

# Exchange News

## Realty Exchange Corporation

Your nationwide Qualified Intermediary for tax deferred exchange of real estate.

### Great News!!

The Federation of Exchange Accommodators (FEA), a national organization of Qualified Intermediaries, exchange and real estate professionals has announced the award of its prestigious Certified Exchange Specialist (CES™) designation 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 examination was given in Washington, DC in May of this year. 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. Certified Exchange Specialists are required to complete approved continuing education classes on Like Kind Exchange topics to maintain their designation.

### Watch the Loan Amount

With low mortgage interest rates exchangors are being encouraged by loan officers to get the maximum loan. In an exchange, the exchangor must reinvest all the cash equity in the replacement property for the exchange to be totally tax free. If the exchangor gets too big a loan, then they will receive cash back at settlement or from the qualified intermediary. This is taxable cash boot.

**Be certain your replacement property loan amount  
will not return you cash at settlement!!**

There are however times when an exchangor desires cash back. Such as when they have suspended passive losses or desire to offset capital gain losses. These situations should be discussed in advance with your tax advisor and qualified intermediary.

We try to catch excess loan amounts prior to settlement. This however is not always possible. If you have any question about the maximum loan amount on the replacement property, please give us or your tax advisor a call early in the exchange process.

Realty Exchange Corporation  
4500 Martinwood Dr., Haymarket, VA 20169  
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[www.1031.us](http://www.1031.us)  
bill@1031.us or cjdove@1031.us

## Partition of Commonly Owned Property Not Taxable

If you own a contiguous tract of real estate as tenants in common it may be partitioned into separate tracts so that the different owners can hold their parcel(s) outright. The IRS has ruled once again this will not be a sale or exchange, and the owners will not realize taxable gain.

## Capital Gains Relief for Military and Foreign Service Personnel

Congress still has been unable to pass the Armed Forces Tax Fairness Act of 2003 which would amend Section 121 of the Internal Revenue Code as it relates to the exclusion of gain on the sale of a principal residence. The amendment would suspend the running of the five year period, during which a member must have owned and lived in the property as their principal residence. To qualify the member or their spouse would have to be serving away from the residence on official extended duty. While no member of Congress opposes the legislation it continues to be dropped at the last minute in conference. The future prospects for passing this legislation are unknown.

## Nonresident's Transfer of Property in Maryland

Effective 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 (Maryland House Bill 935, Chapter 203, Section 10-912) provides that a deed may not be recorded unless the tax is paid to the Clerk of the County Circuit Court or the Department of Assessments and Taxation. No tax need be collected if the nonresident seller or exchangor presents a Certificate issued by the Comptroller stating no tax is due or a reduced amount of tax is due. Also no tax will be collected if the seller certifies the property was their principal residence.

The Maryland Comptroller is responsible for developing the regulations and certificates necessary for sellers and exchangors to get a waiver of withholding. We will keep you advised on the details and post updates on our web site [www.1031.us](http://www.1031.us).

## Shared Equity Financing Agreement

Are you planning to purchase with a co-owner a replacement property in which they will live? If so, it is essential that you have a written Shared Equity Financing Agreement with the co-owners. Otherwise, without this Agreement the IRS will treat this property as a personal use second home. As such it will not qualify as a rental or an exchange replacement property. Most real estate professionals are not familiar with this requirement and few attorneys are able to prepare the Agreement. Thus, if you are planning to co-own your investment property with an occupant, we strongly recommend you obtain from [Amazon.com](http://Amazon.com) the book "The New Home Buying Strategy" by Attorney Marilyn D. Sullivan. This book will help you prepare the Agreement.

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Member of the Federation of Exchange Accommodators  
Bonded and Insured



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 advice is required the services of a competent professional should be sought.

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