

EXCHANGING MULTIPLE PROPERTIES

"UNDERSTANDING THE REQUIREMENTS IS CRITICAL"



Compliments of

Real estate investors may take advantage of the tax code to exchange several properties into one replacement property. However, two basic rules can make planning for such an exchange challenging:

The 45-day identification and 180-day exchange completion periods start when the first of several sales in the same exchange close.

If several sales are grouped in the same exchange, the identification rules permit listing only 3 properties of unlimited value - or - more than 3 properties whose combined values do not exceed 200% of the value of properties being sold.

If the goal is to exchange several properties into one or more replacement properties, the Exchanger must consider the prospect of completing all of the sales and then the purchase within a 180-day window. The first question is to decide whether there is an advantage to having only one exchange or is it better to attempt to break the sales and purchases into different exchanges. Two or more separate exchanges will provide more flexibility than one exchange in terms of identification lists and exchange periods. However, there may be practical limitations in purchasing a single replacement property in separate purchases.

Care must also be taken to establish two or more exchange transactions. The separate exchanges must clearly be reflected in the property sale agreements, separate exchange agreements and closing arrangements. If one replacement property is selected for two exchanges, the separate identification notices of both exchanges should specify only the fractional interest of the replacement property that will be purchased for the respective exchange.

Successful Exchangers have sold multiple properties in the same exchange using a variety of strategies:

- Delay closing on the first few properties to sell until the remainder of sales can be agreed to and closed within a short period. Leases to eventual purchasers can be structured.
- Tie up the desired replacement property with an option to purchase (with or without a lease) until sales of the relinquished properties can be negotiated and closed at roughly the same time.
- If all else fails, a reverse exchange can be structured so that the replacement property can be purchased by the Intermediary for the Exchanger prior to selling any of the relinquished properties. However, financing and other considerations often make a reverse exchange a more costly choice.
- A well-planned exchange of several properties into one replacement property can achieve a variety of investment objectives. A thorough understanding of the §1031 rules is critical to a successful exchange.



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