



ALASKA EXCHANGE CORPORATION

Professional Intermediary for IRC Section 1031 Tax Deferred Property Exchanges

REVERSE EXCHANGES (Revenue Procedure 2000-37)

The reverse exchange provides greater flexibility in the exchange process of real estate investment. The IRS issued Revenue Procedure 2000-37 which is a “safe harbor” ruling outlining an approved format for acquiring the replacement property **prior** to the sale of the relinquished property. The advantage of being able to acquire property **immediately** and selling at a later date, appeals to many investors and exchangors. Also, taxpayers have fallen into situations beyond their control where they need to close and take title to the new property before the sale of the old property occurs.

With these circumstances, the exchangor’s best alternative is to do a “reverse exchange”. The qualified intermediary may take title to either the old or the new property (whichever situation is most appropriate to the exchange) and hold, or “park” it until the sale of the old property occurs. The intermediary then transfers the new property to the exchangor (or transfers title to the old property to the new buyer), in completion of the exchange. These parking arrangements are the subject of the new ruling.

The basic provisions of the ruling are as follows:

1. The accommodation owner or titleholder cannot be the taxpayer or a disqualified person. A disqualified person includes the usual suspects: family members, related corporations, partnerships, etc. The party holding the parked property most generally will be the qualified intermediary.
2. There must be proof of intent for the parked property to be part of the exchange.
3. The exchangor and the qualified intermediary need to enter into written contract in the form of a “Qualified Exchange Accommodation Agreement”. This states that the exchangor intends to meet the requirements of both Section 1031 and Revenue Procedure 2000-37. The qualified intermediary must file a tax return reporting ownership and sale of the property held.
4. Within 45 days after the transfer of the property’s ownership to the accommodation titleholder, the property to be relinquished (exchangor’s original property) must be identified, including any additional replacement properties desired.
5. The reverse exchange must be completed within the 180 day exchange period as usual.

This ruling also clarifies that the exchangor may advance funds, and guarantee debt made on the acquisition property. The exchangor may also manage; supervise improvements and construction on the property. Issuance of Revenue Procedure 2000-37 with these requirements have taken the guess work out of the reverse exchange and given the exchangor a valuable tool for real estate investing.

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