

# REVENUE PROCEDURE 2002-22:

## "PROCEDURE DEALS WITH UNDIVIDED FRACTIONAL INTERESTS"



### Compliments of

More real estate investors have been exploring the benefits of tenant-in-common ("TIC") programs that offer an undivided fractional interest in a large property with multiple owners. Investors have been interested in TIC programs because of the advantages of having partial ownership in a larger property which could offer appreciation, cash flow, annual depreciation benefits without many of the management problems typically associated with rental property.

### BACKGROUND - REVENUE PROCEDURE 2000-46

In 2000, the government released Revenue Procedure 2000-46 which stated that the IRS would not issue any advance rulings or determination letters on whether or not a particular TIC program represented an undivided fractional interest in real property that would qualify for an IRC Section 1031 tax deferred exchange.

### REVENUE PROCEDURE 2002-22

Revenue Procedure 2002-22 supersedes Revenue Procedure 2000-46 referenced above. Revenue Procedure 2002-22 addresses a couple of issues:

1. Guidelines for requesting advance rulings to assist taxpayers in preparing a ruling request on a specific structure and proposed transaction.
2. Conditions present in the proposed TIC structure under which the IRS normally will consider a request for a ruling.

These guidelines and conditions constitute requirements for advance rulings and are the clearest set of principles the IRS has set out as to its thinking on TIC programs.

### REQUIRED GENERAL INFORMATION

The following information and copies of documents must be submitted with the ruling request:

Name, taxpayer ID number, and percentage fractional interest;

Name, taxpayer ID number, ownership of all persons involved in the acquisition, sale, lease (including the sponsor, lessee, manager and lender);

Full description of the property;

Representation that each co-owner holds title to the property as a tenant-in-common under local law;

All promotional documents relating to the sale;

All lending agreements;

All agreements among the co-owners;

Any lease agreements;

Any purchase and sale agreements;

Any property management or brokerage agreement;

Any other agreement relating to the property including debt agreements and any call and put options relating to the property.

Call Asset Preservation toll-free (800-282-1031) to receive the full text of Revenue Procedure 2002-22 and to discuss your specific situation in greater detail.



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