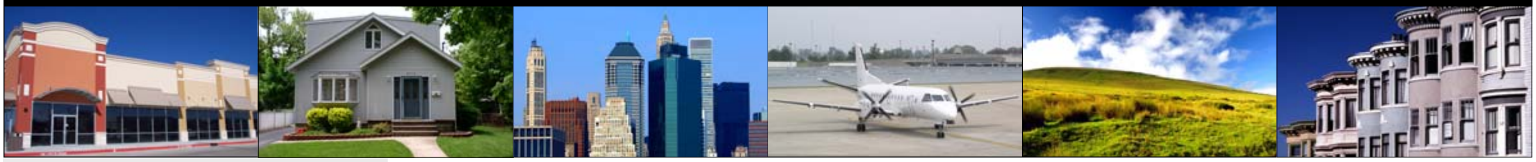
EXCHANGE ENTITIES

"CONSIDER THESE VESTING ISSUES PRIOR TO A §1031 EXCHANGE"



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Template # 53

Generally in a §1031 tax deferred exchange, an Exchanger should take title to the replacement property in the same manner they held title on the relinquished property. In most cases, the entity initiating the exchange must be the same entity concluding the exchange. Some examples are reflected below:

- If a wife relinquishes, then the wife acquires;
- Smith LLC relinquishes, Smith LLC acquires;
- Gemco Corp. relinquishes, Gemco Corp. acquires;
- Durst Partnership relinquishes, Durst Partnership acquires.

SOME EXCEPTIONS TO THE GENERAL RULE

Partnerships and Limited Liability Companies (LLC's): An Exchanger who elects taxation as a sole proprietorship can hold the relinquished property as an individual but acquire the replacement property as a single-member, single-asset LLC. This provides the benefit of liability protection and also can help satisfy the 'single asset entity' requirements that many lenders impose on replacement property purchases. The IRS has also ruled that a limited liability company with two members will be considered a single member limited liability company if the sole role of one of the members is to prevent the other member from placing the LLC into bankruptcy and that the limited role member had no interest in LLC profits or losses nor any management rights other than the limited right regarding bankruptcy.

Grantor Trusts: An Exchanger can acquire a replacement property in a revocable living trust or "grantor" trust for estate planning purposes.

Death of an Exchanger: If the Exchanger dies during the exchange, the deceased Exchanger's estate may complete the exchange.

BUSINESS CONSIDERATION/LENDER REQUIREMENTS

Sometimes a business consideration, lender requirement or the Exchanger's liability issues can make it difficult to keep the vesting entity the same throughout the exchange. For this reason, it is important that Exchangers review the entire exchange transaction with their legal and/or tax advisors before closing on the sale of the relinquished property. Some problem areas:

If a wife, as the only Exchanger, is relying on the husband's income to qualify for replacement property financing, the lender may require that the husband appear on the deed. This could have an impact on the wife's exchange.

Most lenders are wary about lending to trustees. An Exchanger who relinquishes property in a trust but needs to obtain conventional financing for the purchase may have difficulty obtaining a loan because lenders prefer loaning to an individual.

Sometimes an Exchanger may relinquish a property in one entity such as multi-member LLC, corporation or partnership but want to acquire a replacement property in a different entity. This would disqualify the exchange.