



§1031 Tax Deferred Exchanges of Water Rights in Colorado

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§1031 Exchange – Brief Overview

Non-Recognition of Gain or Loss
from Exchange Solely of Kind

“No gain or loss shall be recognized on the exchange of property held for productive use in a trade or business or for investment if such property is exchanged solely for property of like-kind which is to be held either for productive use in a trade or business or for investment.”



Water Rights - State Law Dictates

1. State law controls the treatment of water rights as real property
2. In most states, perpetual water rights are recognized as an interest in real property (including Colorado)
3. As an interest in real property, water rights are considered “like-kind” to other fee interest in real property
4. Many farm, ranch, and vacant land transactions in Colorado include the sale of ditch company shares



Water Rights - Federal Change

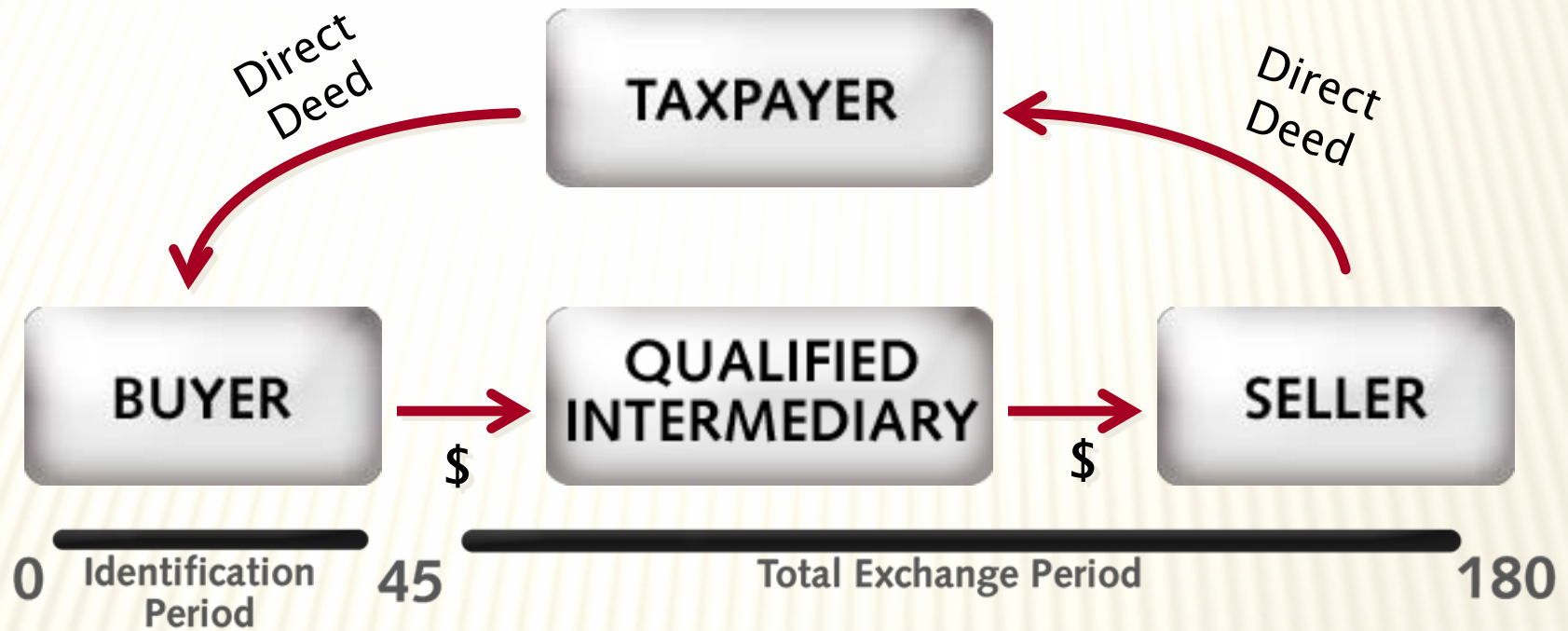
On May 22, 2008, Congress enacted the Food, Conservation and Energy Act of 2008 which is often referred to as the “Farm Bill.” Among other things, the Act amends IRC Section 1031(a)(2)(B) to exclude mutual ditch, reservoir or irrigation company stock from the definition of “stock.” As a result, mutual ditch, reservoir or irrigation company stock in Colorado are now eligible in §1031 exchanges.



Delayed Exchange

SALE

PURCHASE



2009 Water Right Case Study

- 2009 – Board of Water Works of Pueblo, purchased shares of the Bessemer Ditch Company
- Assisted at least 8 shareholders (sellers)
- Total value \$15 million (est.)
- Potential taxes saved/deferred \$3 million (est.)
- Adding a conservative 50% leverage = \$6 million in additional property purchased rather than paying capital gain taxes



The API Advantage™

Experience

- Since 1990, API has facilitated over 140,000 exchanges (including many water right exchanges)

Expertise

- Senior exchange counselors, attorneys and accountants provide personal attention to each exchange
- Specialized Commercial Division for complex exchanges
- Member of the Federation of Exchange Accommodators (FEA)
- Available for free consultation on any 1031 issues



The API Advantage™

Security

- E & O and Fidelity bond coverage – plus other protections that go beyond the typical protections offered by other QI's
- “Letter of Assurance” available upon request from Stewart Information Services Corporation (NYSE: STC)
- Multiple investment options to suit customer needs
- Compliance with Sarbanes–Oxley, the Bank Secrecy Act, the USA Patriot Act and the Gramm–Leach–Bliley Act
- All information securely stored at a remote facility



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