



Partial Exchanges

by Greg Lehrmann, Attorney

The Big Picture—What is a Partial 1031 Exchange?

- Some taxpayers believe that they must “buy up” (spend all the equity from their sale by purchasing a more expensive property) to defer taxes with a 1031 exchange.
- However, taxpayers may choose to defer some, but not all, capital gain taxes in order to receive some cash immediately or to reduce any new mortgage on the replacement property.
- This cash in hand is referred to as “boot,” which impacts tax obligations.

Why it Matters:

- Cash can be taken out at the time of the closing of the sale of the property by directing a certain amount to be paid directly to the taxpayer. The remainder of the equity would then be placed with the qualified intermediary for the 1031 exchange.
- After buying all identified properties or at the end of the maximum exchange period (180 days), any remaining cash would be returned to the taxpayer.

Full Tax Deferral Criteria:

- To fully defer all taxes, taxpayers must reinvest all net equity into a replacement property with a purchase price that equals or exceeds the amount the relinquished property sold for. New debt may be incurred or additional cash paid to purchase this replacement property.

When to Rethink a 1031 Exchange:

- If the taxable “boot” exceeds the capital gain, a 1031 exchange will not be beneficial. For example, if the amount of cash in hand (cash received at the time of the sale of the relinquished property) is more than the capital gain, an exchange will not defer taxes. It is critical to consult with a tax or legal advisor before proceeding with any sale of relinquished property. Or if the amount of non-qualifying replacement real estate is more than the capital gain, an exchange will not defer taxes unless the exchanger is adding cash and/or financing to increase the level of investment enough that the amount of qualifying property exceeds the exchanger's basis in the relinquished property.”

The Takeaway:

- Partial exchanges provide an attractive alternative for investors who want to defer some taxes while receiving some cash immediately at the time of the sale. Determine your current adjustable basis for income tax purposes before pursuing this strategy.

About us:

Greg Lehrmann is the founding member of Excel 1031 Exchange with 42 years of experience in commercial and residential real estate. For the past three decades he has dedicated his career to 1031 exchange work and has handled tens of thousands of exchanges throughout the country.

Mr. Lehrmann is a distinguished attorney double board certified in commercial and residential real estate law by the Texas Board of Legal Specialization. Only 2% of attorneys in Texas meet this exacting standard. He has a B.B.A. with honors in accounting from The University of Texas and a J.D. from The University of Texas School of Law.

Mr. Lehrmann facilitates 1031 transactions while educating and advising fellow real estate professionals about the transformative benefits of 1031 exchanges. He has written and spoken extensively about 1031s, and has published numerous articles including:

"§1031 Tax-Deferred Exchanges: Evolving Rules, Greater Opportunities" (July 2002 Tierra Grande)

"Using Advanced §1031 Exchange Strategies to Improve Client Investment Returns", (Spring 2005 SIOR Professional Report – national publication of Society of Industrial and Office REALTORS®)

"Keeping Uncle Sam Out of The Oil Patch", (January/February 2008 – Landman national magazine)

"Safe Harbor" (July 2008 Texas Realtor article on vacation-home exchanges.)

Mr. Lehrmann and his wife, Texas Supreme Court Senior Justice Debra Lehrmann, have two sons, Gregory & Jonathan, practicing attorneys, and three beautiful grandchildren.



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