

The ABC's of
1031 Exchanges
and
Triple Net Lease Properties

By

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INTRODUCTION

The marriage of a Triple Net Lease Investment to a Section 1031 Exchange has been a beneficial pairing for investors, in one form or another, for more than 80 years.

The Revenue Act of 1928 spawned Section 112(b) of the Internal Revenue Code (IRC), which allowed investors to *exchange* their property for another “like-kind” property, thereby deferring the tax on gains that would have been realized had the original property merely been sold. Changes in descriptions, definitions and nomenclature abounded over the years, with the rule finally settling in as Section 1031 of the Internal Revenue Code, taking its current form in 1991.

IRC Section 1031 Exchanges are, on their own, excellent vehicles that serve a variety of purposes in the investment world. The same can be said of Triple Net Lease Properties, which we will examine in great detail later. Both have significant merit as stand-alone investment strategies. But it is the blending of these two that we will be discussing here, trying to instill in you the knowledge of how a tax-deferred exchange coupled with a Triple Net Lease property (also known as a Net-Lease or NNN property) may be the most advantageous approach for you to employ.

The goal of this book is for you to achieve a solid understanding of both aspects of this financial strategy. Indeed, none of it is extraordinarily complicated - but while the responsible investor will gain an understanding of the basic rules to be followed for the tax-deferred exchange, and will become comfortable with the concept of NNN properties, it is nonetheless *essential* that he/she use experienced professionals in every aspect of this process. It is not, however, necessary for the investor himself/herself to be a seasoned professional.

Very often the individual who might most benefit from a 1031 exchange and/or a NNN property is a novice investor in every sense of the word. He or she may be simply someone who, without analysis or research, bought a property during a downturn in the market, or invested in a low-end area that has since experienced gentrification and booming property values. Selling these highly-appreciated properties may be simple, but the tax ramifications could be *very* painful if the investor is not advised by professionals. Without good legal, accounting and real estate guidance, the tax burden could wipe out a significant portion of his or her hard-earned gains.

The United States real estate market, and the love of its populace for property and home ownership, has created more wealth and put it in the hands of more citizens in the past half-century than at any other time in our nation's history. Few of these people are sophisticated real estate investors, but many of them do find themselves the beneficiaries of decades of appreciation on the building that has been home to their small retail store, or the two-family house down the street - the one they bought for their just-married children to live in all those years ago. These ordinary folks, these non-professional - almost "accidental" - investors, also have a great need for understanding tax deferral, and an even greater need for sound investment advice.

The more likely scenario, however, is that the investor who is interested in 1031 exchanges and NNN investments has been in and around real estate for some time, and is comfortable with more sophisticated investment strategies. He has made sound, well-reasoned real estate decisions that have paid off handsomely, and now he seeks to protect his gain while at the same time backing away from the day-to-day problems associated with being an active landlord or property manager.

Or, perhaps, it is the investor who is just plain tired of being a hands-on landlord; tired of dealing with the "terrible t's" (tenants, toilets, taxes and trash). If this is

the case, as it so often is, he wants to explore the possibility of utilizing the Section 1031 deferral to exchange his current property for the ease and security of owning a Triple Net Lease property.

What all investors, great and small, uncomplicated or sophisticated, have in common if they wish to avail themselves of a 1031 exchange and a NNN property investment, is the need for an attorney, an accountant, an Intermediary and a real estate professional that specializes in locating Triple Net Lease properties. These will all serve to insure that the process goes smoothly, legally - and on time at each and every stage.

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About the Author

Jonathan S. Horn, is the founder and president of Horn Capital Realty, Inc., a full-service commercial real estate company. Horn's firm focuses primarily on single-tenant Triple Net Lease properties throughout the United States.

Horn has a proven track record in the acquisition/disposition of Triple Net Lease properties, having completed over a half billion dollars in transactions with 1031, institutional and high-net-worth clientele.

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