

From: Heather Gray <[REDACTED]>
To: jeffrey E. <jeevacation@gmail.com>
CC: Richard Joslin <[REDACTED]>
Subject: RE: 1031 exchanges
Date: Wed, 12 Oct 2016 19:37:32 +0000

Rich said to use 45%. I'm fixing the charts now and will send shortly.

From: jeffrey E. [mailto:jeevacation@gmail.com]
Sent: Wednesday, October 12, 2016 3:34 PM
To: Heather Gray <[REDACTED]>
Subject: Re: 1031 exchanges

rate?

On Wed, Oct 12, 2016 at 1:34 PM, Heather Gray <[REDACTED]> wrote:

Will do

From: jeffrey E. [mailto:jeevacation@gmail.com]
Sent: Wednesday, October 12, 2016 1:33 PM
To: Heather Gray <[REDACTED]>
Subject: Re: 1031 exchanges

get rate from rich,

On Wed, Oct 12, 2016 at 1:30 PM, Heather Gray <[REDACTED]> wrote:

Sure, I'll add info showing (i) sales tax due on the purchases of the two Cezannes if not purchased as part of 1031 exchanges, and (ii) income tax due on the sales of the five works if not sold as part of 1031 exchanges.

Jeffrey (or Rich), what combined federal and NYS income tax rate should I use?

From: jeffrey E. [mailto:jeevacation@gmail.com]
Sent: Wednesday, October 12, 2016 1:27 PM
To: Heather Gray <[REDACTED]>
Cc: Brad Wechsler <[REDACTED]>; John Castrucci <[REDACTED]>; Richard Joslin <[REDACTED]>; Joe Avantario <[REDACTED]>
Subject: Re: 1031 exchanges

you need to include taxes owed on transaction, if no 1031

On Wed, Oct 12, 2016 at 1:16 PM, Heather Gray <[REDACTED]> wrote:

Hi Jeffrey,

John said you were looking for a summary of the two 1031 exchanges that we are hoping to complete. Attached are spreadsheets showing the proposed AP Narrows LP (the art partnership) exchange and the proposed LDB 2011 LLC exchange.

The exchanges must be completed by midnight on Wednesday, November 23, 2016. By "completed" I mean that everything has to be finished: all money for the works being sold must be paid by the buyers

to the exchange agent and then wire transferred from the exchange agent to AP Narrows and the LDB 2011 LLC (in repayment of the loans they made to the exchange agent), and title to the works sold and to the two Cezannes must be transferred to their respective new owners. We must have written evidence (e.g., wire transfer confirmations, deeds) that the wire transfers and title transfers have been completed by midnight on November 23rd.

A few notes:

- The “target sale price” shown on the spreadsheets is the net amount AP Narrows and the LDB 2011 LLC expect to receive for the works being sold. Larry Gagosian is working on selling the works.
- Basis shown is the actual, non-rounded basis. The Schiele was not subject to sales tax when it was purchased, which is why its basis is a round number.
- As you will recall, Chicago Deferred Exchange Corp. is the exchange agent for both exchanges.
- If you want to print the spreadsheets, they should be printed on legal paper (my old eyes need large font!).

AP Narrows LP

AP Narrows LP intends to exchange a Giacometti that it owns (*Figure moyenne II*) for a Cezanne figure study (*Portrait de Vallier de Profil*) that it wants to acquire. The target sale price for the Giacometti is \$30 million and the purchase price of the Cezanne figure study is also \$30 million. The first columns on the AP Narrows spreadsheet show the basis in the Giacometti, the gain that would be deferred in an exchange and the NY sales tax that would be sheltered by operation of the trade-in credit.

If a buyer is not found for the Giacometti, AP Narrows has identified a Schiele (*Flussindschaft mit zwei Baumen*) to potentially be used in the exchange. The Schiele has a higher basis and is owned by the LDB 2011 LLC, so it is not the best choice for this exchange, but it is an option with the following caveat. Prior to sale, the Schiele would have to be either contributed directly to AP Narrows (in which case the LDB 2011 LLC would become a limited partner in AP Narrows) or distributed to the APO-01 trust (which owns 100% of the LDB 2011 LLC) and contributed by APO-01 to AP Narrows. For purposes of the “held for” investment requirement, it is not clear if the LDB 2011 LLC’s holding period would carry over to AP Narrows. There is also no clear guidance from the IRS as to how long a work must have been held for investment before being exchanged.

LDB 2011 LLC

The LDB 2011 LLC intends to exchange a Mondrian that it owns (*Composition with Color Planes and Grey Lines 1*) for a Cezanne still life (*Bouteilles, Pots, Rechaud à Alcoa, Pommes*) that it wants to acquire. The target sale price for the Mondrian is \$40 million and the purchase price of the Cezanne still life is \$50 million. The first columns on the LDB 2011 LLC spreadsheet show this proposed exchange.

If a buyer is not found for the Mondrian, the LDB 2011 LLC has identified a Schiele (the same one identified on the AP Narrows exchange above), a Picasso (*Nue Endormie*) and a Braque (*Le Gueridon*) as alternative works to be potentially used in the exchange in the combinations shown on the spreadsheet. As you will see, using the Mondrian in the exchange defers the most gain and does not raise holding period issues, but it does result in more NY sales tax being paid at the time of the exchange than the other two options. The Schiele is also owned by the LDB 2011 LLC, but it has less gain than the Mondrian.

The Picasso and the Braque both raise holding period questions. The Picasso is owned by APO-01, so it would have to be distributed to the LDB 2011 LLC before being sold. The Braque is owned by Narrows Holdings LLC (and is collateral on the Bank of America loan), so it would have to be distributed by

Narrows to Leon and then contributed by Leon to the 2011 LLC in exchange for membership interests in the LLC.

As indicated above, AP Narrows and the LDB 2011 LLC have identified alternative works for the exchanges in order to preserve maximum optionality, but, **at the end of the day, this is all dependent on which works Larry is able sell by November 23rd, and at what prices.**

Please let me know if you would like to discuss these exchanges.

Best,
Heather

Heather Gray
Elysium Management LLC
445 Park Avenue
Suite 1401
New York, NY 10022


--

please note

The information contained in this communication is confidential, may be attorney-client privileged, may constitute inside information, and is intended only for the use of the addressee. It is the property of JEE

Unauthorized use, disclosure or copying of this communication or any part thereof is strictly prohibited and may be unlawful. If you have received this communication in error, please notify us immediately by return e-mail or by e-mail to jeevacation@gmail.com, and destroy this communication and all copies thereof, including all attachments. copyright -all rights reserved

--

please note

The information contained in this communication is confidential, may be attorney-client privileged, may constitute inside information, and is intended only for the use of the addressee. It is the property of JEE

Unauthorized use, disclosure or copying of this communication or any part thereof is strictly prohibited and may be unlawful. If you have received this communication in error, please notify us immediately by return e-mail or by e-mail to jeevacation@gmail.com, and

destroy this communication and all copies thereof,
including all attachments. copyright -all rights reserved

--

please note

The information contained in this communication is confidential, may be attorney-client privileged, may constitute inside information, and is intended only for the use of the addressee. It is the property of JEE

Unauthorized use, disclosure or copying of this communication or any part thereof is strictly prohibited and may be unlawful. If you have received this communication in error, please notify us immediately by return e-mail or by e-mail to jeevacation@gmail.com, and destroy this communication and all copies thereof, including all attachments. copyright -all rights reserved