

THE DEFERRED EXCHANGE PROCESS

STEP 1:

- ✓ Prior to initiating a 1031 exchange, we encourage you to consult with your tax and legal professionals to plan and execute your particular exchange strategy.
- ✓ Contact Attorneys & Accountants 1031 Services, LLC to initiate the exchange as early in the sale process as possible. We will be there to assist every step of the way.

STEP 2:

- ✓ Include a cooperation clause in the Contract of Sale for the "First Stage Property" (Relinquished Property in a Delayed Exchange or Replacement Property in a Reverse Exchange), requiring the other party to cooperate in the Exchange process. It is important to ensure cooperation at the Contract step to prevent the other party to the Contract from exacting concessions from the *Exchangor* later in the transaction for such cooperation. Note that many Contracts expressly prohibit assignment without agreement of both parties. Exchange funds should be sent directly to AA1031 and should not go through the *Exchangor's* attorney to avoid *constructive receipt* issues.

STEP 3:

- ✓ Notify AA1031 as soon as you enter into the Contract of Sale. We will draft the appropriate exchange documents that must be executed prior to closing on the "First Stage Property". It is important to provide copies of documentation regarding the exchange property to AA1031 as soon as possible to ensure documents are accurately prepared.

STEP 4:

- ✓ Close on the "First Stage Property". Proceeds are held by AA1031 in a secure, segregated escrow account in the name of the *Exchangor*.

STEP 5:

- ✓ You must notify AA1031 in writing of the identification of the "Second Stage property" by midnight of the 45th day following the day the "First Stage Property" is transferred.

DISCLAIMER

Attorneys & Accountants 1031 Services, LLC is available to assist Exchangors and their advisors with exchange strategies and technical support, however Attorneys and Accountants 1031 Services, LLC cannot provide legal or tax services or advice and the Exchangor must consult with their legal and tax professionals as to the intended exchange and any legal or tax implications thereof.

- ✓ The IRS has outlined three Identification Rules you may choose from to identify your replacement property:
 1. The Three-Property Rule: You may identify up to three potential properties without regard to the fair market value of the properties identified.
 2. The 200% Rule: You may identify any number of properties as long as their aggregate fair market value does not exceed 200% of the aggregate fair market value of all the "First Stage (relinquished) Properties".
 3. The 95% Rule: You may identify any number of properties without regard to their value, provided, within 180 days from the date of the transfer of the first of the "First Stage Properties", you purchase properties whose value totals at least 95% of the value of all the "First Stage Properties".

STEP 6:

- ✓ Include a cooperation clause in the Contract of Sale for the "Second Stage Property" (Replacement Property in a Delayed Exchange or Relinquished Property in a Reverse Exchange), requiring the other party to cooperate in the Exchange process. It is important to ensure cooperation at the Contract step to prevent the other party to the Contract from exacting concessions from the *Exchangor* later in the transaction for such cooperation. Note that many Contracts expressly prohibit assignment without agreement of both parties.

STEP 7:

- ✓ Notify AA1031 as soon as you enter into the Contract of Sale. We will draft the appropriate exchange documents that must be executed prior to closing on the "Second Stage Property". It is important to provide copies of documentation regarding the exchange property to AA1031 as soon as possible to ensure documents are accurately prepared. An escrow agreement for the exchange funds should be entered into between AA1031 and the other party's attorney or settlement agent.

STEP 8:

- ✓ Close on the Second Stage property. Exchange proceeds are transferred to the settlement agent or other non-disqualified party. It is advised that the *Exchangor's* attorney not be the party receiving such funds, to avoid *constructive receipt* issues.

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If all requirements are met, you have completed a successful 1031 exchange. Appropriate tax documents are filed with tax return and details of transaction are documented for future disposition of "Second Stage Property".

NOTE:

While not included as a step in the process, it is advised to start searching for replacement property as early in the process as possible to be assured that you can meet the strict time frame for the 45-day Identification Period. Identification and second stage closing deadlines begin at close of escrow on the "First Stage Property" (or sooner if control of the "First Stage Property" is transferred prior to closing). You have until midnight of the 45th calendar day of the exchange period after transfer of control of the First Stage property to identify the Second Stage property.

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