

**Weighing Your Options When
Considering the Sale of Your Property
By Anne R. Baber, Senior Investment Broker**

There are a number of ways in which to dispose of real estate and each method is intensely personal and individual in nature. Depending upon your situation, one may be more desirable than the next. Below are several options when considering the sale of your property. Let's begin with the traditional cash sale.

Cash Sale

Cash sales are full, final and free up funds to be used for other purposes without restrictions. The down side is that a traditional sale immediately triggers a capital gains tax liability which must be paid in the year of sale. In California, the tax liability would be around 25% for state and federal and in addition, would include recapture of depreciation. The result is that the net proceeds from the sale are reduced by at least 25%. It may also mean that you would then have a considerable amount of cash that you must either spend or need sophisticated and costly professional financial services to manage.

1031 Exchanges

Rather than "cash out", you may elect to participate in an IRC 1031 exchange where you can use the appreciation realized in your present investment to exchange into another property that is equal or greater in both debt and equity. If you want to stay in investment real estate and defer your tax liability, this is your best option. The restrictions that must be followed in a 1031 exchange are, at times, a challenge and must be adhered to in full. The present property must be exchanged for a property that will be held for investment purposes. You must identify that property within 45 days of the sale and you must close that escrow within 180 days of the sale. With your new property, you will continue to assume the responsibilities of property management, advertising, maintenance and other day to day issues.

Tenant in Common (TIC)

What are some other alternatives? You can join a Tenants In Common (TIC) pool where you retain sole ownership of a percentage portion of a substantial property owned by a group of member investors. With this arrangement, you have the ability to trade into a multi-million dollar, institutional quality property that you probably could not afford to purchase on your own. These offerings are often large retail centers, office buildings or multi-unit apartment complexes. The returns on these investments vary depending on fees and costs assessed by the TIC sponsors. Should the property move in a negative direction, you will face the same market risk as all the other members. This could result in possible loss of principal and tax liabilities in the future.

Private Annuity Trust (PAT)

Setting up a Private Annuity Trust to dispose of property is another option. It requires a trust and estate attorney to establish the trust. There are costs to set up, draft, appoint and pay a trustee and pay for on-going annual management. A PAT is completely irrevocable. Once vested in the trust, the property is sold immediately to fund the purchase of an annuity. The trust cannot be dissolved and proceeds distributed under any circumstances.

Structured Sale

The most recent tax deferral mechanism is called a Structured Sale which follows the same principles attributed to the widely accepted installment sale. In this instance, the proceeds from the sale are assigned by the buyer to an assignment company owned by a major life insurance company. The "third party" assignment company, used to ensure no constructive receipt by seller and no taxable event, purchases a fixed, guaranteed annuity from the life insurance company that will pay the seller over time. The seller realizes both principal and interest in a time period customized to the seller's needs. Tax reporting is done only as money is received. The cash stream may be structured over a number of years and even one's life if there is a concern about outliving your income, giving one peace of mind. The remaining payments will be paid to the

estate in the event of a death. This is a formidable alternative when looking to diversify out of a real estate holding and set up a cash flow stream.

If you have any additional questions or would like further information, please contact Anne at (818) 235-1135 or email her at anne@aoausa.com

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