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1031 TAX DEFERRED EXCHANGE MISTAKES THAT COULD HAVE BEEN AVOIDED

Christensen vs. Comm. (April 10, 1998)

What They Did: The Christensens filed their tax return on April 15 and acquired replacement property within 180 days, but this purchase closed after they had already filed their tax return. The Tax Court cited failure to comply with the deadlines, specifically the requirement to complete the exchange within 180 days OR the tax filing date, whichever is earlier, as the reason tax deferral was not allowed.

What They Should Have Done: They should have filed an extension prior to their closing to obtain benefit of the entire 180 day exchange period.

Knight vs. Comm. (March 16, 1998)

What They Did: On day 179, the Knights' purchase of their replacement property fell apart. The Knights acquired another property after the 180th day and argued they made a "good faith" attempt to meet the time requirements. The Tax Court denied the exchange because the tax code clearly allows only a maximum of 180 days to complete the exchange.

What They Should Have Done: The Knights should not have postponed their acquisition to last moment, if at all possible. Had more time been available, they may have been able to acquire another properly identified property before their 180th day.

Dobrich vs. Comm. (October 20, 1997)

What They Did: Dobrich intentionally "back-dated" an Identification Notice. This was discovered by the IRS and they were liable for $2.2 Million in capital gain taxes plus an additional 75% fraud penalty of an additional $1.6 Million!

What They Should Have Done: Dobrich should have acquired only the property identified within the 45 day Identification Period.