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Getting cash out in an exchange

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Lately it appears more taxpayers are building up a nest egg, setting money aside "just in case." Others are actively trying to reduce debts. Investors selling investment property still want the benefits of a 1031 exchange but also want cash proceeds.

The general rule is that the seller must avoid actual or constructive receipt of funds in order to receive the capital gains tax deferral. Any cash received by the taxpayer at the sale of the relinquished property or purchase of the replacement property will be considered cash boot - gain will be recognized and taxes calculated on that amount. Taxpayers find this upsetting, reasoning they should at least be able to take back their initial cash contribution or cash used for capital improvements during ownership.

Nevertheless, the IRS regulations are clear: proceeds received by the taxpayer during an exchange will be taxed. The good news is this does not void the entire exchange, but rather renders the transaction a partial exchange: the remaining funds are wired to the Intermediary and tax deferred if used for purchase of replacement property.

Careful consideration should be taken before deciding to receive proceeds directly. If the taxpayer finds suitable replacement property of greater value than originally anticipated and now wants the funds previously received to roll into the purchase tax deferred, it's too late.

If the money is not needed immediately, the exchanger should consult with their advisor as to whether it may be a better financial decision to roll all proceeds through the exchange for the full tax deferral, refinancing to pull cash out at a later date. Stay tuned for refinancing in an exchange...

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