Accruit Exchange

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The entire Accruit team is keeping those affected by Hurricane Sandy in our thoughts and prayers. We hope that everyone in Sandy's path was able to safely evacuate and have found somewhere warm to be with family and friends.

President's Pen

Effective Cash Flow Strategies are More Critical Than Ever

Do you believe tax planning is something you do at the end of the year? "We are not going to let a tax strategy determine how we run operations." Really? I don't know one CEO who would opt to sell assets and purposely lose powerful incentives and worsen cash flow. If you are already participating in a 1031 Like-Kind Exchange (LKE) program, then you understand it costs more today to pay taxes than defer them into the future.

Are you wondering if an LKE program makes sense when sales and purchases are not rebounding as much as expected? The answer is a resounding YES!! -- Now more than ever. In these times, working smarter is the only strategy.

Since 2001, leading businesses have implemented Like-Kind Exchange programs. LKE programs continue to flourish even through the economic downturn dating back to 2002 and through five rounds of bonus depreciation. Companies have realized literally tens of millions of increased cash flow as a result of these LKE programs.

Businesses have faced shocking new bank covenants as lines of credit have contracted. Combined with the eminent expiration of bonus depreciation and other factors, effective cash flow strategies are more critical than ever before to become a leader in your market and stay competitive.

Lately, we've heard a lot about "leveling the playing field" in this election cycle. Well, guess what? Adopters of LKE programs have already figured out that waiting for DC to "level the playing field" is not exactly the way to grow your business. Take a minute to read about Reverse Like-Kind Exchanges, Understanding Tax Deferred Exchanges of Real Estate, and our Top 5 List of the Month

Brent Abrahm
President & CEO

In this Issue

Please visit:

our wholly owned subsidiary

Reverse LKEs

By Steve Chacon, CPA, CES

Did you know that selling first is not a requirement for LKE treatment?

At Accruit, the majority of Like-Kind Exchange (LKE) transactions are structured as Forward LKEs. Also known as "delayed" LKEs, the sale of the relinquished / old property occurs first, with the acquisition of the replacement property occurring at a future date. For Exchangers preparing to dispose of existing assets, Forward LKEs are an easy to understand, time tested and well established strategy for increasing operational cash flow.

In some cases, asset owners simply cannot sell their existing property before purchasing a replacement asset. This can be for a variety of reasons, including:

- Downtime considerations.
- Time sensitive project or regulatory requirements.
- Sale price and buyer considerations.

Simply put, when an Exchanger cannot sell first, there's a powerful and proven strategy that allows for the immediate acquisition of the replacement asset. Known as a Reverse LKE, this structure offers increased flexibility over the typical Forward LKE.

About Reverse LKEs

Just like their Forward LKE counterpart, Reverses have a strict set of provisions that must be followed in order to have a successful transaction. Outlined by the Department of Treasury within Revenue Procedure 2000-37, these provisions provide a clear roadmap for the Exchanger to follow.

One especially critical provision is the requirement that the replacement asset's ownership be temporarily placed or "parked" within an Exchange Accommodation Titleholder (EAT) until after the Exchanger sells their existing asset(s). In order to accomplish this, Accruit forms a new limited liability company, the EAT, for the sole purpose of holding ownership of the parked property.

The Benefits

Not unlike a Forward transaction, a Reverse LKE allows for the full deferral of gain recognition, and the related tax liability. Reverses are both powerful and flexible; and with combined (Federal and State) tax rates as high as 40%, a Reverse LKE can help keep that lost capital right where it belongs, working in your business.

The Reverse LKE Process, Step by Step

Step One: The replacement property is parked

- The EAT borrows the funds needed to acquire the replacement property.
- The EAT takes ownership of the replacement property.
- The EAT leases the replacement property to the Exchanger.
- The Exchanger enjoys immediate business use of the replacement property.

Step Two: Identification

- Within 45 days after the transfer of the replacement property to the EAT, the Exchanger identifies the potential relinquished property.

Step Three: Relinquished property is sold and transferred

- The relinquished property is sold to a buyer within 180 days of the EAT's replacement property acquisition.
- The proceeds from the sale of the relinquished property are transferred directly to Accruit

Step Four: The Exchanger purchases the replacement property from the EAT

- The Exchanger acquires the replacement property from the EAT within 180 days of the EAT's acquisition of the replacement property.
- All proceeds from the sale of the relinquished property are applied toward the EAT's debt (incurred at Step 1 above).

Frequently Asked Questions About Reverse Exchanges

1. ***Will Accruit or the EAT use its own cash to acquire the parked asset?***
   No. In following the Revenue Procedure's provisions, the EAT will borrow the funds needed to acquire the asset from the Exchanger and / or a lender of the Exchanger's choosing. The EAT will repay the loan at the time the parked property is transferred to the Exchanger.
2. ***Can I use the property while it is parked with the EAT?***
   Yes. The EAT leases the parked property to you. You are permitted to use the property and are entitled to any income generated.

3. ***Who is responsible for insuring the property while it is held by the EAT?***

   The Exchanger is required to insure the property while it is parked with the EAT. The EAT must be added as an additional insured on the Exchanger's insurance policy.

4. ***Who is responsible for the costs associated with owning the parked property?***

   The Exchanger is responsible for all costs (taxes, maintenance, etc.) associated with owning the property.

5. ***Has the Internal Revenue Service (IRS) issued any guidance in the area of Reverse LKEs?***

   Yes. Reverse Procedure 200-37 describes certain provisions for Exchangers engaging in Reverse LKEs.

6. ***What happens if I cannot find a buyer for my relinquished property by the 180th day?***

   The parked property wil be transferred from the EAT to you. When the relinquished property is eventually sold, another replacement property must be selected. Or, you may simply trigger gain and pay the tax related to the disposition.

7. ***How much does a Reverse LKE cost?***

   The cost is variable. The EAT will charge a fee for parking the asset. The amount of this fee depends on the risk and complexity of the parking transaction. In addition, Accruit will charge a qualified intermediary fee upon sale of the relinquished property to facilitate the exchange. An Accruit representative can review your specific situation and answer this question in greater detail.

For more information on Reverse Like-Kind Exchanges, call Steve Chacon at (303) 865-7316

North Star Deferred Exchange LLC

Understanding Tax Deferred Exchanges of Real Estate: Part I

By Martin S. Edwards, Vice President & General Counsel

The concept of tax-deferred exchanges is quite simple: If one trades property for like-kind property and does not receive any cash or other non-like-kind property, then no gain has been recognized, and there are no immediate tax consequences. While the basis in the replacement property is affected, any gain is deferred until the eventual sale of the replacement property. Subsequent exchanges can continue to defer additional gain. Tax-deferred or Like-Kind Exchanges (LKE) of real estate and personal property have been recognized by the I.R.C. since the 1920's, however it was not until a landmark legal decision came out in the early 1980's that marked the advent of exchanging today.

It was not until the landmark decision in the case of Starker v. U.S. (602F.2d 1341 (9th Cir. 1979)) that an exchange became practical for everyday transactions. As a result of the Starker decision, it became possible to accomplish a valid exchange on a non-simultaneous basis and to effectively trade with a person other then the taxpayer's buyer. Prior to that time, to accomplish an exchange, a taxpayer had to locate a replacement property in advance and prepare to close the sale of the primary property and replacement property as part of a single complicated escrow.

The I.R.C. § 1031 rules apply only to like-kind exchanges of property "held for productive use in trade or business or for investment." Owner-occupied residential property, vacation homes and property held as inventory for sale do not qualify. Also excluded are stocks, bonds, securities, partnership interests, and certificates of trust or beneficial interest. IN the case of real estate exchanges, the like-kind standard is usually easy to satisfy. Generally, any type of real property interest is like-kind to any other type of real property. The properties do not have to be of the same nature. For example, a single-family home held as rental property could be exchanged for a vacant parcel of land purchased as an investment. Similarly, a leasehold interest of 30 or more years could be exchanged for a strip shopping center, and the sale of a fee interest in real estate can be exchanged for a purchaser's interest under an installment agreement for deed. Even the transfer of a fee interest in real estate is like-kind to certain non-fee interests in real estate such as long-term leases, purchases under an installment agreement, easements and water rights.

Look for Part II of this article in our next newsletter, which will address the identification of replacement property

Top 5 List of the Month

Top 5 All-Time Winning Percentages for Current NFL Franchises*

1.	Chicago Bears	57.3%
2.	Miami Dolphins	56.7%
3.	Green Bay Packers	56.5%
4.	San Francisco 49ers	55.3%
5.	Baltimore Ravens	55.1%

*Source: http://www.profootballhof.com - Start of 2012 Season

Accruit in Action

We've had a very busy quarter attending industry conferences and events:

- American Trucking Association (ATA): Bob Costello, ATA's Chief Economist & VP highlighted Accruit and PwC, during their Economic & Trucking Industry Update webinar.
- Associated Equipment Distributors (AED) Executive Forum.
- Equipment Leasing & Finance Association (ELFA) Lease Accountants/Operations & Tech Conference.
- Automotive Fleet & Leasing Association (AFLA).
- CAT Regional / National CFO Conference: Dave Fowler, Managing Partner at PwC was invited to speak about Like-Kind Exchanges and give a general tax update.
- Federation of Exchange Accommodators (FEA) Annual Conference.
- American Trucking Association (ATA) Annual Conference.
- Avis Rent A Car Franchisee Conference.
- Equipment Leasing & Finance Association (ELFA) Annual Conference.
- Auto Rental News Car Rental Summit.

Look for Accruit at these upcoming events:

- AssetNation 1st Annual Tubulars Conference November 7
- Associated Equipment Distributors (AED) Annual Summit January 15-17