tax Considerations
  - Pass-thru entity
  - Disregarded entity
- Special Income Tax Strategies
  - Section 1031 (tax deferred exchange)
  - Section 1033 (involuntary conversion)
  - Section 121 (tax free exclusion)
  - Section 453 (installment sale treatment)



## Comparing THT to LLC

- Title Holding Trust
  - Confidentiality, privacy
  - Limited asset protection
  - No liability protection
- Limited Liability Company
  - Moderate asset protection
  - Liability protection
  - No confidentiality, privacy

## Title Holding Trusts do NOT:

- Provide liability protection
  - It does minimizes risk of litigation
  - No liability protection once sued
- Avoid taxes if otherwise due
  - Income, capital gain, gift taxes
  - Property taxes
- Avoid due on sale clauses
- Avoid seasoning requirements
- Avoid reassessment for property taxes

## Contributing Property into Trust

- Referred to as “funding the trust”
- Title Holding Trust should take title
  - At acquisition, not later
  - Otherwise provides only limited confidentiality/privacy
  - True owner should never show on title
- Ensure all documents reflect Trustee
- Environmental indemnity agreement
- Evidence of insurance

## Financing Property in the Trust

- Many lenders will not lend while property is held in trust
  - Conduit lenders
  - Portfolio lenders
  - Underwriting on Beneficiary
- Note and Deed of Trust executed by Trustee (Exeter Fiduciary Services, LLC)
- Beneficiary guarantees loan
- Beneficial interest pledged as collateral

## Role of the Trustee

- Legal vesting on public records:
  - Exeter Fiduciary Services, LLC, as Trustee for THT No. XX XXXX
- No discretionary authority
  - Written direction required
- Executing notes, deeds, leases, etc.
- Preparing Trustee's certificate
- Corporate Trustee; not individual
- Trustee has no liability

## The Exeter Edge™ Webinars

- See Website  
[www.exeterco.com/seminars.aspx](http://www.exeterco.com/seminars.aspx)
- Recorded versions available

### Are You Ready to Take the First Step in Protecting Yourself and Your Properties?

- Set-up a complimentary consultation with one of our trust officers
- Follow-up survey
- Follow-up email with links
  - Copy of Power Point Presentation
  - Article on the 24 benefits
  - The Exeter Exchange™ Newsletter
- Thank you for attending – we look forward to helping you protect yourself and your properties.

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