

NET LEASEHOLD INTERESTS

"EXCELLENT §1031 REPLACEMENT PROPERTY OPPORTUNITIES"



Compliments of

A LEASEHOLD INTEREST CAN BE CONSIDERED "LIKE-KIND" PROPERTY

Leasehold interests may be either relinquished property or replacement property in an exchange. [Reg. §1.1031 (a)-1 (c) (2)] A leasehold interest with a remaining term of 30 years or more is considered "like-kind" property to a fee interest in any other real estate held for productive use in a trade or business or for investment. If a leasehold has an unexpired term of less than 30 years, it is not treated as a qualifying §1031 property. However, if the lease provides for optional renewal periods, these periods can be included in determining whether the leasehold has 30 years or more remaining. In one case, a lease with an initial term of 5 years and ten optional renewal periods of 5 years each was held to be "like-kind" property since the taxpayer had the right to use the property for up to 55 years. [R & J Furniture Co. v. Comm., 20 T.C. 857 (1953)]

Note: A property owner granting a lease of 30 years or more is not considered exchangeable property.

GROSS VS. NET LEASEHOLD INTERESTS

A gross lease often obligates the lessor only to pay a portion of expenses of the leased property. A net lease (often referred to as a net, net, net or NNN lease) requires the tenant to pay, in addition to the fixed rent, expenses of the property such as taxes, insurance, utilities, maintenance, etc. The obvious advantage of a NNN lease to property owners is that many of the routine management burdens of ownership are the responsibility of the tenant.

WHY EXCHANGE INTO LONG-TERM LEASES AS §1031 REPLACEMENT PROPERTIES?

Many real estate investors have accumulated substantial real estate portfolios over a period of many years. In many instances, these investors have performed a §1031 tax deferred exchange into replacement properties. The exchange transaction has allowed them to eliminate the payment of capital gain taxes and rollover equities into larger and better performing properties. Now that they have met many of their long-term investment objectives, they desire to increase their monthly cash flow and simultaneously reduce the management problems typically associated with most real estate investments. An ideal solution is to exchange into a net leasehold interest, providing excellent cash flow with very few responsibilities associated with the ongoing management of the property.

ADVANTAGES OF NET LEASES

1. Predictable cash flow, typically with standard cost-of-living adjustments already built into the lease.
2. Tenant typically is a well-recognized national company, often with audited financial statements which can be thoroughly reviewed by the lessee.
3. Very few management headaches. Lessor is responsible for taxes, utilities, maintenance and insurance.
4. Allows a real estate investor to take advantage of an income stream without triggering the recognition of capital gain taxes.



ASSET PRESERVATION
INCORPORATED

A National IRC §1031 "Qualified Intermediary"

National Headquarters

800-282-1031

Eastern Region Office

866-394-1031

apiexchange.com

info@apiexchange.com

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