

What is a Qualified Intermediary?

Understanding the Role of a Qualified Intermediary

1031

Knowledge



In most circumstances, the use of a qualified intermediary is required to successfully complete an IRC Section 1031 tax-deferred exchange. Treasury Regulation §1031.1031(k)-1(g)(4)(iii) refers to the entity that facilitates a 1031 exchange as a qualified intermediary. A qualified intermediary is sometimes referred to as an accommodator, facilitator, intermediary or QI, which it defines as follows:

- 1) A Qualified Intermediary ("QI") is a person who:
 - *Is not the taxpayer or a disqualified person;*
- 2) Enters into a written agreement with the taxpayer (the exchange agreement) under which the qualified intermediary:
 - *Acquires the relinquished property from the taxpayer;*
 - *Transfers the relinquished property to the buyer;*
 - *Acquires the replacement property from the seller;*
 - *Transfers the replacement property to the taxpayer.*
- 3) The exchange agreement must expressly limit the taxpayer's rights to receive, pledge, borrow, or otherwise obtain benefits of money or other property held by the qualified intermediary. (See Treasury Regulations §1031.1031(k)-1(g)(4)(i).)

The use of an experienced qualified intermediary can significantly reduce the complexity of an exchange by assuring the proper execution of required documentation. The qualified intermediary industry is not regulated nationally. Consequently, the careful selection of the qualified intermediary is essential to ensure the highest level of expertise and security of funds. The qualified intermediary national trade association is known as the Federation of Exchange Accommodators (FEA; 1031.org).

Asset Preservation, Inc. (API) provides qualified intermediary services in conformity with the Internal Revenue Code and Treasury Regulations. API:

- Coordinates with the taxpayer's attorney and/or tax advisor and provides exchange transaction documentation as needed so that the 1031 exchange rules and regulations are thoroughly understood;
- Prepares the necessary exchange documentation which includes exchange agreement, assignment agreements, notice of assignment, exchange account forms, security of funds instruments (when applicable) and instructions to the closing officers. Further, API oversees each closing to assist in proper 1031 exchange procedures;
- Facilitates the sale of the relinquished property to the buyer and the purchase of the replacement property from the seller;
- Holds and protects exchange proceeds on behalf of the taxpayer until exchange funds are needed to purchase the replacement property;
- Provides guidance, information and critical timelines throughout the entire 1031 exchange process.

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