



The IRS has Issued Safe Harbor Guidelines for Vacation Home Exchanges

Until recently, we have pretty much been left on our own in determining what the IRS expects when it comes to applying §1031 to vacation homes. Now, with Revenue Procedure 2008-16, just issued on February 15th 2008, and with *Moore v. Commissioner* from last summer, we have some real guidance.

To avoid any possibility of a challenge to your vacation home exchange, you have to meet certain requirements for your vacation property. During the 24 month period preceding the **sale** of your vacation home, or the 24 months after the **purchase** of your vacation home, or both if they both are vacation home properties:

1. You must have rented the property, at a fair rental price, for at least 14 days during each 12-month block of the 24-month period, and
2. You must not use the property personally for more than the greater of 14 days, or 10 percent of the days rented, during each 12-month block of the 24-month period.

Since this ruling is a Revenue Procedure, failure to meet the exact requirements of the ruling are not fatal, but could subject you to closer scrutiny of your exchange. In other words, using the property for 15 days does not mean that your exchange is 'toast'—it merely means that they could audit you if they wish.

The purpose of the ruling is to provide a 'bright line' test that gives you concrete assurance that your exchange will not be challenged.

3. These guidelines affect property being exchanged after March 10, 2008.

Here are some other things that will help your cause in establishing your vacation home as exchangeable property:

4. Deduct your mortgage interest and property taxes on Schedule E as business expenses.
5. Deduct repair costs, depreciation, and other expenses on Schedule E as you would any other rental property.
6. Document your investment intentions when you first purchase the property.
7. Keep records of personal days, repair days, business use days, etc.

This flyer is only a summary. If you are planning on buying or selling a vacation/second home, or are a Realtor® with a client planning on doing so, give us a call BEFORE the purchase or sale.