COMPLETE 1031 TAX DEFERRED EXCHANGES

Savvy investors know that Internal Revenue Code (IRC) Section 1031 provides a vehicle for deferring capital gain taxes when disposing of investment property. Thanks to the IRC §1031, a properly structured exchange allows an investor to sell an investment property, and acquire a new property, and potentially defer all capital gain taxes. IRC §1031 (a) (1) states: No gain or loss shall be recognized on the exchange of property held for productive use in a trade or business or for investment, if such property is exchanged solely for property of like-kind which is to be held either for productive use in a trade or business or for investment.

Pursuant to IRC §1031, capital gain deferment requires the exchange of “like-kind” relinquished property for other “like-kind” replacement property. Generally real property held for investment or real property used in a trade or business can be exchanged for other real property held for investment or real property used in a trade or business. A delayed exchange is the most common exchange format. It provides investors up to 180 days to acquire replacement property through the use of a Qualified Intermediary (“QI”) to complete a valid delayed exchange. The steps involved in a delayed exchange are outlined below:

SALE OF THE RELINQUISHED PROPERTY

Prior to closing the sale of the relinquished property, the Exchanger enters into the Exchange Agreement with a Qualified Intermediary. Pursuant to the Exchange Agreement, an Assignment is executed prior to closing, and Exchanger assigns its rights under the Purchase and Sale Agreement to the Qualified Intermediary. The Qualified Intermediary instructs the closing attorney to directly deed the property from the Exchanger to the buyer. Proceeds are transferred directly to the Qualified Intermediary, thereby protecting the Exchanger from actual or constructive receipt of funds. Please note that §1031 Regulations mandate restrictions on the Exchanger’s ability to access exchange proceeds at any time. Please consult with your tax/legal advisor and a reputable Qualified Intermediary for more detail on these restrictions.

IDENTIFICATION OF REPLACEMENT PROPERTY

The Exchanger must properly identify potential replacement properties within 45 calendar days.

PURCHASE OF THE REPLACEMENT PROPERTY

The Exchanger has a total of 180 calendar days from closing of the relinquished property, or their tax filing date (including extensions), whichever is earlier, to acquire “like-kind” replacement properties. Prior to closing on the replacement property, the Exchanger assigns the Purchase and Sale Agreement to the Qualified Intermediary. After the Assignment is executed, the exchange is completed when the Qualified Intermediary purchases the replacement property with the exchange proceeds and transfers it back to the Exchanger by a direct deed from the seller.