

# 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

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**HAPPY HOLIDAYS  
FROM  
STRATEGIC PROPERTY  
EXCHANGES, LLC**

## In Next Month's Issue

- What are the top issues to watch for in a T-I-C investment?

## YOUR *QUALIFIED INTERMEDIARY*—NEVER LEAVE YOUR CLIENT WITHOUT ONE

I'm going to go out on a limb today. I think that every taxable sale of real estate should involve a Qualified Intermediary, if only to discuss the pros and cons of the taxable sale and to discuss the client's long term wealth strategy. While many advisors may believe that a

Section 1031 exchange is a relatively simple affair, as a tax attorney and qualified intermediary over the past 20 years, a successful exchange involves not only the deferral of income tax, but can include changes in the rates and types of gain, estate planning, asset protec-

tion, division of assets, diversification of wealth, repositioning of debt and moving in and out of business entities and change in the character and type of invested assets. In short, an exchange can be used as the tool for a client to reach their financial and family goals.

## FLORIDA LAND RUSH—2004 STYLE

Every month I get calls from prospective clients who want to know if they can sell their investment real estate pursuant to an exchange and buy a condo in Florida.

The plan is to rent the property for a little while, then move into as their principal residence for 2 years. At that time they sell it as their principal residence and exclude up to 500,000 of gains for married taxpayers filing jointly and 250,000 for single taxpayers.

In the past, when tax advisors were faced

with the question, "How long do I rent the property?" the taxpayers received various answers. Tax advisors typically advised that the investment property be held at least 12 to 24 months before conversion to personal use. Further, upon conversion to personal use, any depreciation recapture must be recognized in the year of conversion. In recent legislation, Congress provided insight to taxpayers who want to sell that condo within five years of acquiring it. Basically, the legislation pro-

vides that a home acquired in a like-kind exchange will not be eligible for the \$250,000/\$500,000 exclusion under IRC Sec. 121 if the taxpayer sells the home within five years of acquiring it. To establish a principal residence, a taxpayer must live there for a least two of the previous five years. Therefore, as a general guideline, our taxpayer with the Florida condo should rent the condo for more than three out of the first five years.

As advisors I think we can testify to clients' satisfaction for a job extraordinarily well done. It involves a commitment to superb results and the persistence to see the task to the end. As a tax attorney for the past 20 years and a qualified intermediary over the past 16 years, the difference between an adequate result and a fantastic result is commitment and persistence. That is the case in each and every Section 1031 Exchange of investment and business property. Rely on our experience at Strategic Property Exchanges, LLC to help you and your client navigate through these investment opportunities.