

REVENUE PROCEDURE 2002-22

"PROCEDURE DEALS WITH UNDIVIDED FRACTIONAL INTERESTS"



Compliments of

More real estate investors have been exploring the benefits of tenant-in-common ("TIC") programs that offer an undivided fractional interest in a large property with multiple owners. Investors have been interested in TIC programs because of the advantages of having partial ownership in a larger property which could offer appreciation, cash flow, annual depreciation benefits without many of the management problems typically associated with rental property.

BACKGROUND - REVENUE PROCEDURE 2000-46

In 2000, the government released Revenue Procedure 2000-46 which stated that the IRS would not issue any advance rulings or determination letters on whether or not a particular TIC program represented an undivided fractional interest in real property that would qualify for an IRC Section 1031 tax deferred exchange.

REVENUE PROCEDURE 2002-22

Revenue Procedure 2002-22 supersedes Revenue Procedure 2000-46 referenced above. Revenue Procedure 2002-22 addresses a couple of issues:

1. Guidelines for requesting advance rulings to assist taxpayers in preparing a ruling request on a specific structure and proposed transaction.
2. Conditions present in the proposed TIC structure under which the IRS normally will consider a request for a ruling.

These guidelines and conditions constitute requirements for advance rulings and are the clearest set of principles the IRS has set out as to its thinking on TIC programs.

REQUIRED GENERAL INFORMATION

The following information and copies of documents must be submitted with the ruling request:

- Name, taxpayer ID number, and percentage fractional interest;
- Name, taxpayer ID number, ownership of all persons involved in the acquisition, sale, lease (including the sponsor, lessee, manager and lender);
- Full description of the property;
- Representation that each co-owner holds title to the property as a tenant-in-common under local law;
- All promotional documents relating to the sale;
- All lending agreements;
- All agreements among the co-owners;
- Any lease agreements;
- Any purchase and sale agreements;
- Any property management or brokerage agreement;
- Any other agreement relating to the property including debt agreements and any call and put options relating to the property.

Call Asset Preservation toll-free (800-282-1031) to receive the full text of Revenue Procedure 2002-22 and to discuss your specific situation in greater detail.



A National IRC §1031 "Qualified Intermediary"

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Template # 35

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