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Completing Your §1031 Exchange

You have just negotiated a sale of your business or investment property. You want to defer capital gain taxes by entering into a §1031 exchange. How should you proceed?

1. Consult with your CPA, financial planner, or other advisor to determine if you would qualify and benefit from a §1031 exchange.

Disposing of Your Relinquished Property

2. Instruct your real estate agent or attorney to insert a clause into the Purchase and Sale Contract requiring the buyer to cooperate with the exchange process.
3. Inform your title company escrow officer or closing professional that you will be engaging in a §1031 exchange.
4. Contact Rocky Mountain Land 1031 Exchange Company, LLC (“Rocky Mountain”), a Qualified Intermediary, to open your exchange. Provide Rocky Mountain with the following information:
 - a. Your name(s) as it appears on the title of the property, address, telephone and fax numbers, e-mail address and taxpayer(s) tax identification number(s);
 - b. Sales price of the property and basis of the property (have your accountant confirm);
 - c. Amount of third-party debt or seller carry-back financing;
 - d. Title company escrow or closing agent’s or attorney’s name, telephone and fax numbers, e-mail address and file number;
 - e. Copy of the Contract to Buy and Sell Real Estate;
 - f. Copy of the Preliminary Title Report or Commitment for Title Insurance;
 - g. Copy of the Escrow Instructions (if available).
5. Execute an Agreement of Exchange of Real Property with Rocky Mountain.
6. At Closing, Execute an Assignment, Acceptance and Notice Agreement transferring your rights under the Contract to Buy and Sell Real Estate and the Escrow Instructions to Rocky Mountain and notifying all parties to the transaction of the assignment.
7. Execute a Qualified Exchange Escrow Account Agreement with Rocky Mountain. This segregated Qualified Exchange Escrow Account safeguards your exchange funds from any liens from our creditors.
8. Inform Rocky Mountain of the progress of your transaction. At the closing, your escrow or closing agent will disburse any net equity from the relinquished property to your segregated Qualified Exchange Escrow Account. If you wish to receive sales proceeds from the sale of your relinquished property, you must make such determination prior to the closing of your relinquished property in order for the closing agent to make a sales proceeds payment to you before delivery of the net proceeds to us. **We may only utilize such funds for the acquisition of your Replacement Property(s), including improvements.** Rocky Mountain will notify you in writing when we receive your exchange

proceeds. Rocky Mountain will deposit your funds in a segregated Qualified Exchange Escrow Account.

Identifying Potential Replacement Property

9. Mail, fax or hand deliver a signed description of your identified properties on the 45 Day Identification of Replacement Property form to Rocky Mountain within 45 calendar days after the transfer of the title of your relinquished property. When identifying your replacement property, you must comply with one of two identification rules:

3-Property Identification Rule:

You may identify up to 3 potential replacement properties without regard to value. Or

200%-Property Identification Rule

You may identify more than 3 potential replacement properties as long as the total fair market value of your identified properties does not exceed 200% of the fair market value of your relinquished property.

If the fair market value of your identified properties exceeds the 200% rule, then you must purchase 95% of the aggregate fair market value of your identified properties (excluding any revoked identified properties). You may revoke a property identification at any time during the 45-calendar-day period and identify new potential replacement properties. New identifications and revocations must be in writing. Any property that is acquired during the 45-calendar-day period is considered to have been identified.

It is important to fully understand the ramifications of not properly identifying a property (with adequate legal description) within the 45-day period. If no such identification is made, your 1031 exchange will terminate requiring you to pay capital gains tax on your relinquished property sale.

It is equally important to understand that if you do identify a property, or properties, during the 45 day period, and you choose to not close on the property, or properties, after the 45 day period but before the end of the 180 day exchange period (i.e. utilize ALL exchange proceeds), Rocky Mountain is required under the IRS rules to hold the exchange proceeds until AFTER the 180 day period, regardless if you have not closed on the property, or properties. See "Receiving Your Exchange Proceeds" for related information below.

Acquiring Your Replacement Property

10. Select and close on one or more of your identified replacement properties on or before the earlier of the following dates: a) 180 calendar days after the transfer of the title of your first relinquished property; or b) the due date of the tax return (including filing extensions) for the year in which your relinquished property closes. *Thus, if your replacement property will be purchased October 15 or after in a calendar year, it is important that your accountant file an extension for your following year tax return (from April 15 to October 15) in order to meet this IRS rule.*

11. Defer all capital gain on your transaction by purchasing property that is equal to or greater in value than your relinquished property; reinvest all of the net equity from your relinquished property in the replacement property; and acquire debt on the replacement property (or pay in additional cash in lieu thereof) that is equal to or greater than the debt on your relinquished property. You may also complete a partial exchange. You will incur tax liability on the non-qualifying portion.
12. Instruct your real estate agent or attorney to insert a clause into the Purchase and Sale Contract, requiring the seller to cooperate with the exchange.
13. Contact your title company escrow agent or other closing professional to arrange for the closing of your replacement property.
14. Inform your exchange administrator at Rocky Mountain that you are closing on your replacement property. Provide Rocky Mountain with your closing information and return a signed Settlement Agent Designation Form to Rocky Mountain.
15. Execute an Assignment, Acceptance and Notice Agreement transferring your rights under the Contract to Buy and Sell Real Estate and the Escrow Instructions to Rocky Mountain and notifying all parties to the transaction of the assignment. **Note that the replacement property must be purchased in the same name(s) and title as designated on the relinquished property sale and conveyance.**
16. Keep in close contact with your exchange administrator at Rocky Mountain until the replacement property closes and the funds are wired. The exchange administrator will disburse the net equity from your relinquished property to the escrow or closing agent's account. The escrow or closing agent will disburse funds to the seller, who will transfer the title directly to you, the buyer.

Receiving Your Exchange Funds

You may have access to your exchange funds when you have met one of the following conditions:

- You have purchased all of your replacement property and your identification period has elapsed; or
- You have failed to identify any replacement property within the 45-calendar-day period; or
- Your 180-calendar-day exchange period has expired; or
- A material and substantial contingency has occurred after the end of the identification period that: 1) relates to the exchange; 2) is provided for in writing; 3) is beyond the control of you or a disqualified person, and 4) by providing a written professional opinion to Rocky Mountain that such disbursement is permissible pursuant to the Internal Revenue Code.

The Internal Revenue Service requires Rocky Mountain to strictly adhere to the above criteria.

§1031 Exchanges are complex transactions. Always confer with your tax or legal advisor before entering into a §1031 Exchange.