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How to Sell a Business & Defer Taxes: Georgia Business Brokers discuss 1031 Exchanges

ATLANTA, GA—Business sellers can postpone paying thousands of dollars of taxes on the sale of their business if they use a special section of the U.S. tax code, according to Atlanta tax attorney Ricky Novak. Novak, president of Strategic 1031 Exchange Advisors, will describe the process for using 1031 exchanges at the July 27 meeting of the Georgia Association of Business Brokers.

The meeting of GABB, the state's only professional organization and Multiple Listing Service dedicated to buying and selling businesses and franchises, is free and open to the public. The speaker and meeting are on Tuesday, July 27, 2010, at the South Terraces Conference Center, 115 Perimeter Center Place, Atlanta, GA, 30346. Networking begins at 9:45 a.m. with a free light breakfast before the group's 10:30 a.m. meeting.

A 1031 exchange is named after a section of the Internal Revenue Code and was created to boost businesses.

“The provision gives business owners a way to buy and sell businesses without incurring what is often a significant tax liability,” Novak says. “It keeps the economy going. It keeps people reinvesting in assets.”

If an owner sells a business, real estate or other assets and purchases similar “like-kind” property within a certain amount of time, the owner can defer federal and state capital gains taxes. The provision applies only to business asset sales, and not transactions that primarily involve the sale of stock in a business, Novak said.

“When a client is selling a privately held family business, typically their biggest concern is replacing the cash flow or income generated by the business,” said Novak. “Now that they no longer own the business, their main concern turns to replacing their income?”

Business sellers must place a value on the business, including the value of the real estate, personal property such as equipment, furniture and fixtures, and what is known as goodwill. Goodwill is the value added to a business because of their reputation, name, customer lists or other intangibles, and is fully taxable and not eligible for 1031 exchanges. But real estate and other personal property is eligible.

“Most business owners don't want to buy another business,” says Novak. Many are nearing retirement and “don't want to be involved in running another business.”

However, by using the strategy of a 1031 exchange, the owner could purchase an income-generating property, such as a shopping center or apartment building, Novak says.

The tax implications can be enormous. If the taxable gain in a building were \$500,000, then the owner would owe \$106,000 in capital gains taxes, including a 15 percent federal and 6 percent state taxes, Novak. The building might also be subject to tax liability through depreciation recapture, because the taxpayer would be liable to pay capital gains taxes on any depreciation of an asset he's taken over the years. But if the company used a 1031 exchange, using a qualified intermediary and invest that money into another property, they could defer those taxes.

Novak's primary business is 1031 exchanges and his clientele includes business brokers, domestic and international real estate investors and developers, domestic and international business owners, and domestic and international investors. Novak handles 1031 exchanges on businesses and anything people hold as investments, including art, collectibles, racehorses, jets or boats. But the IRS rules for exchanges on real estate are much more flexible than those on other investments, Novak says.

To hear more about 1031 exchanges, join the GABB on Tuesday, July 27, 2010, at the South Terraces Conference Center, 115 Perimeter Center Place, Atlanta, GA, 30346. Networking begins at 9:45 a.m. with a free light breakfast before the group's 10:30 a.m. meeting.

GABB members help business owners and sellers in all facets of the purchase and sale of businesses and franchises. A GABB broker can help a business owner evaluate and price a business, market and advertise to prospective buyers, negotiate and close a deal. Buyers can work with GABB members to find businesses for sale, negotiate a fair price and obtain financing. The GABB Web site lists hundreds of businesses for sale throughout Georgia, as well as around the country.

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Ricky B. Novak is president of Strategic 1031 Exchange Advisors ("SEA"), an Atlanta-based consulting firm and qualified intermediary. The firm provides real estate and tax consulting services for clients structuring complex real estate transactions, specializing in 1031 exchange structuring for real estate investors and developers. He has a B.S. in International Affairs with Certificates in International Business Management and Spanish from Georgia Tech, and a *Juris Doctor* from Emory University's School of Law, with a concentration in tax, real estate, and international law. He is an active member of the State Bar of Georgia, the Lawyers Club of Atlanta, and Real Estate Group of Atlanta. Mr. Novak currently serves on the Board of Directors for the Atlanta Bar Association and was the Chair of the Bar's Real Estate Section for 2009-2010. He also serves on the Board of Advisors for several real estate developers, real estate funds and various other businesses.