OIL AND GAS ENERGY PROGRAMS

"USE WITHIN AN EXCHANGE OR FOR A FAILED EXCHANGE"

DIVERSIFYING INTO AN ENERGY REPLACEMENT PROPERTY WITHIN AN EXCHANGE

Real estate investors engaging in a 1031 tax deferred exchange transaction may want to consider acquiring oil and gas related properties in the energy sector rather than the more typical real estate investment property. As explained below certain rights in oil, gas and mineral interests are "like kind" to a fee interest in investment real estate. For example, a "royalty" interest in an oil and gas lease represents an interest in the underlying land that would be considered like kind to a fee interest in real estate. Other interests in minerals, such as "working interests", may not qualify as like kind to real estate. A royalty is part of the mineral title to a defined parcel of land and represents ownership of a percentage of the gross revenue from the production of oil and gas on that property. Unlike a working interest, which bears the expense of drilling wells and the liabilities associated with operating those wells, a royalty interest does not involve the expense or risk associated with production, but shares in the mineral reserves.

Exchanging into oil and gas royalties can present investors with an opportunity to diversify their portfolio by adding properties whose performance does not necessarily correlate with the performance of traditional real estate. Ownership of royalties can produce attractive cash flow and provide diversification. As with any new investment, investors should consult with knowledgeable tax and/or legal advisors to determine the suitability of this type of investment. To learn more about these types of energy royalty programs and tenant-in-common ownership programs, visit www.nobleroyalties.com or the Tenant-in-Common Association at www.ticassoc.org.

OPPORTUNITIES FOR TAX ADVANTAGES IF THE EXCHANGE CANNOT BE COMPLETED

In the event someone defined as an "accredited investor" cannot complete an exchange and they receive the exchange proceeds from the Qualified Intermediary, they may be interested in exploring other tax-advantaged programs within the energy sector. Many of these programs allow investors to write off all or most of their investment against ordinary income in the current tax year plus they experience continued cash flow and tax benefits during the life of the program.

Section 263(c) of the tax code allows an investor the option to deduct, as expenses, intangible drilling and development costs (IDC) involved with oil and gas wells. IDCs are costs that cannot be recovered from the operation. An investor with a failed exchange can use IDCs to eliminate taxes that would otherwise be a consequence of a failed exchange. These investments are typically structured as limited partnerships, where most investors typically participate as a general partner during the drilling phase of the program. After that phase, the investors interest is converted to limited partner status with the driller/operator remaining as the general partner in the program. In addition to the IDC benefits, investors may be able to obtain additional tax advantages. Similar to the depreciation of real estate, under Section 613 of the tax code, the IRS allows for a standard 15% depletion allowance for all income earned from the program. As a result, investors can deduct 15% against the income earned from the program for any given year. For more information on these types of investments, visit capguardmanagementco.com, www.ridgewoodenergy.com and www.atlasamerica.com.

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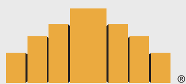

National IRC §1031 "Qualified Intermediary"

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