

Closing 1031 Exchanges

Issues for Closing/Escrow Officers and Closing Attorneys

1031

Knowledge



Handling the closing of a 1031 tax-deferred exchange is almost as straightforward as closing a typical taxable sale. The main difference is the documentation provided by the qualified intermediary (QI) and the closing officer making changes to the settlement statements and other documents to reflect the QI as selling the relinquished property and purchasing the replacement property. The exchange documents provided by the QI are critical to a successful 1031 exchange and must be executed prior to the relinquished property closing.

QUALIFIED INTERMEDIARY DOCUMENTS

After providing the QI with the information needed to initiate a new exchange, which typically includes the purchase and sale agreement, title commitment, and contact information for the taxpayer who is exchanging and the closing office's contact information, the QI will forward the following exchange documents to the closing officer:

1. Exchange Agreement (to be signed by the taxpayer)
2. Assignment Agreement (to be signed by the taxpayer)
3. Notice of Assignment (to be signed by the taxpayer and buyer)
4. Exchange Account Documents (to be signed by the taxpayer)
5. Closing Instructions for the Closing Officer

CLOSING DOCUMENTS/STATEMENTS

To properly reflect a 1031 exchange, the closing officer will make some minor revisions to the standard settlement documents:

- A. The QI should be shown as the seller on the Seller's Settlement Statement. For example, show the seller as "Asset Preservation, Inc., as qualified intermediary for (name of taxpayer inserted here)." Other documents which are common to the area (such as Escrow Instructions in some states) should also show the QI as the seller.
- B. Have the taxpayer "Read and Approve" all documents and statements prior to having the QI execute as the seller.
- C. Prepare the 1099S Form in the name of the taxpayer. Check Box #4 on the form which indicates that other property will be received as part of the consideration.

PREPARING THE DEEDS

Prepare the deed directly from the taxpayer to the Buyer.

Compliments of:



HQ 800.282.1031 | NY 866.394.1031
apiexchange.com | info@apiexchange.com

Asset Preservation, Inc. (API) is a qualified intermediary as defined in the regulations under Internal Revenue Code §1031. Neither API, its officers or employees are authorized or permitted under applicable laws to provide tax or legal advice to any client or prospective client of API. The tax related information contained herein or in any other communication that you may have with a representative of API should not be construed as tax or legal advice specific to your situation and should not be relied upon in making any business, legal or tax related decision. A proper evaluation of the benefits and risks associated with a particular transaction or tax return position often requires advice from a competent tax and/or legal advisor familiar with your specific transaction, objectives and the relevant facts. We strongly urge you to involve your tax and/or legal advisor (or to seek such advice) in any significant real estate or business related transaction. © 2019 Asset Preservation, Inc. All rights reserved.