



1031x.com

Newsletter

Toll Free 888-899-1031

Fax 303-715-1012

infox@1031x.net

*Thought you'd find this helpful:*

## Use of Escrow Funds in a 1031 Exchange

An essential element of a 1031 exchange is a written exchange agreement which denies access to the funds from the sale of the relinquished property. The client cannot be allowed to "receive, pledge, borrow, or otherwise obtain the benefit of money..." held by the qualified intermediary except, of course to acquire replacement property.

In order to qualify for full tax deferral, one hundred percent of the cash received from the relinquished property must be reinvested in the replacement property (see Technical Bulletin June 1977).

The following question frequently arises, What costs of acquiring replacement property can be paid from the escrow account prior to actual closing on the replacement property? For instance, can credit reports, loan application fees, survey fees or earnest money deposits be paid from the funds held by the qualified intermediary? In light of the requirement that the client be denied access to the funds, the answer is that only the earnest money deposit which will be a direct credit against the purchase price can be paid out of escrow prior to closing. And, this can only be paid if the contract to purchase the replacement property contains a provision that states that any refund of earnest money will be paid back to the qualified intermediary and not to the client. Other costs of acquisition must be paid in advance by the client and, perhaps, reimbursed to the client at closing of the replacement property as an itemized debit on the settlement statement. Care must be taken to assure the integrity of the exchange proceeds and to assure compliance with the requirements of section 1031.

Please call [www.1031x.com](http://www.1031x.com) at 888-899-1031 or email [infox@1031x.net](mailto:infox@1031x.net) for a free consultation!