



Exchange News

Realty Exchange Corporation

Your nationwide Qualified Intermediary since 1990 for tax deferred exchange of real estate.

Happy Holidays and a Prosperous New Year. We want to thank everyone for their support and business this past year. We hope that you and your loved ones will have a healthy, happy and prosperous New Year.

Schedule for Outer Banks Seminars. We will be presenting our four hour continuing education seminar *How To Do a 1031 Tax Free Exchange* at the Ramada Inn Conference Center in Kill Devil Hills.

The schedule is:

Wednesday, January 14th

Thursday, February 19th

Thursday, March 18th

Thursday, April 29th

Thursday, May 20th

Registration is at 8:30 AM, and the seminar is from 9 AM to 1 PM. The fee is only \$35.

Tuition may be paid at registration the day of the seminar. For advance registration call 1-800-795-0769. The seminar is approved by the North Carolina Real Estate Commission for four hours of elective course credit. The seminar is also approved by the North Carolina State Bar Board of Continuing Legal Education for 3.5 hours to satisfy the general requirement.

For more details visit our web site at www.1031.us. Additional seminars are being scheduled for Maryland, Delaware and Virginia.

Nonresident New York State Tax Withholding. New York State has revised and simplified its earlier procedures for nonresident individual, trust or estate sellers and exchangers to claim an exemption from the payment of estimated income tax on the gain from the sale of their real estate. Previously a nonresident exchanger had to file Form IT-2663 with the NYS Department of Taxation and Finance to get a tax exemption certificate prior to settlement. Otherwise they had to pay in advance the estimated capital gains tax, or the deed for the property could not be recorded. Now the exchanger only needs to complete revised Form IT-2663, *Nonresident Real Property Estimated Income Tax Payment Form*. On the Form the exchanger provides a brief summary of the exchange indicating that the transaction qualifies as an IRC Section 1031 Like Kind Exchange. The Form IT-2663 is filed with the County recording officer following settlement.

If the nonresident owner qualifies on the sale of the property for a Federal principal residence exclusion then New York will exempt the paying of the estimated income tax if the nonresident owner submits a signed copy of Part II, Schedule D, Form TP-584. The Forms TP-584 and IT-2663, along with the instructions are available at www.nystax.gov.

Tax Relief for Military and Foreign Service Homeowners. Since 1997 the law has permitted homeowners to exclude profits on the sale of their principal residence if they have owned and lived in the property an aggregate of 2 years over the last 5 years. There was no exception for foreign service or military personnel. On Veteran's Day the President signed H.R. 3365, the "Military Tax Relief Act of 2003" to provide special rules for members of the military and Foreign Service. The bill amends IRC Section 121 to suspend for a maximum of ten years the running of the five year period while the taxpayer or their spouse is "serving on qualified official extended duty as a member of the uniformed services or

the Foreign Service". The term 'qualified official extended duty' means "any extended duty while serving at a duty station which is at least 50 miles from such property or while residing under Government orders in Government quarters". The term 'extended duty' means any period of active duty for a period in excess of 90 days or for an indefinite period. Foreign Service and military personnel qualify for the exclusion of profits on their sale if they have owned and lived in the property for a period of two years over the last five years plus the period suspended while on "qualified extended official duty".

The change is retroactive to 1997. If a military or foreign service tax payer has paid the capital gains tax because they did not previously qualify they may file an amended return on IRS Form 1040X to obtain a refund. Even if the time period for filing an amended return for the year the tax was paid has passed, the new law permits a claim to be submitted regardless for a one year period ending November 10, 2004. Affected military or foreign service personnel should contact their tax advisor as soon as possible and read the IRS News Release IR-2003-134 available at www.irs.gov/newsroom/index.html.

Related Party Exchanges. Over the past couple of years exchangors have been advised to not purchase their replacement property from a related party. Now it has been determined that if the related party seller is **not cashing out** (that is, they are also doing an exchange) then the restriction in IRC Section 1031(f)(1) is not a concern. The restriction remains that both related parties must hold their replacement property for a period of two years.

Need for Filing Tax Return Extension. Exchangors must complete their exchange within 180 days after transfer of their first relinquished, or their tax due date (including extensions) whichever is earlier. Thus, those exchangors who closed on their relinquished property after October 18, 2003, will need to file an **on time** extension for filing of their 2003 federal tax return if they will close on their replacement property after the 2003 tax due date (April 15, 2004 for individuals). Until an exchangor completes the exchange they may not file their 2003 return – thus the possible need for an extension.

Welcome to New Staff Members. We would like to welcome the two newest members of our team. Lisa Groholski, Exchange Coordinator, comes to us with a background as a New Homes Settlement Coordinator and has worked as Administrative Assistant to several builders in the Northern Virginia area. Elaine Yankey has also joined us as an Exchange Coordinator. Elaine has an extensive background in real estate. She has worked as a settlement officer, loan administrator and legal secretary for settlement attorneys.

Change of Mailing Address. This newsletter was sent to you first class so that the post office can help us update our mailing list. If you move please email or call us with your new mailing address.

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