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## Can Multiple Properties Be Exchanged Into One Property?

*By Kevin Williams*

*I own about 60 units (eight different properties) in Southern California with over \$6,000,000 in equity. I want to sell all of my properties and consolidate them into one property. This may not seem like the time to sell, but I purchased most of them in situations similar to the current real estate meltdown and now that another is in progress, I would like to buy one larger property that would require less running about to various locations. I firmly believe in the old adage, "Sell high, buy low." I would be selling higher than my original purchase price and buying low. I am conflicted on whether this will lighten my care and maintenance load.*

Let me share some insights with you.

### ***"How do I buy LOW and sell HIGH?"***

Real estate is a regional business. As such, prices fluctuate from one "region" to the next. Prices in California could still be higher, relatively, than prices in other areas, for example, in Texas, which has been relatively stable in value for awhile.

It would, therefore, not be difficult to sell high in California and buy low in Texas. (It is not the buying and selling that is difficult, it is the other disciplines of ownership that are challenging.)

### ***Buying is not the real problem... Management is a major problem***

Many owners of real estate have managed their properties for years. Many owners have tried to use outside management and were disappointed with the results. Frustrating and unsuccessful experiences have made some owners uncomfortable with property management companies.

All properties, regardless of their size, require the same level of professional attention to perform profitably. Larger properties, however, are better able to afford a higher caliber of management, and dollar-wise, they have more to lose if they do not use professional management.

Which properties will receive the appropriate amount of attention? Larger properties have a head start when it comes to gaining and maintaining the eye of the management company. One way to obtain such attention is to be an owner of a major property or properties. This can be achieved by being a co-owner of a major property, that is, a Tenant-In-Common owner.

### ***How can supervisory management be established on out-of-state properties?***

The other aspect of the management conundrum is supervising (or rather monitoring) management. (Whose watching the watchers?) Say that the property owner lives in Chicago and the properties purchased are in Arizona. What kind of realistic property management supervision/monitoring could be established?

One relatively recent vehicle for effective property management supervision is being a partial owner in a major property. An owner of a smaller property, for example, could be one of a handful of co-owners (TICs) in a 300-

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unit apartment or a commercial building with multiple tenants. Being an owner of a major property obviously allows for the hiring and retention of more professional management—including both offsite and onsite management personnel.

## ***What are these types of Co-Ownership properties?***

Basically, there are two types of Co-Ownership properties: Direct ownership and Indirect Ownership. Direct ownership is Tenants-In-Common (TICs) and Indirect ownership includes, Real Estate Investment Trusts (REITs), corporations, Limited Liability Companies, Partnership, etc. (REITs are designed specifically for Real Estate ownership. What applies to REITs is also applicable to other forms of Indirect ownership of Real Estate as indicated above.)

TICs qualify for 1031 Tax-Free Exchanges. This involves the direct ownership of the property. The investor's name is on the deed. The investor owns a portion of the property. The direct ownership is referred to as Co-Ownership or Tenants-In-Common (TIC).

REITs do NOT qualify for 1031 Tax-Free exchanges. This involves the indirect ownership of property. The REIT's name is on the deed. The investor owns shares of the REIT. (The REIT has a direct ownership in the property. The investor has an indirect ownership in the property.)

## ***What is a REIT?***

A REIT, bottom line, is a corporation (or a mutual fund) which buys real estate. As such, exchanging your Real Estate for Shares of a REIT does not qualify for a 1031 Tax-Free Exchange. In 1031 jargon, an Exchange with a REIT would include two incompatible components, Real Estate (which is Real Property) and the Shares of the REIT (which is Personal Property). To qualify for a 1031 Tax-Free Exchange, REAL Property must be exchanged for REAL Property and not PERSONAL Property .

## ***What are Real-Estate Tenants-In-Common (TIC)?***

TICs are Co-Ownership in Real Estate Property. Forms of TICs have been used for as long as ownership of real estate has been in existence. The most common form of Tenants-In-Common is used when a husband and wife purchase a property together; they are co-owners. This form of ownership, TICs, in the 1980s and '90s, began to be used more extensively by non-related investors. As such, some legal questions surfaced questioning the validity of TICs qualifying as 1031 Exchanges.

The key question is, "Is a Tenants-In-Common entity a Partnership?" If it were a Partnership, then the real estate (as in a REIT) would be owned by an entity (the Partnership) that is classified as Personal Property. As such, Personal Property would not qualify for a 1031 Tax-Free Exchange. However, the IRS, in February, 2002, issued Revenue Rulings stating that TIC ownership would not be deemed a Partnership if the TIC agreement complied with their Revenue Rulings. It would, therefore, qualify as a candidate for a 1031 Tax-Free Exchange.

With these rulings in place, the Tenants-In-Common, Co-Ownership of Real Estate expanded exponentially. TICs are a great vehicle for real estate owners. TICs offer multiple investment options, which include diversification, consolidation of multiple real estate properties, or selling and then parking the proceeds (equity) for a period of time (without paying taxes), etc. It offers many options available that were not previously available to the smaller investor.

## ***Where does an investor locate Tenants-In-Common (TIC) Properties?***

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The TIC Real Estate Properties have become well known, and are relatively common once you know where to look. There are about 200+ companies which originate Tenants-In-Common investments. These Real Estate Investment include apartments, office buildings, industrial buildings, shopping centers, NNN Lease properties, restaurants, Senior Citizen Buildings, Skilled Nursing Facilities, etc. They are located throughout the country. Be aware that a few of them have either declared bankruptcy or are not supplying offerings at this time.

Knowing you have various options creates many profit-making opportunities that can be customized to meet the diverse needs of real estate owners.

**Note that the IRS 1031 Code is Complex.**

*It has many parts and contains many distinctions. Informed familiarity, accompanied by experience and knowledge can make the code easy but never simple. It is most prudent and money-wise to consult the experts.*

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