



1031 Exchange Advanced Strategies

Presented by:



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Asset Exchange Company

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Member of the Federation of Exchange Accommodators



Errors and Omissions Insurance and Fidelity Bond through Lockton Insurance Brokers

Department of Consumer Affairs
California Board of Accountancy

Member of the CA Board of Accountancy



Member of the State Bar of California

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Galaxy Office Park, Concord CA

- \$42,000,000 Sale Price
- 3 LLC owners, with multiple LLC members
- \$11MM in unsecured debt
- Buyers and sellers decided to prorate the sales price in different manners between 3 parcels



Sandy Springs Apartments, Atlanta GA

- \$26,000,000 Sale Price
- 27 individual TIC owners
- Each individual owner conducting separate exchange



31071 Carrara Rd., Laguna Niguel CA

- \$580,000 Sale Price
- Husband and wife owners

Tax Rates & Changes

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- | | |
|--------------------------------------|------------------|
| 1. State Capital Gains Tax: | 9.3% (CA) |
| 2. Federal Capital Gains Tax: | 15% |
| 3. Depreciation Recapture: | 25% |

Please Note:

- **In 2013, 3.8% Medicare tax** on all income from interest, dividends, annuities, royalties, capital gains and rents for individuals who earn more than \$200,000 annually and joint filers reporting more than \$250,000.
- **Depreciation Recapture Tax** - Accumulated Section 1250 Depreciation (straight-line depreciation) is taxed at 25%. Excess depreciation is taxed at ordinary income rates (up to 35% federal)

Gain Calculation

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Gain Calculation:

Sale Price	\$1,000,000
(Adjusted Basis)	(\$425,000)
<u>Gain</u>	<u>\$575,000</u>

Adjusted Basis

Purchase Price	\$500,000
(Depreciation)	\$100,000
+Capital Improvements	\$25,000
<u>Adjusted Basis</u>	<u>\$425,000</u>

Facts:

\$500,000 purchase price
\$100,000 depreciation
\$25,000 capital improvements
\$1,000,000 sales price

Taxes:

25% Dep. Recapture

$$\$100,000 \times 25\% = \$25,000$$

15% Fed. Cap Gains

$$\$475,000 \times 15\% = \$71,250$$

9.3% State Cap Gains

$$\$575,000 \times 9.3\% = \$53,475$$

Total Taxes Due: \$149,725

Tax Advantages - Selling

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IRC Section 1031?

- Investment Real Estate
- Tax Deferral

IRC Section 121?

- Primary Residence
- Tax Avoidance
 - \$250K single
 - \$500K married

1031 Guidelines

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Basic Requirements

- Property Qualifications
- Tax Deferral Requirements
- Timeline
- Identification Rules

Guideline #1

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➤ **Property Qualifications**

- Held for productive use in trade or business or for investment.
- Like kind
 - Foreign property is NOT like kind



Guideline #2

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➤ **Tax Deferral Requirements**

- Reinvest all cash.
- Purchase price equal to or greater than replacement property sale value.



Guideline #3

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➤ **Timeline**

- 180 days
- 45 day identification period.



Guideline #4

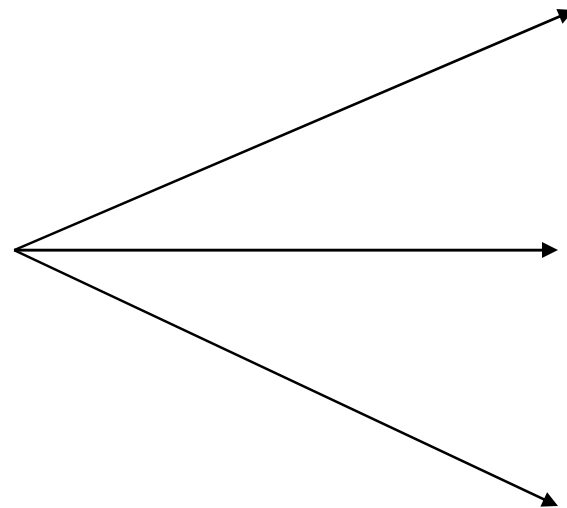
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- **Identification**
 - 3 Property Rule
 - 200% Rule

Guideline #4

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➤ 3 Property Rule



Guideline #4

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➤ 200% Property Rule

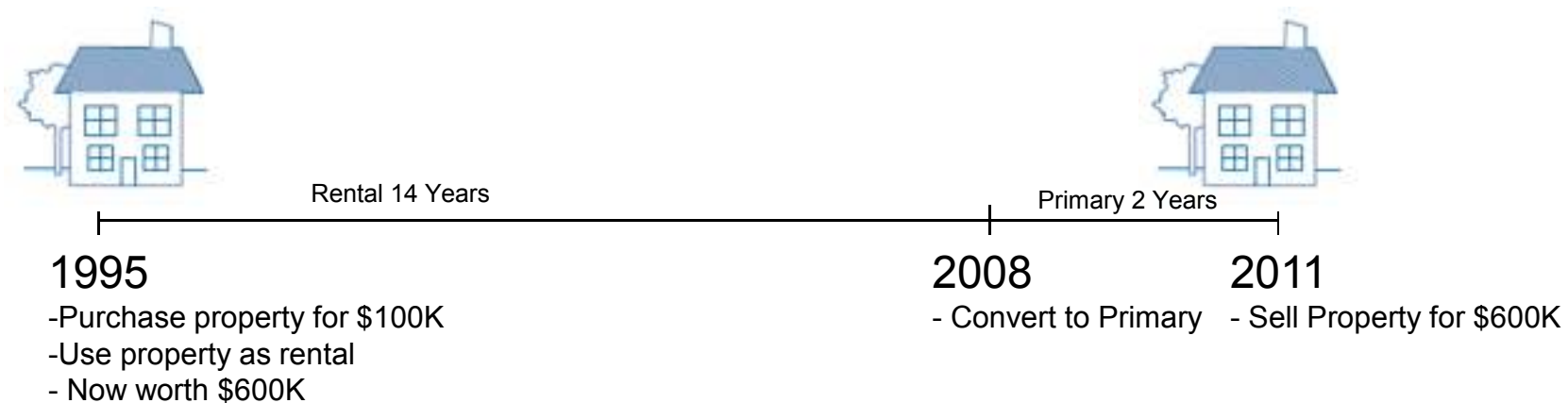


200%

Using 121 & 1031 Together

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Rental to Primary - Conversion Prior to 2009



Tax Implication: \$0.00

Facts:

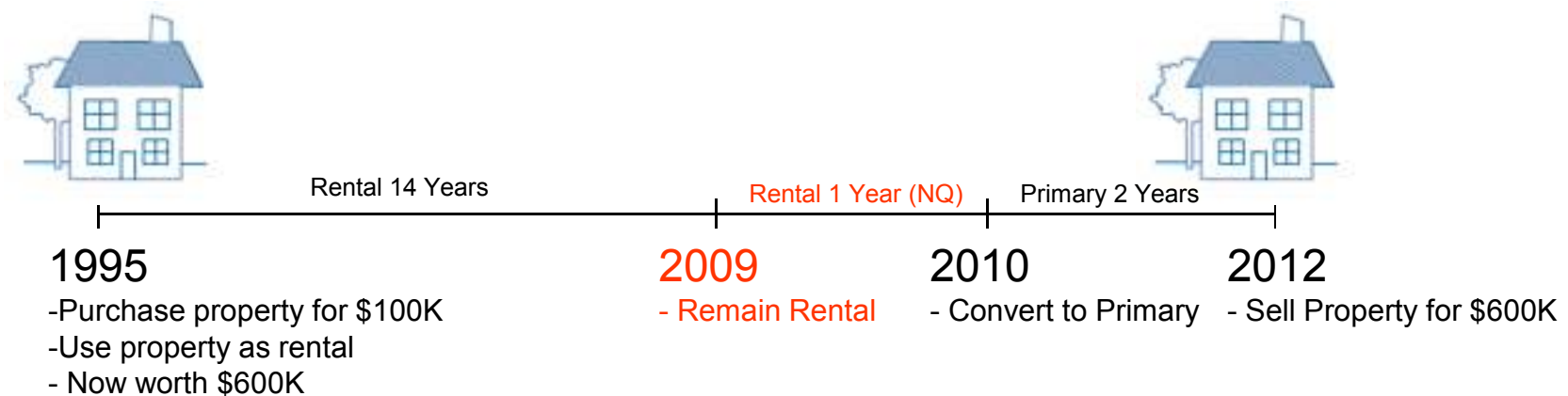
\$500k of gain

Homeowners Exemption allows for \$500K tax exempt

Using 121 & 1031 Together

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Rental to Primary – Conversion Post 2009



Tax Implication: \$8,700

- 16/17 of Gain Exempt (\$470K)
- 1/17 of Gain taxed (\$29K) – taxes approx. \$8,700

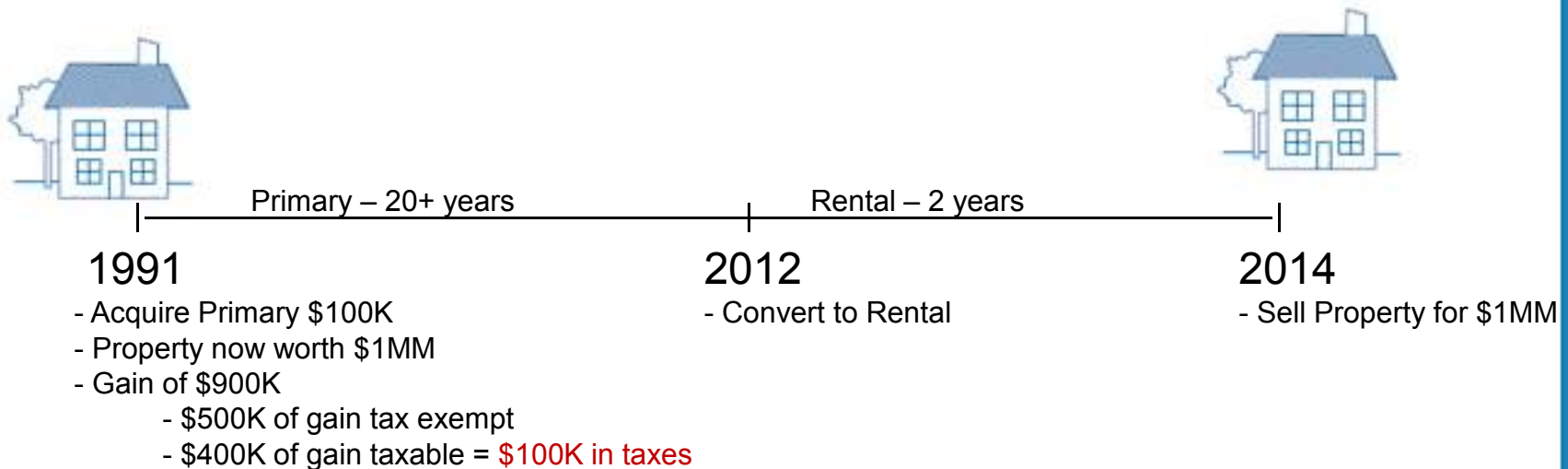
Facts:

- 1 Year of “Non Qualified Gain
- 2 Years as Primary
- Eligible for Homeowners Exemption
- 1/17 of Gain allocated to “Non Qualified Rental Period

Using 121 & 1031 Together

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Primary Residence to Rental:

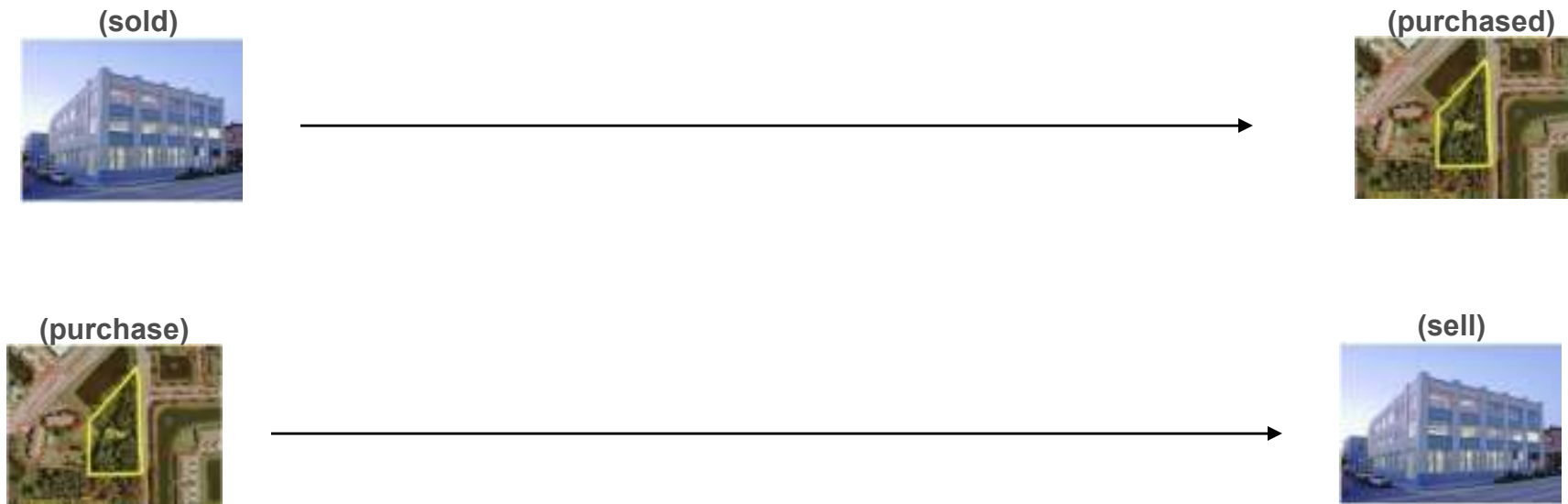


Tax Implication: \$0.00



Reverse Exchange

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Reverse Exchange

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Why do a Reverse Exchange

- Seize the Moment – the buy of a lifetime
- Insurance Policy – Overheated market, protect your exchange (insurance policy)
- Poor Planning – My property isn't selling when I thought it should and I've already made an offer

Reverse Exchanges

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- Reverse Exchanges
 - Buy First, then sell

Replacement



- EAT warehouses the “replacement property”
- Client operates property under a NNN lease agreement
- Client takes title when relinquished property sells



Relinquished



- Relinquished property must sell within 180 days
- Property sells, taxes deferred
- Property does not sell, client owns 2 properties

Construction Exchanges

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- Construction Exchanges
 - Use 1031 Exchange Funds to improve/build a property



- Relinquished property sells
- Funds sent to Accommodator



- EAT warehouses the "replacement property"
- Accommodator holds remaining funds



- Accommodator disburses all funds to contractors
- Client manages all construction



- EAT transfers new/improved property to client

No Appreciation Exchanges

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Example

Facts:

\$1,000,000 purchase price
\$1,000,000 sales price

Problem:

\$200,000 depreciation
- Depreciation lowers basis

Tax Liability:

25% Depreciation Recapture Tax
\$50,000 federal depreciation tax bill
\$20,000 state capital tax

Seller Financing

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Seller Financing and 1031 Exchanges:

- (1) Do NOT include the Note in the exchange and pay any taxes.
- (2) Include the Note in the exchange by showing the "Asset Exchange Company" as the Beneficiary and possibly defer the capital gain taxes.

Option #2: Asset Exchange Company as the note beneficiary:

- Use the Note Towards the Down Payment on the Replacement Property
- Exchanger Purchases Note From the Exchange Company
- The Payer on the Note Pays Off the Note Prior to Closing on the Replacement Property
- Sell the Note on the Secondary Market

Shameless Plug

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- **We want your 1031 Exchange business.**
- **If you feel we do a good job today, that is the exact same impression we will give your clients.**
- **We are interested in building lifelong clients.**
- **We will make you look good.**
- **Nobody knows 1031 Exchange better than us.**

Audits

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January 6, 2012 8:33 AM

PRINT  TEXT 

IRS says audit rates have grown for the wealthy

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(AP) WASHINGTON - If you earn less than \$200,000 a year, there's a strong chance you don't have to worry about an Internal Revenue Service audit. But if you make more than \$1 million annually, the odds have been rising that you'll be hearing from the tax man.

The IRS released figures Thursday showing that 12 percent of millionaire earners were audited last year. That's up from 8 percent in 2010 and 6 percent in 2009.

The data shows that for those making under \$200,000, the rate has stayed steady at around 1 percent in recent

years.

IRS officials said the growing audit rate for high earners is aimed at demonstrating that the tax code is being enforced fairly and is unrelated to President Barack Obama's recent proposals to boost taxes on the rich. The White House and congressional Democrats are expected to continue taking similar populist stances with the approach of this November's presidential and congressional elections.

Contact Info

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