

# 1031 EXCHANGE INSIGHTS

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## Our Newsletter is Going Electronic!

Starting in June 2006, this newsletter will be sent out electronically. Would you like to continue to receive these newsletters electronically?

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Stephen L. Robison, J.D., LL.M.,  
Business and Taxation

## Qualified Intermediary may be used for Related Party Transfers where neither party cashes out their investment.

A Related Party Exchange is a Section 1031 exchange where the purchaser and seller are considered related to each other due to close legal, business or family relationships. Many times clients may wish to acquire or sell to related parties. It is very important that the Qualified Intermediary handling your 1031 exchange not only be an expert, but also back up their services with a service guarantee. Most clients do not realize that most Qualified Intermediaries disclaim all responsibility in their agreements, including their own errors.

Since the publication of Revenue Ruling 2002-83, there was some issue whether a related party transaction required both parties to enter into an exchange. I was discussing this very issue with a client a couple of days ago.

PLR 200616005 confirms that where neither related party to the exchange cashes out their investment, that the exchange of like-kind properties between two related parties via a qualified intermediary results in nonrecognition treatment under Code Sec. 1031 for each if they hold their respective replacement properties for 2 years.

In Revenue Rule 2002-83, one related party exchanged property with another, who in turn, received cash from an unrelated party for it. The transaction was structured to allow the related parties to, in effect, sell the property transferred to the third party and receive cash, while minimizing their gain by first transferring it to the related party with a higher basis.

In Private Letter Ruling 200616005, related parties wanted to swap their properties and acquire additional properties from other unrelated parties for cash.

Both the Trust and the S Corp agree that they will not dispose of their respective replacement property within 2 years of the receipt of the replacement property. The IRS ruled that neither Trust nor S Corp will recognize any gain realized on their exchange of property if they don't dispose of their respective replacement property (Trust's Building 2, S Corp's Building 3) within 2 years of its receipt.

Nonrecognition is permitted because the exchange is not part of a transaction, or series of transactions, structured to avoid the purposes of Code Section 1031(f) and neither party is cashing out of their investment in real estate.

**Rely on Strategic Property Exchanges, LLC to guide you through Section 1031 exchanges with confidence. We back up our exchanges with a tax opinion that protects you from any errors.**

Providing tax advice on  
like kind exchanges.

Strategic Property Exchanges,  
LLC serves as Qualified  
Intermediary on  
Section 1031 Exchanges,  
including forward, reverse,  
and parking arrangements.

For more information:

Phone: 513-412-3483

Fax: 513-412-3482

Email:

[steve@robisontaxlaw.com](mailto:steve@robisontaxlaw.com)

Visit our website at:

[www.likekindexchangeservices.com](http://www.likekindexchangeservices.com)

Located at:

4500 Cooper Road, Suite 305

Cincinnati, OH 45242

**Call Strategic Property Exchanges, LLC today to see if we can help you with your real estate valuation.**