

1031 exchanges can be utilized for a variety of assets

By **MARTHA BLUM**

AgriNews Publications

JOLIET, Ill. — Taxpayers can utilize a 1031 exchange for many different types of assets in addition to real estate.

“Most people are under the impression this is just for real estate, and it is not,” said Julianna Clementi-Ryan, vice president of Nationwide Exchange Services. “This code section is applicable for any taxpayer and any asset type.”

Clementi-Ryan has completed 1031 exchanges for a wide variety of assets including cell towers, race horses, art work, violins, heavy equipment and railcars.

“A 1031 exchange is a deferral mechanism that allows any taxpayer to defer paying taxes when they sell property they’ve held for investment purposes or utilized in their trade or business,” explained the speaker during the Chicago Farmers Farmland Investment Fair.

“If I sell an apartment building that I’m renting, I’m able to defer the gain attributable to the profit I’ll get when I sell the property,” she said.

“But only if I replace it with property which is like kind to what I sold and also hold for investment purposes or used in my trade or business.”

Clementi-Ryan outlined several steps to a successful 1031 exchange. Land that is rented for farming falls into the investment purposes cat-

egory since the owner receives rental income.

“I can also hold land for appreciation of value purposes even if I’m not getting rental income because I’m hoping it will appreciate in value,” Clementi-Ryan said.

Once a 1031 exchange is completed, people need to own the replacement property for a 12-month period without any evidence of actively soliciting the sale of that property.

“Don’t put up a for sale sign and don’t enter into contracts to sell the property a year later,” Clementi-Ryan advised.

“If you’re involved in a transaction with someone you’re related to, then there is a two-year holding period,” she added.

For the standard of like kind, the definition for real estate is quite broad with 1031 exchanges.

“Beyond vacant land, I’ve done lots of deals on mineral rights, water rights, timber rights, etc.,” Clementi-Ryan noted. “The key with those rights is they have to be undefined in the amount of time you have them or perpetual in nature, then they are like kind to real estate.”

For assets that are not real estate, it becomes very specific.

“For example, with livestock it has to be the same sex, and you can’t exchange a heavy-duty truck with a light-duty truck,” the speaker

said.

It is important the process is viewed as an exchange of old property for new property versus a separate transaction.

“You need to utilize a qualified intermediary and also a qualified trustee, like a bank that is separate from your intermediary,” Clementi-Ryan said.

“The reason is during the period of time from when you sell an asset to when you buy an asset, that money needs to be restricted so you don’t have the ability to receive it or obtain any benefits from that money.”

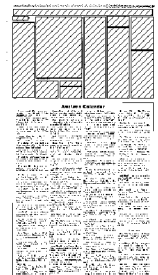
A successful 1031 exchange must have taxpayer continuity.

“If you create a new tax paying entity like going from an individual to a corporation, there’s a disconnect in the taxpayer continuity,” Clementi-Ryan said. “The name of the game is that the taxpayer that sold the property is the only taxpayer that can benefit from the tax deferral.”

She also stressed the importance of the even or up equity debt rule.

“You must purchase property that is even or up in value to what you sold,” she said. “If you sell property worth \$1 million, you should seek out new property worth \$1 million or higher.”

When working with a 1031 exchange, taxpayers must remember two important



time periods.

The 45-day rule is the identification period, which is the period the seller has to identify property that will serve as the like kind property. The period starts the day the property is sold.

“You need to give a street address and analyze the property that is suitable to you,” Clementi-Ryan said. “If those properties you identified fail to be suitable after 45 days, then your exchange fails.”

The exchange period also starts on the day the property is sold.

“You have 180 days to acquire the like kind property,” Clementi-Ryan noted.



AgriNews photo/ Martha Blum

Julianna Clementi-Ryan, vice president of Nationwide Exchange Services, outlines several steps to a successful 1031 exchange during the Chicago Farmers Farmland Investment Fair.