



Newsletter

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Double Board Certified • Commercial and Residential Real Estate Law

Requirements for Full Tax Deferral

The Big Picture

Many taxpayers confuse what is required for full tax deferral in a 1031 exchange with calculations involved in determining the capital gain and capital gain taxes that would be owed absent a 1031 exchange. The requirements for full tax deferral are different than the capital gain tax and basis computations.

Why it Matters:

To defer all tax in a 1031 exchange:

1. Reinvest the entire net equity (net proceeds) in one or more “like-kind” replacement properties;
– and –
2. Replace all debt that was extinguished on the sale of the relinquished property with an equal or greater amount of debt on replacement properties or add cash to replace such loan payoff.

What is Boot?

The term “boot” refers to any property received in an exchange that is not considered like-kind real property. Cash boot refers to the receipt of cash. Mortgage boot, which can also be referred to as debt relief boot, is a term describing a taxpayer’s reduction in mortgage liabilities on the purchase of a replacement property or properties.

Boot may result in a taxable event. To determine the taxes that may be due, the taxpayer’s tax advisor must calculate the realized capital gain. Next, the amount of boot, along with any depreciation recapture, must be determined. The tax advisor will then need to determine the taxes owed for federal capital gain taxes, the depreciation recapture, state taxes (when applicable) and the Section 1411 net investment income tax (when applicable). Finally, a tax advisor should review the taxpayer’s specific situation to determine whether there are additional tax issues that may offset any current capital gain tax liabilities.

The Takeaway

Some taxpayers think that all they have to do to defer all tax is to reinvest their gain in replacement property. Others believe it is only the equity that has to be reinvested. Full deferral requires reinvesting all equity and replacing all debt.

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 attorneys and 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.


TEXAS REAL ESTATE LICENSEES: NEW 1031 ADDENDUM

The Texas Real Estate Commission adopts new addendum for Section 1031 Exchanges, effective January 3, 2025. Scan this QR Code for more information:



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