

FEDERAL STANDARD ABSTRACT

TITLE NEWS

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Title News

Reverse 1031 Exchange

As you may know, when you sell real property you have to pay tax on the capital gain. But by using a 1031 Tax Deferred Exchange you can defer the payment of taxes on some or all of the capital gain realized on the property to be exchanged. Generally, a Qualified Intermediary (QI) holds the sales proceeds until a Replacement Property is identified in writing to the QI within 45 days of the closing of the Relinquished Property. The transaction must be completed by the earlier of (i) 180 days from the date of the first closing or (ii) the due date of the exchanger's tax return (including extensions) for the year the Relinquished Property was sold.

But what happens when you find a Replacement Property that you'd like to buy before you have sold the Relinquished Property? A procedure available from the IRS called a Reverse 1031 Exchange is available in this situation. Under Revenue Procedure 2000-37, as modified under 2004-51, taxpayers may utilize a "safe harbor" provision that allows them to acquire a property before a like property is sold, and still benefit from the capital gains deferment. In this situation, the QI forms a single-member Limited Liability Company that takes title to the new

property and holds it until the old property is sold. This new entity -- called an Exchange Accommodation Titleholder (EAT) -- holds the property until the taxpayer can sell the old property.

According to the IRS, this type of transaction is meant "to 'park' the desired replacement property with an accommodation party until such time as the taxpayer arranges for the transfer of the relinquished property to the ultimate transferee in a simultaneous or deferred exchange...Rev. Proc. 2000-37 provides procedures for qualifying parking transactions as like-kind exchanges in situations in which the taxpayer has a genuine intent to accomplish a like-kind exchange at the time that the taxpayer arranges for the acquisition of the replacement property and actually accomplishes the exchange within a short time thereafter." Similar to a regular 1031 Exchange, the taxpayer must identify their property to be relinquished on or before 45 days from the EAT's purchase, and title must be closed on or before 180 days from the date of the EAT's purchase. The Code also contains provisions for transactions that may fall outside the "safe harbor" protections, such as construction exchanges that may take more than 180

days to complete, or in times of national emergency.

As you can see, whether you sell your old property first and then identify a Replacement Property, or first purchase new property and then identify your old property to be relinquished, a 1031 Exchange permits you to invest your pre-tax proceeds in a like-kind exchange, allowing a larger investment than would be possible if you used after-tax proceeds. In either case, it's best to consult your tax adviser or a 1031 Exchange Accommodator for additional information and advice.

ACRIS 4.0 updates

Starting this month, ACRIS (Release 4.0) is scheduled to go into production. According to the City Register, the Department of Finance has some exciting enhancements in store in their latest release version. Chief among these is the ability for property owners to apply for a variety of personal exemption programs through the ACRIS website, including the following:

- STAR -- the New York State School Tax Relief Program (Basic and Enhanced)
- Senior Citizen Homeowners' Exemption (SCHE)
- Veterans' Exemption
- Disabled Homeowners' Exemption (DHE)
- Clergy Exemption
- Cooperative and Condominium Tax Abatement

You can access this section of the Dept. of Finance website at

http://www.nyc.gov/html/dof/html/property/property_tax_reduc_individual.shtml

Other refinements included in ACRIS 4.0 include the requirement that all users have a valid e-mail address; hyperlinks that will make it easier for users to recall their Customer ID, Keyword and Transaction Numbers; and validation of Cross References on the Cover Page Cross Reference Tab. This last item will serve to reduce the number of rejected transactions due to incorrect Cross Reference Information. Any City Register File Numbers (CRFN's) and Document ID's that are not found in ACRIS will not be allowed as cross references. However, Borough, Year, Reel, and Page and File Number cross references that are not found in ACRIS will be allowed as cross references after the information has been verified via a new link to Doc Search.

Perhaps the most significant change is that when a transaction is sent back to a user, which contains both accepted and rejected documents, only the rejected documents should be returned to the Borough Office for processing, once they have been corrected. According to the City Register, the accepted documents in the transaction will remain locked in ACRIS, and their status will show as "Accepted". No changes can be made to the accepted documents and should not be returned to the City Register. The documents cannot be deleted or re-sequenced in the transaction. Only the rejected documents should be returned, which will be scanned and re-examined. When all is in order, an email will be sent notifying you that the transaction has been recorded.

A detailed copy of the ACRIS 4.0 announcement can be found in a pdf located at <http://nyc.gov/html/dof/html/>

[pdf/07pdf/acris_4.0_announcement.pdf](#).

Happy filing!

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