The Relinquished Property "Parked" Reverse Exchange

BEFORE CONTINUING - If you are not familiar with the concept of a reverse exchange, please read our white paper on "The Reverse Exchange" before continuing with this more detailed description of the process. You can find the definition of capitalized terms that aren't defined in this article in "The Reverse Exchange".

The Relinquished Property "Parked" Reverse Exchange is often an advantageous alternative to the Replacement "Parked" Reverse Exchange. This structure of reverse exchange, also known as an "Exchange First" reverse exchange, involves the "exchange accommodation titleholder" taking ownership of the Relinquished Property through a disregarded entity. This Relinquished Property "Parked" Reverse Exchange has three phases explained below.

Phase I: NExTLLC Agrees to Purchase Relinquished Property

Taxpayer and a disregarded entity owned by NExT1031 (the "NExTLLC") enter into a purchase and sale agreement whereby NExT1031 agrees to acquire the relinquished property form Taxpayer. The Taxpayer must establish the sales price for this agreement. To achieve the maximum benefit for the exchange, the price NExTLLC will pay should equal the expected net sales price on the sale of the property to a true third-party buyer. The Taxpayer should work with their tax advisor to determine the sales price. Placing too low of a price on the sale of the relinquished property could potentially create boot in the form of excess cash sales proceeds when the property is eventually sold to the true buyer and the NExTLLC's loans are repaid.

The Taxpayer must also arrange for financing for the NExTLLC to acquire the property. Financing may take one or more of the following forms:

(1) cash loan from the Taxpayer,
(2) new loan from a third-party,
(3) assumption of the existing loan by the NExTLLC,
(4) NExTLLC taking the property "subject to" the existing loan, or
(5) carry-back loan from Taxpayer.

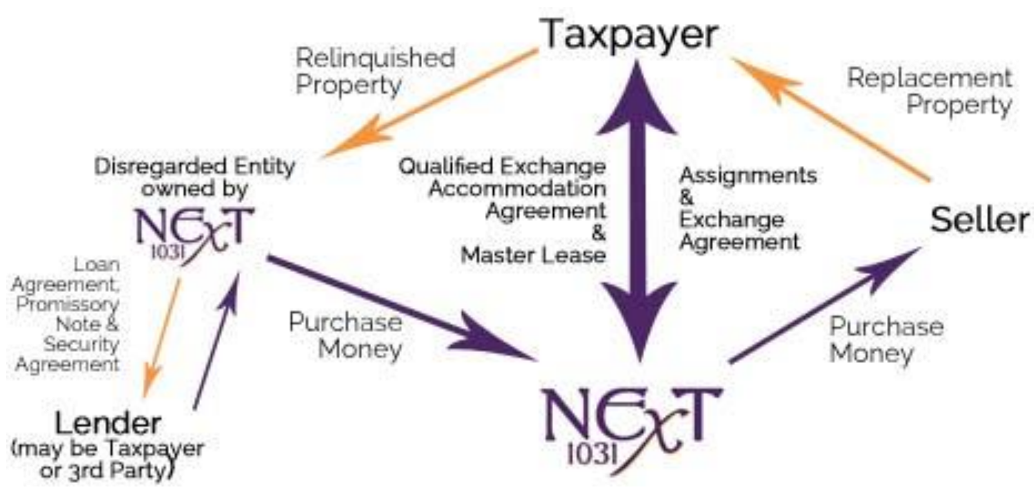
If NExTLLC is obtaining new financing or assuming the existing debt, the loan documents must state that NExTLLC will have no personal liability and that the loan is non-recourse to NExTLLC. If the financing is a carry-back loan from the Taxpayer, the general rules on exchanging with seller carry-back notes are applicable, and the carry-back note must be converted into cash to be used to acquire the replacement property.

If a closing file for the relinquished property has not previously been established with a settlement agent, a file will need to be opened with the settlement agent of the Taxpayer's choice. It is generally preferable, but not required, to open this file with the same person who is handling the replacement property transfer. NExTLLC will generally require title insurance.

NExT1031, NExTLLC and Taxpayer enter into a Qualified Exchange Accommodation Agreement ("QEAA") setting forth the structure of the reverse exchange and stating that the Taxpayer will have 180 days to complete the transfer of the Relinquished Property from NExT1031 to a third-party buyer. NExTLLC will also enter into a Lease Agreement with the Taxpayer or their affiliate as the tenant. This master lease allows the economics of the Relinquished Property (i.e. rents and expenses) to continue to flow directly to the Taxpayer.

Phase II: Simultaneous Exchange

Taxpayer will assign its rights under the purchase and sale agreement with NExTLLC to NExT1031 who will act as the Qualified Intermediary by acquiring and transferring the relinquished property directly to the NExTLLC. NEXT1031 will direct the exchange proceeds to be transferred from the relinquished property closing directly to the replacement property closing to be used to purchase the replacement property.



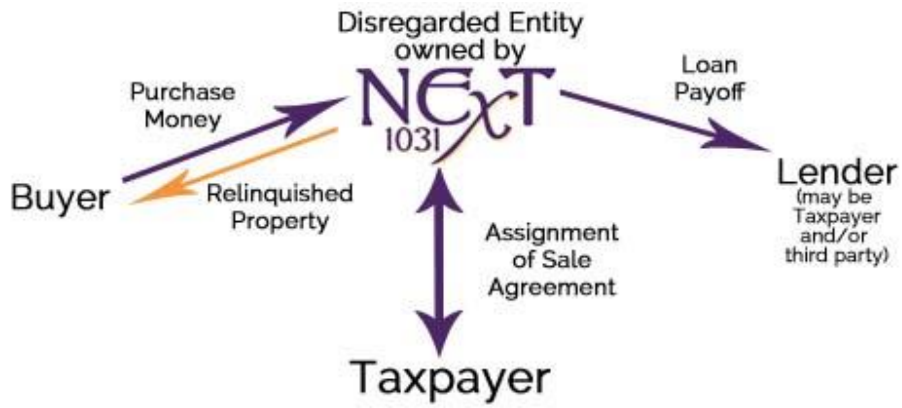
NExT1031 will then assign into the Taxpayer's rights as buyer of the replacement property and use the exchange proceeds from the sale of the relinquished property for closing on the replacement property. The settlement agent will be instructed to deed the replacement property directly from the seller to the Taxpayer.

Although NExTLLC will continue to be on title to the relinquished property, from a tax reporting standpoint the exchange is concluded at the end of Phase II.

Phase III: NExTLLC Sells Relinquished Property

NExTLLC will then continue to hold title to the relinquished property with the Taxpayer as the tenant under the Lease until the Taxpayer has located a third-party buyer for the relinquished property. If the relinquished property is under contact when the property is "parked" with NExTLLC then NExTLLC will assign into the contact. Otherwise, when a purchase agreement is satisfactory to both the NExTLLC and the Taxpayer then NExTLLC will sign the purchase agreement with the new buyer.

While it is not required, it is preferred that the settlement of this sale to the true buyer be handled by the same settlement agent who handled the transfer of the relinquished property to the NExTLLC. In order to transfer clear title, the NExTLLC will instruct the settlement agent to pay-off any loans not being assumed by the third-party buyer. Using the sale settlement agent often provides cost savings for the Taxpayer.



If the proceeds from the sale of the relinquished property paid to NExTLLC exceed the principal and interest balance of the loans (both from the Taxpayer and any third-parties) and the Taxpayer has not identified any additional replacement property, the excess will be returned to the Taxpayer as taxable boot. Note, however, if the NExTLLC's sale of the relinquished property occurs within forty-five days of the transfer of the relinquished property to the NExTLLC, then the exchange proceeds received by the NExTLLC that are in excess of the loan balances must be returned to NExT1031. The Taxpayer can either have NExT1031 acquire additional replacement property with the excess funds, or receive them on the 46th day as boot.

If the proceeds paid to NExTLLC from the sale are insufficient to pay the NExTLLC's debt, the funds will first be applied to pay-off any third-party loans that NExTLLC assumed, took subject to, or created. Any remaining funds will then be credited to the Taxpayer, who will agree to take such funds as payment in full satisfaction of its loan to the NExTLLC. Taxpayer and NExT1031 will enter into a Purchase Price Adjustment Agreement adjusting the original sale price to NExtLLC to the actual net sales price of the relinquished property to third-party buyer.