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IS A 1031 EXCHANGE RIGHT FOR YOUR CLIENT?

In an effort to delay paying taxes on any profits realized from the sale of investment property, real estate owners and investors are taking advantage of the Internal Revenue Code Section 1031. This is commonly referred to as a “1031 Exchange” or a “Tax Deferred Exchange.”

A 1031 Exchange is when a property owner sells his investment property and uses the sale proceeds to purchase another investment property. Ultimately, the property owner is exchanging one investment property for another.

Many real estate investors are now realizing that 1031 Exchanges can provide them with more money to invest in another property. By deferring the amount of money that would normally be paid in taxes, real estate investors are using that money to invest in another property. For example, a property owner who originally purchased investment property for $200,000.00 and sells that same property for $800,000.00 would normally be taxed on the $600,000.00 profit (before taking into consideration depreciation recapture and adjusted bases of the property). However, by doing a 1031 Exchange and purchasing a replacement property, that same tax is postponed. As a result, the property owner now has more money available for purchasing replacement property.

Real estate agents may meet real estate investors who are not only looking to sell their investment property, but are also looking to purchase another investment property. With knowledge about 1031 Exchanges, real estate agents can guide a real estate investor through 1031 Exchanges by locating potential purchasers for the property the investor is attempting to sell as well as locating property for the investor to purchase within the time frame allowed by the IRS. As a result, the real estate agent may be entitled to a commission on the sale of the investment property as well as the purchase of the replacement property.

Finding a competent attorney with experience in 1031 Exchanges is important because there are many requirements and time limits which, if not strictly adhered to, will void the 1031 Exchange. For instance, the purchased property must be of equal or greater value than the sold property. Also, a real estate investor has 45 days from the closing date of his sale to identify replacement property and 180 days from the closing date of his sale to purchase that replacement property. In sum, if the 1031 Exchange is not handled correctly, the real estate investor will be required to pay the very tax he sought to avoid.

Our office is experienced in handling 1031 Exchanges and avoiding the potential pitfalls. We work with a qualified intermediary (independent third-party) recognized by the IRS to facilitate the 1031 Exchange. The Law Offices of James G. Dibbini assists our clients with the execution of all 1031 Exchange forms and guides each client through the necessary steps to complete his 1031 Exchange. For legal representation of your sellers or buyers or for more information regarding 1031 Exchanges, please do not hesitate to contact our office.