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Boosting sales with seller financing and exchanging

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One of the biggest challenges to selling in today's real estate market is confidence that the buyer will be able to secure financing. If a seller has equity in the property or cash on hand, they may consider exchanging with seller financing or seller "carry back" using installment sale treatment (IRC Â§453). Some potential benefits: Move property quicker in a slow market; sell property today and avoid further market deterioration; and receive future income and defer capital gains.

When combining seller financing with the sale, cash received at closing transfers to the exchange account and note principal payments received during the exchange, prior to the purchase of replacement property, are paid directly to the exchange. Capital gain will only be recognized on principal payments received by the exchanger subsequent to the replacement property acquisition. If including the seller-financing note as part of the exchange, the Intermediary is the payee of the note and beneficiary of any mortgage at the relinquished property closing. The value of the note will be used by the QI for the purchase of the replacement property. Options include:

*Assign the note to the seller of the replacement property, resulting in complete tax deferral. The seller of the replacement property does not get installment sale treatment on the receipt of the Exchanger's note.

*Sell the note to a third party for cash and use to purchase replacement property. The downside - the note is bought at a discount.

Alternatively, the Exchanger may act as a "third-party lender", bringing cash in for the buyer, allowing all net proceeds to go directly to the exchange account - the Exchange is 100% tax deferred and income is generated from future P&I payments.

These days it pays to be creative and seller-financing just may be the way to move property!

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