

Internal Revenue Code (IRC) Section 1031 Tax Deferred Exchange of Real Estate Procedural Outline

Accruit is a national provider of Qualified Intermediary (QI) services for complex exchanges of real estate property.

Step 1

Contact Accruit to start an exchange and obtain a forward exchange document package:

- **Call: 800-237-1031**
- **E-mail: info@accruit.com**
- **Start an Exchange Now**

Complete all blanks in the Exchange Agreement, the Qualified Escrow Agreement and the W-9 and have them executed by the taxpayer and returned with a driver's license or entity confirmation of good standing.

Step 2

Complete all blanks in the Assignment of Relinquished Property Contract form and have it executed by the taxpayer. The Exchange Agreement together with a copy of the Assignment of Relinquished Property Contract and a copy of the subject contract should be delivered to Accruit.

Step 3

On or before closing, notice of the fact of the assignment must be made in writing to the buyer and all other parties to the contract, including co-sellers, if any. This means that if there are multiple sellers in addition to the taxpayer, they must also receive written notice. There is no requirement in the Regulations for any parties to provide receipt for the notice of assignment however it might be advantageous to request such receipt in the unlikely event of an IRS audit, as a definitive way to prove notice was given. The notice may be done with use of the available form or by a separate letter in a format, which can be provided by our office upon request.

Step 4

At closing, the settlement agent should be directed by the taxpayer to have the taxpayer's net proceeds check made payable to Accruit, under the taxpayer's account number. It is preferred however to have the net proceeds sent via wire transfer using wire transfer instructions provided in the forward exchange document package. Despite the fact of the exchange, the taxpayer should expect to receive a 1099 from the settlement agent, the potential tax effect of sending the 1099 to the IRS will be negated later via a filing of an IRS Form 8842, confirming a successful exchange. If Accruit's fee has not sooner been paid, the closing statement should provide for payment of such fee. If a separate check is not received, Accruit will debit the exchange funds upon receipt of them for the amount of the fee.

Step 5

Within 45 days from the date of transfer of the relinquished property or the old asset, written notice of the identification, or designation, of target property(ies) should be given to Accruit, or to any other non-disqualified person involved in the exchange. For more information on identifying replacement property in a 1031 exchange please read "Rules for Identification and Receipt of Replacement Property in an IRC §1031 Tax Deferred Exchange." Keep in mind, it is relatively simple if the taxpayer identifies three properties or less. If more than three properties are identified and the sum of the market value of all such properties is more than 200% of the market value of the property sold, the taxpayer must be prepared to close on at least 95% in value, of the properties identified. Also, remember, once property is identified within the 45 day period, the only way to terminate the account



early is if there occurs a material and substantial contingency that relates to the exchange, is provided for in writing is beyond the control of the taxpayer or any other disqualified person. Otherwise, the funds have to remain in the exchange account for the full 180 day exchange period. If the expiration of the 45 day exchange period crosses over into a second tax year without any identification or should the 180 day exchange period cross into a second tax year without any acquisition, the taxpayer can choose to report the gain (i) in the year the sale took place or (ii) the year in which the taxpayer received the distribution from the exchange account.

Step 6

Complete all blanks in the Assignment of Replacement Property Contract form and have it executed by the taxpayer. The Assignment of Replacement Property Contract and a copy of the subject contract should be delivered to Accruit.

Step 7

At any time, on or after property is designated, and assigned to Accruit, the taxpayer, or his or her attorney, may submit a written request that earnest money be paid out pursuant to the provisions of the contract. A form is available and included in the package of exchange documents to make disbursement requests.

Step 8

On or before closing, notice of the fact of the assignment must be made in writing to the seller and all other parties to the contract, including co-buyers, if any. This means that if there are multiple buyers in addition to the taxpayer, they must also receive written notice. There is no requirement for any parties to provide receipt for the notice of assignment however it might be helpful to obtain one for your file in the unlikely event of an IRS audit. The notice may be done with use of the available form or by separate letter.

Step 9

At any time prior to closing on the purchase of the replacement property, the taxpayer, or his or her attorney, may submit a signed request that available funds be wired (or a check prepared) to the settlement agent in connection with the purchase.

Step 10

At the beginning of the following tax year, the depository bank where the exchange funds were held in an escrow account will send the taxpayer a 1099 in the amount of interest that accrued on the exchange deposit. This should be reported as income, and the taxpayer should report the exchange transaction on IRS form 8824, together with any other applicable forms.



Contact Us Today!

800-237-1031

info@accruit.com

www.accruit.com



Note: The foregoing suggested procedural outline is made available by Accruit to interested parties and to licensed attorneys and it is intended to be used as a guideline. It is not intended to be relied upon, or viewed in any way, as legal advice, and is furnished for purposes of convenience only. As a qualified intermediary, Accruit is prohibited from providing tax or legal advice. Taxpayers must seek such counsel from their advisors.