



THE EXCHANGE PROCESS

An exchange is rarely a swap of properties between two parties. Most exchanges, whether they are simultaneous or delayed, involve three parties: the investor (exchanger) who is doing the exchange, the buyer who is purchasing the exchanger's old (relinquished) property and the seller who is selling the exchanger a new (replacement) property. To create the exchange of assets and to obtain the benefit of the "Safe Harbor" protections of the tax code to prevent actual or constructive receipt of the exchange proceeds, which would disqualify the exchange treatment, prudent exchangers use the services of a "Qualified Intermediary," such as Investment Property Exchange Services, Inc. ("IPX1031[®]"). IPX1031[®], as the Qualified Intermediary, becomes a fourth party principal in both simultaneous and delayed exchanges. As illustrated in the above diagram, the steps for completing an exchange with IPX1031[®] are relatively simple.

- The exchanger signs a contract to sell a relinquished property to the buyer.
- IPX1031[®] and the exchanger enter into the exchange agreement to retain IPX1031[®] as the Qualified Intermediary and the exchanger assigns the exchanger's rights in the sale contract to IPX1031[®], including the right to receive the exchange funds.
- At the closing of the relinquished property the exchange funds are wired to IPX1031[®] and IPX1031[®] instructs the settlement officer to transfer the deed directly from the exchanger to the buyer.
- The exchanger has a maximum of 180 days in the exchange period (or until the tax filing deadline, including extensions, for the year of the sale of the relinquished property), to acquire all replacement property.
- Unless the exchanger can acquire all replacement property within the first 45 days from the close of the relinquished property, the exchanger must identify possible replacement properties in writing to IPX1031[®] within the 45-day identification period.
- The exchanger signs a contract to purchase the replacement property with the seller and the exchanger assigns the exchanger's rights in the purchase contract to IPX1031[®].
- At the closing of the replacement property IPX1031[®] wires the exchange funds to complete the exchange and IPX1031[®] instructs the settlement officer to transfer the deed directly from the seller to the exchanger.

Sample Cooperation Clause for the Sale Contract

Buyer hereby acknowledges it is the intent of the Seller to effect a §1031 tax deferred exchange, which will not delay the closing or cause additional expense to the Buyer. The Seller's rights under this agreement may be assigned to Investment Property Exchange Services, Inc., a Qualified Intermediary, for the purpose of completing such an exchange. Buyer agrees to cooperate with the Seller and Investment Property Exchange Services, Inc. to complete the exchange. (Switch Buyer and Seller in the Cooperation Clause for the Purchase Contract.)

BRIEF EXCHANGES

Investment Property Exchange Services, Inc. cannot provide advice regarding specific tax consequences. Investors considering an IRC §1031 tax deferred exchange should seek the counsel of their accountant and attorney to obtain professional and legal advice. © 2008 Investment Property Exchange Services, Inc.