



CELEBRATING
55 YEARS

nerej

Can you use exchange funds for improvements?- by Bill Lopriore

October 02, 2020 - Front Section



Bill Lopriore

A 1031 exchange is a great tool for exchangers who want to avoid paying tax on the gain from the sale of real estate. However, in order to completely defer the tax, an exchanger must find one or more replacement properties with a total fair market value that equals or exceeds what is being sold, and must use all the cash from the relinquished property and invest it in the new property. Many exchangers don't realize that a build-to-suit exchange can give them more flexibility in structuring their 1031 exchange to meet these requirements.

A build-to-suit exchange allows an exchanger to use the proceeds from the sale of the relinquished property to acquire and to improve the replacement property. In this arrangement, the relinquished property is disposed of and the sale proceeds go to the qualified intermediary (the "QI"). The exchanger must identify what is to be acquired within 45 days, including a description of the improvements. The QI or its affiliate acquires the property using the exchange funds. The exchanger manages all construction and periodically sends invoices to the QI, who pays them using exchange funds. The replacement property is transferred from the QI or its affiliate to the exchanger once any one of the following conditions are met: construction is completed, enough value is added to the replacement property to qualify for full tax deferral, or the 180-day window expires.

Bill Lopriore is the northeast regional manager and counsel for First American Exchange Company, LLC.

First American Exchange Company, LLC, a Qualified Intermediary, is not a financial or real estate broker, agent or salesperson, and is precluded from giving financial, real estate, tax or legal advice. Consult with your financial, real estate, tax or legal advisor about your specific circumstances.

Nothing contained in this article is to be considered as the rendering of legal advice for specific cases, and readers are responsible for obtaining such advice from their own legal counsel. This article is intended for educational and informational purposes only. The views and opinions expressed in this article are solely those of this author, and do not necessarily reflect the views, opinions, or policies of this author's employer, First American Exchange Company, LLC.