

Realty Exchange News

**From your nationwide Qualified Intermediary for tax deferred exchange of real estate.
Talk to a *Certified Exchange Specialist*[™]**

Nonresident's Transfer of Property in Maryland.

As of October 1, 2003 sellers or exchangors of real estate in Maryland who are nonresidents will have taxes withheld at settlement. The amount to be withheld at settlement is 4.75% of the net proceeds for nonresident individuals and 7% for nonresident entities. Net proceeds means the total sales price paid less secured debts paid at settlement and other transfer expenses disclosed on the settlement statement. The law provides that a deed may not be recorded unless the tax is paid through the settlement agent to the Clerk of the County Circuit Court or the Department of Assessments and Taxation.

No tax need be withheld if the nonresident seller or exchangor presents at settlement a Certificate of Full or Partial Exemption (Form MW506E) issued by the Maryland Comptroller's Office. The Certificate will provide full exemption from withholding or provide the partial amount of tax to be withheld at settlement. To obtain an exemption certificate nonresident exchangors must submit by mail to the Comptroller twenty one days in advance of settlement Maryland Form MW506AE, Application for Certificate of Full or Partial Exemption. The Comptroller's Office will then issue to the taxpayer their certificate for full or partial exemption. Also no tax will be collected if the seller certifies the property was their principal residence in accordance with the federal rules in IRC Section 121.

The Maryland Comptroller has developed a comprehensive package entitled "Information on Maryland's Withholding Requirements for Sales or Transfers of Real Property". This package includes the required forms and instructions, and may be downloaded at <http://www.marylandtaxes.com>.

If an individual or a corporation has paid withholding tax at settlement in excess of the amount owed they may file an Application for Tentative Refund of Withholding on Sales of Real Property by Nonresidents, Maryland Form MW 506NRS. This request for refund may be filed with the Comptroller after 60 days have elapsed from the date the tax was paid to the Clerk of the Court or Department of Assessments and Taxation.

It is essential that nonresident exchangors promptly file Maryland Form MW506AE, Application for Certificate of Full or Partial Exemption as soon as they have a contract on their relinquished property. The Comptroller's office has also requested Exchangors include: 1) the name and phone number for their Qualified Intermediary, 2) the mailing address to send the original copy of the Certificate if not to the exchangor (example: the settlement agent), 3) if unable to get buyer's tax ID number, then add a statement to that effect in your cover letter.

Award of CES™ Designation

At the ninth annual meeting of the Federation of Exchange Accommodators (FEA), a national organization of Qualified Intermediaries, the prestigious Certified Exchange Specialist (CES™) designation was awarded to Realty Exchange Corporation officers - President Cynthia J. Dove, Vice President Bill Horan and Senior Consultant Ed Horan. To earn the Certified Exchange Specialist™ designation exchange professionals must pass an examination on federal like kind exchange rules and procedures, and meet extensive experience criteria.

The award of the Certified Exchange Specialist™ designation demonstrates to exchangors, their tax and legal advisors and settlement agencies that the Qualified Intermediary they have selected has significant knowledge and experience as an exchange specialist.

Reporting the Exchange

Modification to IRS Form 8824. The draft IRS Form 8824 has been circulated for comment. The only change in the form for 2003 is to clarify that the identification of replacement property must be in a written document, and to require an exchange be reported as a related party exchange even if the transfer was directly or indirectly through a qualified intermediary. Final copies of Form 8824 for 2003 reporting should be available by December on www.irs.gov.

Exchange Documents Must Be in Place Before Settlement

We continue to get the sad calls from investment property owners stating: "I just closed on my rental property and I want to do an exchange". If the property has gone to closing and the taxpayer is in constructive receipt of the funds it is too late to set up an exchange. Exchange documentation, including the Exchange and Escrow Account Agreement, Assignment of Contract, Notification of Assignment and disbursement of escrow instructions to the settlement agent must be in place before the settlement is completed and the property transferred to the buyer.

If you know of someone thinking about doing an exchange please encourage them to call and talk to us. It cost nothing to get the correct information. Any attempt to do a IRC 1031 exchange after the fact could be considered fraud with both civil and criminal penalties. As long as it is before the close of settlement, we can respond quickly to set up a last minute exchange. Please have them give us a call before it is too late !!

Have a question? Need an answer?

Realty Exchange Corporation

"Your Nationwide Qualified Intermediary since 1990"

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Certified Exchange Specialists™

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This publication is designed to provide accurate information on tax deferred exchanges. The publisher is not engaged in rendering legal or accounting services. If legal or tax advise is required the services of a competent professional should be sought.