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By Shirley Ju, 1031 Investment Solutions **TIC 1031 Exchanges: Steps to complete the process**

Internal Revenue Code Section §1031 allows a real estate investor to exchange investment property for “like kind” property while deferring capital gains tax on the sale of the relinquished property. Tenant-In-Common (TIC) real estate programs offered by major, national real estate sponsors qualify as replacement properties for a tax deferred §1031 Exchange. These TIC programs allow an investor to own an undivided share of an institutional grade real estate investment property. Each co-owner receives separate deeds for their undivided, fractional share of the whole property. Each co-owner has the same real estate ownership rights as if they owned any piece of property independently. There are retail, office, industrial, and residential apartment properties available.



estate valuation while not having the headaches of daily management of the property. No capital gains tax is due until the replacement property is eventually sold. But even then, this property can be again exchanged for another property to continue deferring capital gains tax. If the investor dies while owning the property, their heirs will receive a stepped up basis, and the previously deferred capital gains tax will never come due.

The steps for completing a TIC §1031 Exchange are:

1. Consult with your tax and/or legal advisors to determine the suitability of a TIC §1031 Exchange for your individual, specific circumstance.

2. Determine the current market value of the investment property that you are selling. This estimated value and knowledge of the outstanding debt obligation on the property identifies the percentage of equity and debt the property carries. This determination is necessary to correctly match a TIC replacement property with the appropriate percentage of

debt and equity to satisfy the requirements of IRC §1031.

3. Select an experienced Qualified Intermediary (QI) as early in the process as possible. IRC §1031 stipulates that the Exchanger may not directly receive cash or benefits from the property sale unless the Exchanger pays capital gains taxes on this money. You would enter into an Exchange Agreement with a Qualified Intermediary to act as a “go-between” in the exchange of cash and deeds to satisfy the tax deferral requirements of IRC §1031.

4. List and market your property for sale. Instruct your real estate agent to include an “Exchange Cooperation Clause” as an addendum to the P&S Agreement on your relinquished property.

5. Contact your Qualified Intermediary as soon as possible after escrow is opened or after entering into the P&S Agreement and advise them of your desire to do an exchange well in advance of the closing date. They will draft the appropriate Exchange Agreement, Assignments and Exchange closing

executed prior to closing on the property being sold.

6. Start searching for acceptable TIC replacement property. Contact a securities representative that specializes in §1031 TIC Exchanges, since their specialization gives them the expertise and access to the best properties.

7. IRC §1031 requires closing on replacement property within 180 days of sale of the relinquished property or the date when tax returns are due, whichever occurs first. The §1031 exchange is completed when the selected TIC replacement property closes. Make sure that your securities representative helps you with the paperwork required for subscription to a specific replacement property. They also should support and track the steps of the subscription process between you and the replacement property sponsor all the way to closing. The transfer of funds and deeds at closing occurs as stipulated in the agreements signed with your Qualified Intermediary.

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