

# 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

Contact us at  
4500 Cooper Road, Cincinnati,  
Ohio 45242  
Tele 513-412-3483  
or email at  
steve@robisontaxlaw.com

**1031 Advisor is focused on helping you discover, develop and identify ideas to win clients by reducing their taxes and increasing their wealth.**

## WHAT [IS THE MINIMUM] I MUST DO TO HAVE A FULLY DEFERRED EXCHANGE?

I never tire of this question because it allows a great deal of planning in an exchange. In order to defer all taxes on an exchange, the owner/exchanger must use all the proceeds from the sale of relinquished property to acquire the replacement property.

This includes costs of the sale, fees, and improvements on the replacement property as long as this is done prior to the owner receiving the deed. In this

case, we are on the deed until the improvements are completed. Also, the exchanger must replace any mortgage paid off at the sale of the relinquished property with an equal or greater mortgage on the replacement property. An easy way to look at this is akin to checkbook accounting. All the cash in goes to the new purchase, and if money goes to the Seller, then this is probably taxable. The required purchase price for the re-

placement property is equal to the selling price of the relinquished property, less the transaction costs of the sale. These transaction costs are limited to those costs directly related to the sale of the relinquished property, not including property taxes. The most common transaction costs are title insurance fees, exchange service fees, brokerage fees, deed preparation fees, and recording fees.

## MAY I REPLACE MY SINGLE PROPERTY WITH MULTIPLE PROPERTIES, OR VICE VERSA?

Many times an owner may wish to reduce the number of properties he or she owns. A Section 1031 exchange can help them reduce their holdings while avoiding taxes on the sale. The key issue here is the timing of the sales. While selling all the properties at the same time is obviously the best way to go, many times the properties are sold over a period of time.

The first issue is identifying replacement properties within 45 days. In order to know what you are going to purchase, the property, the purchase price and the amount of ownership [ eg, such as 50% versus 100% ownership] the exchanger should know how much replacement property he or she needs to successfully

identify the replacement property. If the other properties have not sold within the 45 day period, then identifying replacement properties might be a leap of faith.

For example, let's say the first property is sold for 2.5 million dollars with net proceeds of 1.7 million dollars. The second property is going to be sold [ let's hope] for \$ 960,000. Second closing doesn't happen during the 45 day period, the owner/exchanger still must identify at least 3.46 million to purchase even though the second property has not sold. This can be alleviated by naming two properties in the alternative. The limitation here, when purchasing an equal or greater amount is the 3 property rule, since when exceeding 200% of the prop-

erty sold, you may only identify 3 properties, so it is important to pick carefully.

One relinquished property may be exchanged for several replacement properties. The important thing is that the exchange be part of a unified exchange agreement from the beginning. The 45 day identification rule and 180 day replacement rule begin from the date of the sale of the taxpayer's relinquished property or properties. Also, the fair market value of the relinquished property or properties must not be more than the fair market value of the replacement property or properties, or the cash received by the taxpayer will be taxed as explained above.