

The Real Estate Exchange Company



Qualified Intermediaries for
Section 1031 Exchanges since 1990

Tax Alert Newsletter

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<http://www.1031help.com>

Realty Exchangers Tax Alert is a **FREE** biweekly newsletter published by Realty Exchangers University as a part of their exceptional educational program for the real estate community.

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Recognizing that federal taxation issues are the main driving force behind completing a successful exchange, Realty Exchangers, a QUALIFIED INTERMEDIARY for Deferred Exchange transactions, is proud to publish this E-Letter to keep you right on top of current developments and tax planning ideas.

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We understand exchanges and maintain one of the largest information databases to help you. Whether you're in need of our services as your Qualified Intermediary, or just have questions, please call us (1-800-570-1031). Talk with us. Or visit our home page at <http://www.1031help.com>

If you have 1031 questions or would like to comment on our newsletter, please eMail our tax consultant: askrich@commspeed.net

Announcements

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We are proud to report that our new Form To Set Up a 1031 Exchange has received such an enthusiastic response from our readers and clients. Take a look at <http://www.exchangers.com/setexchange.shtml> You can set up your exchange right on line. Print a copy and look it over. We know you will like it.

Tax Alert News

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Here is news of interest to real estate professionals who are invested or plan to invest in tax retirement accounts. President Bush included in his 2004 budget outline a plan to replace existing tax-preferred savings plans with new lifetime savings accounts (LSAs) and retirement savings accounts (RSAs). This would allow taxpayers to save up to \$27,000 a year. The new LSAs plan would let taxpayers deposit up to \$7,500 a year (\$15,000 for joint filers) in after-tax income for any purpose. The new RSAs plan, designed to replace Roth individual retirement accounts, traditional IRAs, and nondeductible IRAs, would also allow taxpayers to contribute up to \$7,500 a year (\$15,000 for joint filers) for retirement. The \$7,500 LSA and RSA contribution limit would grow at the rate of inflation after enactment. If you think you may benefit from any of these proposals, contact your tax person right now.

The new lower 10-percent tax rate is reflected in the 2002 Tax Table and Tax Rate Schedules. This new rate applies to the first \$6,000 of taxable income (\$10,000 for a head of household; \$12,000 for married filing jointly or qualifying widow(er)).

Self-Employed Health Insurance Deduction – If you are self-employed, you may deduct 70% of your 2002 medical and long-term care insurance payments for you and your family as an adjustment to income. And you may include the remaining costs with your other medical deductions if you itemize deductions. In 2003, you will be able to deduct the full cost of such insurance without itemizing deductions on Schedule A.

IRS Encourages Use of Web Site to Determine Refund Status

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The IRS has encouraged (IR-2003-14) individuals to use its "Where's My Refund?" section at the IRS's Web site to check the status of their refunds.

To check, taxpayers should go to the IRS Web site, <http://www.irs.gov> and provide identifying information shown on their tax return. In turn, they get one of several responses, including whether a return was received and is in processing, the mailing date or direct deposit date of the refund, or whether the refund has been returned as undeliverable. Additional

guidance is also available to resolve outstanding issues. More than a million individuals have used the service as of February 5, the IRS says. It notes that the Web site meets stringent security and privacy certifications.

In a nutshell, it works like this:

Quick - You can check your refund status anytime, from anywhere.

Easy - You enter three personal identifiers -- Social Security Number or Taxpayer Identification Number, filing status and exact refund amount.

Safe - You interact online with the IRS through secure technology that protects the confidentiality of your personal information.

Questions and Answers

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During the last month we have received more questions from our clients and readers than ever before. Most wanted basic information on exchanges but we were pleased that many were questions concerning intermediate and advanced topics. Here are some you were concerned with.

How long do I need to keep certain records?

Records such as receipts, canceled checks, and other documents that prove an item of income or a deduction appearing on your return should be kept at least until the statute of limitations expires for that return. Usually this is three years from the date the return was due or filed, or two years from the date the tax was paid, whichever is later. There is no period of limitations when a return is false or fraudulent or when no return is filed. You should keep some records indefinitely dealing with real estate transactions and exchange since you may need them to prove the amount of gain or loss if the property is sold. For more details, refer to IRS Publication 552. You can find it at <http://www.irs.gov/pub/irs>

I have heard that I can sell my rental property and use the proceeds to purchase rental property of equal or greater value and the transaction is viewed just like an exchange in that the tax is deferred until the new property is sold. Is this true?

What you have heard about is a like-kind real estate exchange. A like-kind exchange, when properly executed, represents a way to postpone the recognition (taxation) of gain essentially by shifting the basis of old property to new property, equal to the amount of the postponed gain. There are several rules and restrictions that must be strictly adhered to in order for a successful exchange to take place including the selection of a good Qualified Intermediary. For more information go to <http://www.realtyexchangersuniversity.com/BB-FindinQI.htm>

One reader asked if he sued the IRS and won, could he collect his legal expenses. The answer is yes but the maximum amount that can be recovered is \$25,000. To make the IRS pay, you must "substantially prevail" over the IRS and prove they took an unreasonable position in the case. In addition, you must show you tried all available methods within the IRS to dispose of the issue, such as using the IRS appeals procedures.

We sold a rental property last year and used the 1031 Tax Deferred Exchange law to defer the gain into another like-kind property. How do I report this transaction on my tax return?

Unless you are a tax professional, you should have your return prepared by your tax person. The exchange of like-kind property is reported on Form 8824, *Like-Kind Exchanges*. The instructions for the form explain how to report the details of the exchange. The exchange must be reported even though no gain or loss is recognized. (Not to do so could extend your 3-year statute of limitations.) If you have any taxable gain, resulting from the transaction, because you had a partially deferred exchange or otherwise received money or unlike property, it is reported on Form 4797 - *Sale of Business Property* and Form 1040, Schedule D. *Capital Gains and Losses*.

Joan wrote us with this question: My realtor is driving me crazy, she says that I will have to identify three properties with the 45 day period and close on all that are identified. I thought I only had to close on at least one. Help!

We wrote to Joan - You are allowed to identify up to three properties during the 45 day ID period but YOU DO NOT have to close on all of them. Just one will do - or two if you want. Or all three, your call.

Surprising we had eleven people asking about basis of property "bought back" in a bankruptcy.

We wrote: If you lose real estate in a bankruptcy, and later buy it back from the trustee in bankruptcy, your basis is what you pay to get it back. It's not your original pre-bankruptcy basis. In one case, a taxpayer owned rental property and filed a petition in bankruptcy. Later, she paid the trustee \$9,000 to get the property back from the bankruptcy estate. The Tax Court said her basis in the property was \$9,000 plus any related costs and not her pre-bankruptcy basis. Once she filed for bankruptcy, she lost ownership of the property.

To save your time, we recommend you look first at our Realty Exchangers University website for help with your tax questions. Many of the answers to your question are there. You will find it at <http://www.realtyexchangersuniversity.com>

And best of all, it's free.

[About Realty Exchangers, Inc.](#)

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Realty Exchangers, Inc. is a **QUALIFIED INTERMEDIARY** for Deferred Exchange transactions and specifically structured to assist Exchangers and Real Estate Professionals in effecting successful IRC '1031 Deferred Exchanges. We fully understand the real estate transaction, the needs of the investor, and the technical requirements of the IRS. Realty Exchangers, Inc. can initiate documentation for delayed exchanges with as little as two hours notice and furnish all the paperwork and necessary forms. We also consult with real estate professionals, tax consultants, and legal advisors involved in the exchange. We are dedicated to providing the fastest and most accurate service available.

Now in our twelfth year of providing fast and accurate service to all fifty states and the U.S. Virgin Islands, we are fully computerized and process all of our transactions by electronic transfer. Wherever you're located we're as close as your phone. Whether you're in need of our services as your Qualified Intermediary, or just have questions, please call us (1-800-570-1031). We'll be happy to hear from you and help you in any way we can.

Important Links

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- Visit our site at <http://www.1031help.com>
- For a great new library of 1031 information, visit <http://www.realtyexchangersuniversity.com/2-procmanual.htm>
- Visit the REU Bookstore at <http://www.realtyexchangersuniversity.com/1-bookstore.htm>
- For a review of the new Realty Exchangers 1031 Exchange Manual, aim your browser at <http://www.realtyexchangersuniversity.com/2-procmanual.htm>
- If you have 1031 questions or would like to comment on our newsletter, please E-mail [askrich@1031university.com/](mailto:askrich@1031university.com)
- Visit the REU On-line campus at <http://www.realtyexchangersuniversity.com> where we have added lots of new material and information regarding 1031 deferred exchanges.

Contact/Address Change/Removal Information

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Edited by James D. Maxwell