

# MID ATLANTIC REAL ESTATE JOURNAL

## 1031 EXCHANGE



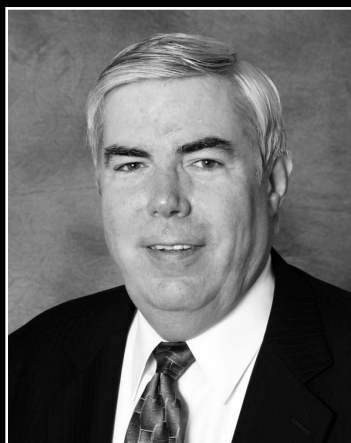
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## 1031 EXCHANGE

By Deborah Froling and Elizabeth Mullen, Arent Fox LLP

# Like-Kind exchanges and qualified intermediaries: Where are we now?

Since the mid 1990s, investors have embraced the use of qualified intermediaries (“QIs”), also referred to as “accommodators” or “exchange facilitators,” to facilitate deferred like-kind exchanges, pursuant to Internal Revenue Code (“Code”) § 1031. In 1991, the Treasury Department first permitted exchangers to use



Deborah Froling

QIs to acquire and transfer their relinquished and replacement properties and an entire industry of like-kind exchange QIs was born. Despite the concerns of commentators and practitioners, QIs continue to this day to operate without federal regulation and, to date, only a few states have enacted laws to regulate QI compliance with financial



Elizabeth Mullen

security standards. Thus, it comes as no surprise that the increase in QI bankruptcies and failures over the past two years has resulted in a wave of proposed QI regulations and advice on how exchangers can best protect themselves.

### Crisis in the QI Industry

Amid the recent economic downturn, QI bankruptcies – perhaps, most notably, the failures of Southwest Exchange, Inc. and LandAmerica 1031 Exchange Services – have left exchangers unable to complete their Code § 1031 like-kind exchanges within the statute’s strict 180-day period

for reinvesting proceeds. If an appropriate exchange does not take place before expiration of the 180-day period, the IRS would conclude that the exchanger has constructive receipt of his exchange funds on the 181<sup>st</sup> day, and would require the exchanger to report in income any gain realized on the disposition of the relinquished property. If the QI is in bankruptcy, it is likely that the investor’s exchange funds will remain tied up in the QI’s bankruptcy estate after the 180-day exchange period ends. To add insult to injury, not only do the exchangers have

blown exchanges, they will be forced to share any of the QI’s remaining assets with other unsecured creditors. If the exchanger finally receives his exchange proceeds in a subsequent tax year, he may be required to report gain from the disposition of the relinquished property on the installment method. Furthermore, if an exchanger only recovers a portion of his exchange proceeds upon completion of the QI’s bankruptcy, it is unclear whether the exchanger is entitled to the ordinary loss treatment afforded business bad debts and theft losses, or a less favorable capital loss for nonbusiness bad debts.

### Reactions

The Internal Revenue Service (“IRS”) has received many comments about the effects of QI failures as well as requests for temporary regulations that would provide some interim relief to taxpayers. Some have proposed that the IRS consider allowing a joint account in Code § 1031 exchanges that would require the signature of both the exchanger and the QI in order to permit the QI to withdraw funds from an exchange account. Others have suggested restricting the types of investments that a QI can make using QI funds – limiting investment, for instance, to liquid assets since the investment of exchange funds in auction rate securities was at least partially to blame for some of the QI failures. Unfortunately, the IRS does not have the ability to extend the statutory 180-day exchange period; but, it is aware of the financial hardships created where like-kind exchanges cannot be completed within that time period as a result of the failure of the QI, and it is evaluating the scope of its authority to issue administrative guidance. As of the date of this article, the IRS has not provided any further insight to what the guidance might be or the form it might take.

### Moving Forward

In the absence of IRS guidance to address current QI failures, practitioners are advising potential exchangers to perform extensive due diligence before selecting a QI. Potential investors should ask the QI how it invests the exchange proceeds held in its accounts to determine whether

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# 1031 EXCHANGE

By Kathy Heshelow, CapWest Securities, Inc.

## Oil & Gas as a 1031 replacement property consideration?

A 1031 tax-deferred exchange is the sale or disposition of property and the acquisition of 'like-kind' property - including developed and undeveloped real estate not necessarily identical in type -- that must follow the restrictions and limitations imposed by IRC Section 1031, in order to defer federal tax, capital gain and depreciation



Kathy Heshelow

recapture taxes. No gain or loss shall be recognized on the exchange of property held for productive use in a trade or business, or for investment, if such property is exchanged solely for like-kind property. The value, equity and/or debt on the replacement property must be equal to or greater in value than that of the relinquished property. Section 1031 does not apply to exchanges of stocks, bonds, notes or a variety of other investment vehicles. Many investors don't realize that certain oil & gas investments CAN be structured to qualify for a 1031 Exchange.

Generally oil, gas and mineral rights are part of the real property to which they are connected and may be included in the definition of like-kind property. Royalty programs and working interest programs may be structured for a 1031 exchange, but not drilling programs (see below). The investment offering documents describe how a 1031 exchange applies (it may not qualify 100% and there is usually no debt to fulfill a debt requirement). Potential investors should check with their accountant on how the investment would apply to their personal situation and be

aware that they involve risks, including the possible loss of principal. 1031 rules require the identification of potential properties to purchase within 45 days and close within 180 days. The exchange funds must be held by a third party Qualified Intermediary. Investors should examine the upfront fees and expenses to determine how they may impact returns – and whether they outweigh the tax benefits.

Most drilling programs do NOT qualify for a 1031 exchange, but many offer generous write-offs against active income as well as potential

cash flow. The programs are generally considered by high net worth investors. The tax write-offs have been in the IRS code for years to encourage domestic drilling, but are under consideration by Congress and could go away in the future (not 2009) to address the national deficit (unknown to date). Of course, the tax code is subject to change at any time without notice.

Oil & gas programs are securities and must be sold through a registered representative. They are generally more volatile than real estate and considered highly speculative. Risk adverse investors are not good candidates. I cover this and more in my book "Investing in Oil & Gas: the ABCs of DPPs (Direct Participation Programs)". Energy affects us all and is a fascinating subject; don't overlook oil and gas possibilities when conducting a 1031.

**Kathy Heshelow is a registered representative with CapWest Securities, Inc. (member FINRA, SIPC, MSRB) specializing in alternative investments. She holds the securities Series 6, 22, 62 and 63 registrations. ■**

### Like-Kind exchanges

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the QI's investment strategy is compatible with that of the exchanger. Potential investors should also question the QI as to where it deposits the exchange funds. However, whether a QI places exchange funds in a commingled account with other exchange funds or in a separate account established specifically for the particular client, in the event of bankruptcy, it is unlikely that either type of account will provide greater security to an investor.

Although one cannot guarantee how a bankruptcy judge will rule on any particular exchange agreement, practitioners seem to agree that the most secure arrangement for exchange proceeds is a qualified trust or a qualified escrow account. In both cases, the trustee or escrow holder is considered to be independent of the exchanger and the agreement between the escrow holder or trustee and the exchanger expressly limits the exchanger's right to

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The book "Investing in Oil & Gas: the ABCs of DPPs (Direct Participation Programs)" by Kathy Heshelow will inform you on many subjects including:

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# REAL ESTATE INVESTMENT SECURITIES ASSOCIATION

## Annual conference provides new approach Tenant-In-Common Assoc. transitions to REISA

As of June 1, 2009, the Tenant-In-Common Association (TICA) transitioned to the Real Estate Investment Securities Association (REISA). REISA reflects a broadened scope to include all real estate securities professionals. These professionals include all those who are involved in sponsoring, managing, distributing and servicing securitized real estate including 1031 exchanges, Regulation D, private non-traded REITs, partnerships, real estate mutual funds, oil and gas, real estate based energy offerings and natural resource offerings.

### REISA Hosts Monthly Webinar Series

This webinar series will include webinars on all product lines and aspects of the real estate securities industry including REITs, notes, funds, debenture programs, tenant-in-common (TIC) and Delaware Statutory Trust (DST) structures and oil and gas programs.

Each webinar is free for REISA members and \$79 for nonmembers. To view the upcoming webinars, go to [www.reisa.org](http://www.reisa.org).

### REISA Annual Conference Provides New

### Approach to Real Estate Securities Industry

REISA will hold its 2009 Annual Conference October 18-20, 2009 at the Bellagio Hotel in Las Vegas. This conference brings together leading real estate securities professionals including sponsors, broker-dealers, registered representatives, registered investment advisors (RIAs), qualified intermediaries, attorneys, CPAs, lenders, mortgage brokers and other industry related professionals.

Over the past year, the industry and the capital markets have changed dramatically. Therefore, this REISA conference will focus on "breaking new ground" in the real estate securities industry. Attendees will have the opportunity to participate in interactive educational sessions and hear industry experts discuss the latest trends and examine strategies for developing new business and increasing profitability in today's market. More than 45 educational sessions will cover current industry topics including practice management strategies, survival strategies for workouts, arbitration and litigation and product design and development strategies for REITs, debt and

equity funds, tenant-in-common transactions (TICs) and Delaware Statutory Trusts (DSTs).

Keynote speakers for this year's conference include motivational speaker Alison Levine and real estate economist Dr. Mark Dotzour. Levine is the team captain of the first American women's Everest expedition and groundbreaking polar adventurer. Beyond her outdoor adventures, Levine spent more than 20 years in the business world including working for investment banking firm Goldman Sachs. She will present a unique perspective on leadership, teamwork, innovation, pushing your personal limits and dealing with a changing environment. Dr. Dotzour is the chief economist and director of research for the real estate center at Texas A&M University. Dotzour will present an outlook for the economy, interest rates, investment climate, real estate space and absorption and property values. Congressman Ed Royce will also be presenting a keynote address on the restructuring of how the government will regulate securities and the capital markets in the future.

To find out more about the conference or register, go to [www.reisa.com](http://www.reisa.com). ■



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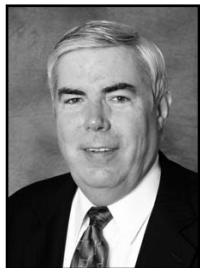
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**Hugh E. Pollard, First American Exchange Co.**

## A message from the president: Celebrating 20th anniversary

The Federation of Exchange Accommodators (FEA) is the only national trade organization formed to represent Qualified Intermediaries, their primary legal and tax advisors, and affiliated companies that are directly involved in Section 1031 Exchanges. In 2009 the FEA celebrates its 20th anniversary.



**Hugh E. Pollard**

The FEA was organized to:

- promote the discussion of ideas and innovations in the industry;
- establish and promote ethical standards of conduct for Qualified Intermediaries;
- offer education to both the exchange industry and the general public; and
- work toward the development of uniformity of practice and terminology within the exchange profession.

In 1991, the U.S. Treasury adopted regulations which govern tax-deferred exchanges under Section 1031 of the Internal Revenue Code. Since the adoption of the regulations, thousands of investors have deferred capital gain taxes on the disposition of their business, investment or income property by utilizing

the services of a professional Qualified Intermediary and FEA member.

The FEA remains committed to actively monitoring the issues affecting the exchange industry. The organization provides its members with timely input and updates on pending State and Federal legislation, Internal Revenue Service and Treasury Rulings, and Court Decisions. The FEA takes an active role in responding to legislative and regulatory actions at both the state and national level. On numerous occasions the FEA has presented commentary to the IRS, House Ways and Means Committee and Senate Finance Committee in connection with legislative proposals under review and consideration by Congress that affect Section 1031 and related tax provisions. The FEA has provided expertise and testimony to many state legislatures and regulatory agencies regarding the licensing and regulation of exchange professionals, including a Model Law for use as a prototype.

In 2002 the FEA started a professional certification program to formally recognize those individuals who have demonstrated, through testing and continuing education, their knowledge of Section 1031 and the rules and regulations pertaining to

like-kind exchanges. To earn the designation of Certified Exchange Specialist a person must have at least three years' of significant exchange experience, pass a rigorous examination, maintain their expertise through continuing education and commit to a Code of Ethics. Currently there are 243 CES® designees serving taxpayers throughout the United States.

To help our members stay informed the FEA holds a Mid-Year and Annual Conference. These conferences present a great opportunity for continuing education, as well as networking with Qualified Intermediaries from across the country. The 2009 Mid-Year will be held in San Diego on May 15-16, while the Annual Conference will be held in Orlando October 2-3. Non-members are always welcome to join us.

For more information about the FEA [www.1031.org](http://www.1031.org) or the CES program [www.1031ces.org](http://www.1031ces.org) please visit these websites.

**Hugh Pollard manages the \$1031 tax-deferred exchange program for the Chicago office of First American Exchange Company. He is the president of the Federation of Exchange Accommodators and serves on its Board of Directors. ■**

## By Susan Umstead, First American Exchange Investors have options to defer capital gains

Property values may be down, but taxpayers are still taking advantage of the capital gains tax deferral through a 1031 exchange. However, not everyone wants to reinvest in real estate, yet they want



**Sue Umstead**

to preserve the ability to defer the capital gains tax to a later time. An installment sale, as contained in section 453 of the Internal Revenue Code, can offer similar benefits in the form of a structured sale.

A 1031 exchange allows the taxpayer to defer the capital gains on the sale of a business use or investment property, as long as another business use or investment property is purchased as replacement. An exchange is usually facilitated by a qualified intermediary and must be set up prior to the closing of the sale. At settlement, the proceeds from the sale are deposited into a segregated deposit account, held by the intermediary for the benefit of the taxpayer, to be used for the purchase of replacement property. The taxpayer will have 180 days from the settlement date to complete the exchange, with the first 45 days as the identification period. This means, within 45 days of the settlement, the taxpayer must identify property(ies) which are being considered as replacement property in the exchange. The taxpayer must purchase one or more of these identified properties within the 180 days in order to complete the exchange.

For the taxpayer wishing to continue investing in real estate, a 1031 is a great tax strategy. In today's real estate market, it may allow a taxpayer to purchase a replacement property they may not have been able to afford a few years ago.

However, what about the taxpayer that does not want to reinvest in real estate and would like to take advantage

of an installment sale without the risk? A structured sale is an improved version of an installment sale, as contained in section 453. It affords the taxpayer the security of a cash sale with the tax benefits of an installment sale. Instead of receiving a lump sum of cash upon the sale of the property, the taxpayer can receive a stream of installment payments spread out to suit their needs.

A structured sale requires only minimal cooperation from the Buyer at the time of the sale. Once the sale is complete, the Buyer is no longer involved. The taxpayer does not have to rely on the financial stability of the Buyer to make the installment payments as the funds in a structured sale are guaranteed by a major life insurance company. This allows the taxpayer to maximize their benefits while receiving a pre-tax guaranteed rate of return on principal.

Structured sales can be used in conjunction with a 1031 exchange, i.e. excess funds that were not reinvested or non-qualifying relinquished property such as inventory or goodwill. This tax strategy can also work as a fall back option in a 1031 exchange where the taxpayer was unable to identify replacement property within 45 days or not able to purchase identified replacement property within 180 days.

Structured Sales and 1031 exchanges enable investors to maximize the value of their portfolio by harnessing the power of tax-deferral. Investors are always encouraged to work their tax and/or legal advisors to determine the best course of action but during these times of economic uncertainty these two strategies can work together or apart to make them perfect alternatives for prudent investors.

**Susan Umstead, CES is vice president/branch manager of Royersford, PA branch of First American Exchange Company (formally 1031 CORP.) ■**

### CALENDAR OF EVENTS

**FEA Annual Conference**

**October 2-3, 2009**

**Disney's Contemporary Resort**

Brochure and details available at [www.1031.org](http://www.1031.org)

# 1031 EXCHANGE

By Donald Deans, CPA/PFS, CFS and William Nicholson, ChFC, Capital Investment Co.

## Checklist: Due diligence on a Q.I. on §1031 under the Internal Revenue Code

As the financial press focuses on Bernard Madoff and other

Ponzi schemes, recent investor losses approaching \$1 billion by the failure of qualified intermediaries have gone relatively unnoticed. Qualified intermediaries, or QIs, facilitate tax-deferred exchanges of like-kind property under section 1031 of the Internal Revenue Code.



Donald Deans

Some QIs have made allegedly imprudent investments in recent years, while others have allegedly siphoned off funds to related parties and are facing criminal charges.

Investor/taxpayers in these cases often not only lose the proceeds from the sale of their exchanged (and not yet replaced) property, but the exchange is deemed to be invalid, triggering a taxable event. Thus, due diligence is necessary before selecting a QI.

Here are some suggested points to include in such an inquiry:

Identify the type of entity in which the QI operates. Check records in the QI's state of incorporation to ensure that it is registered as a corporation in good standing. Any QI operating as an unincorporated entity could expose the transaction to legal problems resulting from personal liability or death of the QI.

Obtain resumes of all owners and management personnel. If necessary, obtain civil and criminal background checks. Consider how long they have been in the industry. Determine if they are members of professional organizations such as the Federation of Exchange Accommodators and whether they are Certified Exchange Specialists.

Determine the range of services the QI offers. Obtain the type, number and dollar volume of exchanges completed over the past three years. Look for a range of types of transactions, indicating breadth of experience.

Obtain copies of the QI's financial statements for the past three years. If the QI is a member of a larger entity, obtain consolidated financial statements. Obtain copies and explanations of the QI's bond agreements, error-and-omissions policy and any other insurance.

Obtain the names of accountants, attorneys and professional advisers on staff or retained as well as banking references. Determine if these advisers are in good standing with their respective regulatory agencies. Verify the bank references.

Obtain a copy of the QI's investment policy statement (IPS). The IPS defines what the qualified intermediary can invest in and how the QI measures risk. Evaluate the diversification, liquidity and safety of the potential investments.

Obtain a fee disclosure for all benefits the QI receives as a result of the relationship with the taxpayer. These include whether referral fees are paid on received funds to company attorneys, real estate agents, CPAs or other professionals.

Verify that the proceeds are

held in separate accounts in highly rated, FDIC-insured banks.

Verify that taxpayers' relationship with a bank is transparent, that they may receive confirmations and view their account balances online. Monthly statements may also come from the QI as well as the bank.

Verify that the QI uses qualified trusts and escrows with independent trustees and escrow holders.

Ensure that the QI requires taxpayer signatures for all withdrawals. This may be a single form from

the exchange agreement or signature on the release for the bank.

This is not an all-inclusive list, but it does highlight some of the best practices of doing business with QIs. Review the answers annually or when there are significant changes for the QI, the industry or state laws.

**Donald Deans, CPA/PFS, CFS, a financial consultant, and William Nicholson, ChFC, an advanced planning specialist, both at Capital Investment Companies in Raleigh, N.C. ■**



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# 1031 EXCHANGE

By Scott Saunders, Asset Preservation, Inc.

## §1031 exchange trends and profitable exchange strategies

**T**op 1031 Exchange Trends in 2009 Investors, real estate pro-

professionals and tax and legal advisors want to know what is going on in today's real estate investment market - place. As everyone knows full well, the real estate market is much more challenging today than it was just a short couple of years ago. The following trends and opportunities are currently taking place in the §1031 exchange and commercial real estate markets:



Scott Saunders

• The credit crunch continues (enough said).

• In spite of financing challenges, well capitalized buyers who can make larger down payments are finding excellent investment purchase opportunities.

• Seller carryback financing under IRC Section 453 is becoming an increasingly popular way for investors to finance the sale and purchase of investment real estate. Note that investors taking advantage of this approach in a §1031 exchange have four options available to ensure tax deferral on the seller financing.

• A foreclosure or short sale may result in taxes on gain that must be recognized. Real estate investors are using creative exchange strategies including "safe harbor" reverse

exchanges, in these situations and using tax deferred dollars to purchase a better perform-

• Some investors are exchanging out of older and inefficient commercial build-

***In many areas, "Green" buildings are in demand due to new mandates that require government entities and many corporations to lease only properties that meet certain environmentally-friendly standards.***

ing replacement property.

• Although the overall volume of §1031 exchange transactions has decreased, the average sales price per exchange is larger. This indicates there is an opportunity for brokers to earn not only a double commission on a §1031 exchange transaction, but a larger commission as well.

• Some exchangers are employing "non-safe harbor" reverse exchanges to purchase replacement property from distressed sellers at below market prices. These exchangers appear to be waiting for market conditions to improve, maybe as long as a year or two, or possibly even longer, before selling their relinquished property. By doing so, these exchangers may obtain the best of both worlds - a favorably priced purchase now in a buyer's market and a sale down the road when inventory and cap rates are at more attractive levels. Due to the complexity of these transactions, the guidance of competent legal and tax advisors is essential.

• Sale-leaseback transactions, which can also be structured as exchanges, are expected to increase as corporations seek other sources of capital from existing assets.

ings and into new "Green" and LEED certified properties. In many areas, "Green" buildings are in demand due to new mandates that require government entities and many corporations to lease only properties that meet certain environmentally-friendly standards. In many cases, new "Green" replacement properties have lower operating costs.

• More commercial investors are interested in the alternative energy sector. As a carry-over from last summer's high fuel prices, solar farms and wind power generation projects are in greater demand and attracting more investors.

• As the first wave of the boomer generation nears retirement this year, fractional ownership continues to be a popular replacement property alternative.

• Based on it's January 14, 2008 response to a "no action" request, it appears that the SEC will view most TIC syndications as securities regardless of attempts to avoid active management and sell these interests through the real estate distribution platform.

**Scott Saunders is senior vice president of Asset Preservation, Inc. ■**

## FEA is a national trade organization formed to rep. QI's

The Federation of Exchange Accommodators (FEA) is the only national trade organization formed to represent qualified intermediaries (QI's), their primary legal/tax advisors and affiliates who are directly involved in Section 1031 Exchanges. Formed in 1989, the FEA was organized to promote the discussion of ideas and innovations in the industry, to establish and promote ethical standards of conduct for QI's, to offer education to both the exchange industry and the general public, and to work toward the development of uniformity of practice and terminology within the exchange profession. The FEA also

provides timely input and updates on pending State and Federal legislation, Internal Revenue Service and Treasury Rulings, and Court Decisions.

In 1991, the U.S. Treasury adopted regulations which govern Section 1031 Exchanges. Since the adoption of the regulations, thousands of investors have deferred capital gain taxes on the disposition of their business, investment or income property by utilizing the services of a professional QI. Members of the FEA represent the companies whose primary business is acting as QIs for Section 1031 Exchanges.

The FEA takes an active role in responding to legisla-

tive and regulatory actions at both the state and national level. The association has repeatedly presented commentary to the IRS, House Ways and Means Committee and Senate Finance Committee in connection with legislative proposals under review and consideration by Congress to amend IRC Section 1031 and related tax provisions. The FEA has provided commentary and testimony to many state legislatures and regulatory agencies regarding the licensing and regulation of exchange professionals. The FEA remains committed to actively monitoring the issues affecting the exchange industry. ■

## By Dwight Kay, Registered Representative Real Estate Funds: A stock mkt. alternative

With the less than desirable performance and income potential of stocks, bonds, and cash over the past year, many of my clients have come to me with an appetite for alternative investments. Many of the Real Estate Sponsors that I work with on behalf of my clients' involved in 1031 exchanges also sponsor Real Estate Funds, which are available for direct cash investments.

Real estate funds are typically offered as securities through private placements and as such are only available to accredited investors who have a net worth of over 1 million dollars. They are offered through a Private Placement Memorandum (PPM) which goes over the details of the real estate sponsor companies background, proposed business plan and hold period for the fund, a description of the assets in the fund, along with the risk factors pertaining to an investment in the fund.

A real estate fund is formed by a real estate sponsor as an investment vehicle for individual investors to participate in institutional real estate projects for a relatively small investment (twenty five or fifty thousand dollars) as compared to the total price of the building(s). The real estate sponsor is typically a real estate company that has

had numerous years in the real estate industry with experience in acquiring, managing, and selling real property. The sponsor typically will focus on one core asset class, such as multifamily apartment buildings, which is their primary area of expertise.

The real estate sponsor company will typically form the real estate fund as a Limited Liability Company (LLC). The sponsors will sell membership units to investors based on a minimum investment amount of usually \$50,000. That investment will provide for the investor a pro-rata portion of his/her share of the potential rental income, potential tax deductions (depreciation and interest write offs), and potential appreciation on the sale of the properties.

The real estate sponsor company, according to the LLC agreement in the PPM, will usually be entitled to a portion of the income and potential appreciation of the properties in the fund. Typically, the sponsors will agree to pay the investors a preferred return of 8%, however preferred returns vary and are set by the sponsor dependant upon the offering. In the aforementioned example, the investors get 100% of any rental income until they receive an annualized return of at least 8%. ■

## Like-Kind exchanges and qualified . . .

**continued from page 8D**  
receive, pledge, borrow or otherwise obtain the benefits of the exchange funds -- thereby avoiding constructive receipt and a failed exchange at the outset. Exchangers should consult legal counsel to ensure that the escrow or trust agreement is carefully drafted to segregate the exchange funds from the assets of the QI and the escrow holder or trustee. If drafted properly, in the event of bankruptcy, the exchange funds should remain the property of the exchanger, and not be considered part of the QI, escrow holder or trustee's bankruptcy estate.

What Next?

Notwithstanding the deteriorating real estate market over the past two years, failures within the QI industry have caused significant financial hardship for many taxpayers. Absent guidance from the IRS (or an affirmative holding by a bankruptcy court), practitioners and exchangers alike will address failed like-kind exchanges

on an ad-hoc basis without certainty as to the federal tax result. The bottom line is to try to safeguard exchange proceeds in new QI exchange agreements against adverse federal tax consequences as well as maximize protection in the event of a bankruptcy proceeding. Stay tuned as we await the governmental response to this continuing issue.

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