

1031 ADVISOR

Serving the Professional Advisors to Real Estate Clients since 1989



Stephen L. Robison, J.D., LL.M.

Providing tax advice on like kind exchanges.

Strategic Property Exchanges, LLC serves as Qualified Intermediary on Section 1031 Exchanges, including forward, reverse, and parking arrangements.

For more information call 513-412-3483 or email at steve@robisontaxlaw.com

In Next Month's Issue

- Why Exchange?
- What is a "Reverse Exchange" and How Can It Work For Your Clients? (Part II)

WHEN IS YOUR LETTER TO A CLIENT A "TAX OPINION"?

A long time client calls you to ask your advice in structuring the sale of investment property as a Section 1031 tax deferred exchange. You carefully outline the steps needed to be taken to treat the sale of investment property and the acquisition of replacement property as a Section 1031 exchange. After you hang up with your client, you follow up with either a written letter to

your client or a memo to the file. According to the proposed Circular 230 regulations, you have just authored a Tax Opinion.

Unwittingly this Tax Opinion probably fails to comply with the new standard for Tax Opinions, including a conclusion as to the likelihood that the client will prevail on the merits, the rigorous examination of facts, and the application of law to your cli-

ent's transaction as outlined in the Treasury Regulations. The proposed changes require the practitioner to "be knowledgeable in all aspects of federal tax law relevant to the opinion rendered".

In the absence of such knowledge, the practitioner may rely upon the opinion of another practitioner as long as the identity of the other practitioner is known.

BE A HERO, DON'T LET YOUR CLIENTS FILE FORM 4797.

Alvin Karpis was a thief, bootlegger, kidnapper, bank and train robber, and a killer during the gangster-ridden days of the Depression and was proclaimed America's Public Enemy Number One by J. Edgar Hoover.

If you sell or dispose of property used in a trade or business, the modern day equivalent of Alvin Karpis comes from the IRS as Form 4797, "Sales of Business Property." This tax "land mine" reports gains from the sale of business assets, which are usually reinvested in similar property, but rarely are treated

as a 1031 exchange. As a result, while the sale proceeds are typically reinvested in the business, the failure to treat this as a Section 1031 exchange results in a large income tax liability. This big shock to the business owner is usually preceded by a statement from the CPA, such as "you should be happy to pay the taxes, you're making the money". Let us help you set up personal property exchanges for your clients and take away the tax bite.

Hurricane Charley Relief

Recently, the IRS announced tax relief for taxpayers affected by Tropical Storm Bonnie and Hurricane Charley. Taxpayers in the 26 Florida counties comprising the presidential disaster area have until October 15th to file tax returns and to submit payments. This includes taxpayers involved in 1031 Exchanges, who receive an extension of the 45-day requirement in which to identify replacement properties.