1031 EXCHANGE:
REVERSE EXCHANGE PROCEDURAL OUTLINE

Parking Relinquished Property

Accruit is a leading independent, national Qualified Intermediary (QI) and Exchange Accommodation Titleholder (EAT) with over 20 years in the 1031 exchange industry, providing 1031 exchange service across all 50 states and specializing in all types of exchanges from forward, reverse, built-to-suit/improvement to non-safe harbor exchanges. Specialized EAT services are provided by Accruit Exchange Accommodation Services LLC (AEAS).

Step 1:

Taxpayer enters contract for Replacement Property

The taxpayer wants to do a 1031 Exchange, they entered into a contract to purchase the replacement property, however, the corresponding relinquished property cannot be sold by the closing date for the replacement property which will require a Reverse Exchange.

Step 2:

Contact Accruit to start a Reverse 1031 Exchange

Provide all taxpayer information and documentation requested in your Welcome Email via email to the Client Service team member to get exchange initiated. The taxpayer and AEAS, enter into a Reverse Exchange Agreement known as a Qualified Exchange Accommodation Agreement (QEAA) for replacement property whereby a new LLC will be formed to take title on the date of closing to the relinquished property. The LLC is set up with AEAS as its sole member.

Step 3:

EAT agrees to buy the Relinquished Property from the Taxpayer via a Forward Exchange much like any buyer would.

The sale price to the EAT would be the net amount the client would expect to receive from a true third party buyer plus the amount of any mortgage on the property.

Step 4:

EAT receives funds to acquire Relinquished Property

Often the property can be acquired by the EAT subject to any existing debt on the property. The loan documents may have a “due on sale” clause in them. If so, you should talk to your Accruit contact and/or your personal legal representative. If there is underlying debt, actual funds are only needed in an amount to cover the taxpayer’s equity in the property. This loan to fund the EAT’s acquisition of the relinquished property can come from the taxpayer, the taxpayer’s lender or a combination of both. Any loan from an institutional lender is documented with a Note and secured with a Mortgage or Deed of Trust. Any loan from the taxpayer is documented with a Note secured by a Pledge of the Membership Interest in the LLC.

Step 5:

Taxpayer and LLC enter into a Master Lease Agreement

This is intended to shift property upkeep and maintenance from the LLC to the taxpayer as well as to allow the taxpayer to lease the property to any actual tenants and to retain those rents and be responsible for expenses.

Step 6:

Complete the Assignment of Relinquished Property Contract form

Concurrent with the reverse exchange process, the exchange company will prepare and provide customary documents for a forward exchange of the relinquished property for the replacement property. Like any forward exchange documents including an Exchange Agreement and an Assignment of the taxpayer's rights under the QEAA to the QI will be prepared and executed. In this context, the QEAA is the taxpayer's relinquished property sale contract.

Step 7:

Deed prepared for Relinquished Property from Taxpayer to EAT

In most jurisdictions this is considered exempt from transfer taxes as the EAT is acting as the taxpayer's agent and is receiving only its fee and no real consideration. The taxpayer should consult with legal counsel to confirm that this structure is exempt from transfer taxes.

Step 8:

Taxpayer assigns right of Replacement Property purchase to QI

The taxpayer assigns its rights under the contract for the purchase of the replacement property (the QEAA) from the seller and gives written notice of this assignment to the seller and/or any other parties on or before the closing.

Step 9:

Funds Transferred into Exchange Account

The amount lent to the EAT is paid from AEAS' account to fund the taxpayer's forward exchange account with the QI.

Step 10:

Relinquished Property is sold to the EAT and Replacement Property acquired by QI

The exchange is complete at this time, but in order for the reverse exchange transaction to fall within the IRS safe harbor for this kind of transaction, the relinquished property must be sold to a true buyer within 180 days from the date of the sale of the property to the EAT. Note: If the tax filing date falls within the 180 day period, an extension may be filed in order to take advantage of the full 180 days.

Step 11:

Taxpayer finds buyer for Relinquished Property

The taxpayer requests that the EAT sign the purchase and sale agreement as the seller/owner of record. The EAT may require a surety addendum be attached to the contract making it clear to the buyer that the taxpayer, and not the EAT, will bear responsibility for any seller representations and warranties.

Step 12:

Sale of Relinquished Property Closes

The proceeds of the sale are used to retire any debt on the relinquished property as well as any sum having been lent by the taxpayer to the EAT in connection with the EAT's original acquisition of the property. If there are variances between the sale value the taxpayer used to begin the reverse exchange and the actual price at the time of sale to the actual buyer, the applicable amounts between the EAT and taxpayer can be adjusted to match the applicable numbers. Upon closing, the LLC is dissolved by the taxpayer's lawyer.

Accruit

CONTACT US TODAY!

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