



Exchange News

Realty Exchange Corporation

Since 1990 - Your Nationwide Qualified Intermediary for Tax Deferred Exchange of Real Estate.

5-Year Ownership Restriction on Claiming Principal Residence Tax Exclusion. On October 22th, 2004 the President signed H.R. 4520, the *American Jobs Creation Act of 2004*. The legislation contains the following addition to Section 121(d) of the Internal Revenue Code.

“(d) (10). PROPERTY ACQUIRED IN LIKE-KIND EXCHANGE. If a taxpayer acquired property in an exchange to which section 1031 applied, subsection (a) shall not apply to the sale or exchange of such property if it occurs during the 5-year period beginning with the date of the acquisition of such property.”

After taxpayers convert a replacement property that was received in an IRC 1031 like-kind exchange to their principal residence, they must **own** the property for five years before they can sell the property and claim the principal residence \$250,000 or \$500,000 exclusion of gain on the sale. They still must have **used** the property as their principal residence for two of the past five years. This five-year ownership restriction applies to all replacement property sales after October 21, 2004.

Disaster Relief Extension Dates. With the extensive bad weather this year, 16 disaster areas qualified for IRS extensions of important tax compliance dates. Affected taxpayers include individuals and businesses located in the disaster area, those whose records are located in the disaster area, and relief workers. Exchangers who qualify may be eligible to have their 45-day identification date or their 180-day exchange completion due dates extended.

Details on the name of the disaster, counties included and extension dates have been included in IRS Press Releases. Specific information regarding each Press Release can be obtained from the IRS web-page at www.irs.gov by clicking on the “Disaster Area Tax Relief” heading and then scrolling down to the appropriate Press Release. If you believe your 45-day identification due date or 180-day exchange period termination date should be extended, contact your Qualified Intermediary immediately.

FEA Celebrates 15th Birthday. The Federation of Exchange Accommodators (FEA) recently completed its 10th Annual Conference in Las Vegas with a celebration of the organization’s 15th birthday. The FEA has grown into one of the real estate industry’s leading trade organizations, representing over 275 companies in all 50 states. Realty Exchange Corporation is a proud long time member of FEA. Cindy Dove, CES®, and Bill Horan, CES®, both attended the FEA conference which updated members on a number of exchange issues, tax law changes and client relationships.

Index of Exchange Info. Our website has been updated to include an index of all our newsletters, articles, tax alerts, and information on exchange topics, including exchange real estate contract addendums. On the home page of www.1031.us click the “Exchange Information Index” link next to Newsletter Sign Up. Click on the desired PDF document link and print it out or save it to your computer. This is an excellent exchange reference source for investors, real estate agents and other real estate professionals.

New Jersey Withholding Waiver. Since August 1, 2004, New Jersey (P.L. 2004, C. 55) has required nonresident individuals, estates, or trusts that sell or transfer real property in New Jersey to make an estimated gross income tax payment on their gain as a condition to record the deed. The amount to be withheld is no less than 2% of the gross sales price.

Thankfully, as of October 8, 2004, an exemption of this requirement is now available for sellers completing a 1031 exchange. To request the exemption, an exchangor must complete and sign NJ Form GIT/REP-3, *Seller's Residency Certification/Exemption*. The exchangor checks Box 7 on the form and circles IRC Section 1031. The form is given to the buyer or the buyer's attorney at closing. The original form then must be submitted to the county clerk at the time of the recording of the deed. For more information and copies of the Form GIT/REP-3 and instructions, exchangors should contact the NJ Division of Taxation, Taxpayers Services Branch, at (609) 292-6400, or their settlement attorney.

Last Minute Exchange Documentation. When necessary, we can quickly process the required exchange documentation. The opportunity to save thousands of dollars in taxes is lost once the seller goes to settlement without the required exchange documentation in place. If you know of someone who is considering doing an exchange, have him or her call us immediately.

E-mail Distribution of *Exchange News*. For those of you currently receiving this newsletter by mail, we encourage you to consider e-mail receipt in the future. This includes ***Special E-mail Editions*** for new changes to IRC 1031 rules and procedures when they occur. Just visit our web site www.1031.us and click on the *Newsletter Sign Up* button.

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Member of the Federation of Exchange Accommodators

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

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Change to Principal Residence Rules – N.J. Withholding Waiver