



## 1031 exchange

# Part II: Choosing the right qualified intermediary: Do you really know the specialist?

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Exchange Solutions

Shopping for the right qualified intermediary (QI) to structure your like-kind exchange can be effortless when you follow this helpful guideline. Part I of this article covered the issues of bonding, insurance and fiscal management. In Part II we will determine how well you really know the specialist handling your exchange. The article will identify answers to key questions we recommend you ask your prospective QI.

*Are you a member of the Federation of Exchange Accommodators?* The Federation of Exchange Accommodators (FEA) is our nationally recognized trade organization and recently celebrated its 20<sup>th</sup> Anniversary. Any reputable QI shares in this membership, as it is the only professional trade organization for qualified intermediaries. The FEA provides its members with various updates including revenue procedures, technical advice memoran-

dums, cases, continuing education and all of the latest changes relative to 1031 exchanges.

**It is important to remember that the qualified intermediary is acting as a "qualified intermediary" as required by The Code, enabling the qualified intermediary to give advice only in regards to the aspects of the exchange; therefore, your attorney and/or tax advisor must still be very much involved in your transaction.**

*Do you adhere to the FEA Code of Ethics?* All FEA members must observe and follow the Code of Ethics. Your potential QI is required to possess competence and professionalism. The candidate must observe the laws, display client loyalty, report any wrongdoing within the industry, demonstrate confidentiality, disclose

conflicts among related companies, keep exchange proceeds in a stable financial institution/investment ve-

hicle and be supportive of industry standards and compliance of the Code of Ethics.

*Do you have a Certified Exchange Specialist (CES) on staff?* It is important, if not necessary, for a QI to have a CES on staff because it calls attention to a certain level of experience and knowledge that meets pro-

fessional standards in dealing with complex tax deferred exchanges. The CES designation, specific to the 1031 industry, is for individual employees of a QI company and not the company itself. 20 hours of continuing education is required by each designee every two years to update their skills, knowledge and qualifications regarding procedures, codes and cases. A CES designation can only be accredited by the FEA. In order to achieve such designation, one must handle 1031 exchanges full time for a minimum of three years and pass an examination covering a broad array of 1031 issues, questions and calculations prepared by the CES Certification Council.

*Do you follow the Prudent Investor Standard?* The QI, under the investment rules in the FEA Code of Ethics, must invest exchange funds in investments which meet the Prudent Investor Standard. This means taking into account the need for sound financial institutions, recognizing the importance for liquidation of funds and preserving principal. Other characteristics of a "prudent investor" are considering the length of time funds will be held during the exchange, purpose for which funds are held, the risk tolerance and economic conditions. Lastly, the Prudent Investor Standard is deemed violated if exchange funds are commingled with a QI's operating funds.

*Can referrals be provided?* Referrals should be available upon request. This is proper due diligence and will help determine the quality of work, responsiveness to requests

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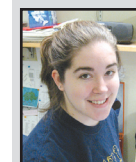
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