



nerej

Selling personal property has Â§1031 tax benefits

May 22, 2014 - Front Section

Yes, personal property can be sold as part of a Â§1031 exchange to defer taxes, but it may not be what you think. "Personal use property" refers to an asset used for personal use and enjoyment, like artwork in your home or the boat you take family and friends on in the summer. This type of property is not exchangeable. However "personal property" used in business is - many investment transactions are solely personal property transfers or have a personal property component attached.

Taxpayers selling multiple asset properties such as hotels, gas stations, restaurants or manufacturing plants often structure a real estate exchange for the land & buildings and a personal property exchange for the furniture, fixtures or equipment.

Why exchange if there is no gain on the asset being sold? Many types of business-use assets can be fully depreciated in as little as 5 years, and upon sale, tax due on the amount subject to recapture is substantial (upwards of 35%).

Has your client done a cost segregation? Beneficial at the time, but subsequent sale of that property may trigger larger amounts to recapture...all can be deferred with a Â§1031 exchange!

Under the Personal Property Â§1031 Regulations, "like-kind" actually does mean like kind. Depreciable tangible personal property must be "like-kind," meaning an airplane is exchanged for an airplane, or a backhoe for a backhoe. "Like-class" also qualifies if property falls under the same general asset or product class.

Patents or licenses are intangibles and depend on the "nature or character of rights involved" and the "nature or character of the underlying property to which it relates." For instance, a copyright on a novel is not like-kind to a copyright on a song.

"Personal property" may also include equipment, charter boats, fishing vessels, planes, trucks, construction or agriculture equipment, artwork and collections, as well as intangible property, such as franchise licenses, broadcast spectrums or copyrights.

Due to the varied nature of businesses and personal property as a whole, these exchanges are best handled by an experienced Qualified Intermediary in conjunction with the taxpayers' tax and legal advisors.

Patricia Flowers is V.P. for Investment Property Exchange Services, Inc. (IPX1031Â®), Boston, MA.