



Partnership “Swap and Drop” Approved?

In a recent ruling (PLR 200521002), the IRS ruled that replacement property acquired by a trust in a 1031x could be distributed to the trust beneficiaries without negating the tax deferral.

The trustee exchanged the relinquished property, and purchased the replacement property in a single member LLC. The trust was then terminated, distributing the LLC interest to the trust beneficiaries.

Two issues are presented: 1) Would the acquisition of replacement property by the trust followed by a distribution of the property in termination of a trust destroy the exchange because the trust did not acquire the replacement property with investment intent? 2) Would the distribution of the single-member LLC interest to multiple trust beneficiaries, thereby creating a partnership negate the tax deferral?

The IRS concluded that the above structure qualified for capital gain tax deferral under IRC section 1031

The PLR adds comfort to exchanges followed by distributions from partnerships to partners or LLCs to members.