



1031x.com

Newsletter

Toll Free 888-899-1031
Fax 303-715-1012

infox@1031x.net

Thought you'd find this helpful:

Structuring Co-Ownership Under Section 1031x

Purchase of a percentage interest in real property as replacement property satisfies the "like kind" requirement of section 1031. In order to satisfy the needs of exchangers, real estate promoters have developed investment vehicles formed as percentage interest ownership of real property. In most of these investment vehicles, the promoter assembles 1031 exchangers of various sizes together with appropriate mortgage debt, to purchase "investment grade" commercial property. The 1031 exchangers are nominal owners of percentage interests in the real property. The promoter charges fees for its role as building manager, debt guarantor, real estate broker, market maker, and investment counselor in these transactions. 1031 exchangers are passive investors. Often these investments act very much like limited partnerships with the real property being sold as fractional "units". The investments are even sold by licensed securities dealers. This treatment raises the following question. Do such investments satisfy the "like kind" requirement of section 1031?

On March 19, 2002, the IRS issued Rev. Proc. 2002-22 providing guidance on this issue. This Rev. Proc. states 15 rules for structuring co-ownership under section 1031. The most damaging rules to current practices are as follows: a) promoters' income may not depend on income or profits of the project; b) leases must be for fair market value (FMV); and c) owners may not give up the right to partition and may also not have a "put" option.

Contact us before you exchange. We are the exchange experts.

Please call www.1031x.com at 888-899-1031 or email infox@1031x.net for a free consultation!