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"Bailout" solutions for capital gains tax

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Many of my clients ask what options are available if they can not complete their 1031 Exchange. Is there another way to defer taxes if the property does not qualify for an exchange? Recent markets have been tough - investors are yearning for preservation of capital and security of funds.

Structured Sales, an improved version of traditional installment Sales (IRC §453), are gaining momentum as a favorable tax solution, allowing sellers to spread capital gains liability over a span of years, taxed based upon the distribution of principal in a given calendar year, versus the burden of recognition all in one year.

Opportunities to defer taxes under this structure include:

*Failed 1031 Exchange: The taxpayer does not identify by day 45 or close on a replacement property by day 180. Exchange funds can be assigned directly to the Structured Sale (Fall-Back 1031).

*Equity Boot: Taxpayer has excess cash, or falls short of exchanging into equal value property. Remaining funds can be assigned.

*Personal Residence Sales: Homeowners transfer sale profits over §121 exclusion limits to the Structured Sale.

*Vacation Home Sales: Sale proceeds from second homes used for personal use are deferred.

*Sale of Business/Good Will: Structured sales offer tax deferral relief on the good will of the business sale.

*Leaving the Real Estate Market: Clients wishing to continue receiving investment income and defer their tax liability, but no longer wish to hold real estate.

Structured Sales may result in deferral of income until lower taxed retirement years and relief from AMT. My response to investors: It is your money at work, and it all comes down to how the time value of money will benefit you best.

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