Tenant-In-Common

Exploring Tenant-In-Common Ownership Programs

1031 Knowledge

THE CHALLENGE

Some taxpayers hesitate to perform a 1031 exchange because the requirement to identify all replacement properties by the 45th day can be challenging to fulfill. In addition, sometimes taxpayers find it difficult to locate a second replacement property of exactly the right equity/value needed for a fully deferred 1031 exchange.

A SOLUTION - TIC PROPERTY

A potential solution is to acquire a fractional ownership interest in a property sold by a securities sponsor. These types of fractional ownership are more commonly referred to as Delaware Statutory Trust (DST) or Tenant-in-Common (TIC) ownership and represent that the taxpayer is acquiring a fractional ownership interest in a commercial property with other taxpayers. A DST or TIC fractional ownership interest represents co-ownership between two or more taxpayers and often involves many co-owners. In essence, rather than owning 100% of a smaller property, the taxpayer receives a fractional interest in a much larger property. A properly structured DST or TIC is not a joint venture or a partnership. Instead, each co-owner has the same rights as would a single owner. Generally, a management agreement or operating agreement links the co-owners together. Most TIC properties provide credit-worthy tenants and steady monthly income.

Some taxpayers choose to consider a DST or TIC fractional ownership because they can enjoy the benefits of appreciation, cash flow, annual depreciation and flexibility with few management responsibilities. In many cases, a DST or TIC ownership program provides the flexibility for a taxpayer to specify the exact percentage of property that must be purchased to meet their specific exchange requirements.

POSSIBLE BENEFITS OF DST OR TIC OWNERSHIP

- Geographic Diversification
- Excellent Value
- Financial Diversification
- Liquidity
- Professional Management
- Economic Diversification
- Existing Financing
- Flexibility
- Low Minimum Investment
- Predictable Performance

POTENTIAL RISKS OF DST OR TIC FRACTIONAL OWNERSHIP

Great care should be taken so that the DST or TIC arrangement is not considered a joint venture or partnership. A partnership interest is specifically excluded from tax deferral treatment under Section 1031. An investor considering any DST or TIC fractional ownership program should have their tax/legal advisors thoroughly review the proposed ownership arrangement to assess whether or not the structure will likely meet the requirements of Section 1031. In addition, the fractional ownership investment itself, which is generally outlined in a Private Placement Memorandum (PPM), should be studied to assess the specific fractional ownership offering. And, finally, the sponsor backing the DST or TIC should be evaluated according to their track record, experience, finances, and other issues.

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