

Aging Boomer population prompts increase in popularity of Tenant-In-Common 1031 exchanges

By Laura Jones, Assistant Editor

After a lifetime of farming, it was time for Lowell Hamilton and his wife, Lorraine, to think about retiring. How best to convert the family farm into a retirement income was the biggest question the Herriman couple faced a year ago.

Enter Salt Lake-based OMNI Brokerage, a 14-year old securities broker/dealer that specializes in Tenant-In-Common (TIC) 1031 real estate exchanges. Headed by founder and CEO Gary Beynon, and President Greg Paul, the company is at the forefront of nationwide activity with a hand in TIC 1031s representing approximately \$100 million in investor equity. According to OMNI Brokerage's informal survey of all real estate providers of TIC 1031 Exchanges, the total equity exchanged by investors into new replacement properties is expected to reach \$1.1 billion this year.

OMNI Brokerage helped the Hamiltons sell 100 acres of their Herriman farm in exchange for an interest in a handful of office buildings in various markets. The strategy limits their tax burden while freeing up cash-flow for retirement. "We were selling the farm and I didn't want to give it all to the government, so we just took an exchange on that property for another property," says Hamilton, who sold off the majority of his land, but kept 70 acres to keep him busy during the summer. He now spends winters in St. George.

After 70 years spent farming, it was a tradeoff Hamilton could live with, and one with which many couples and individuals of the Baby Boom generation are grappling, says Paul.

"When you're 65 and want to drive around the county in your Winnebago visiting your grandchildren, you can't have a four-plex with the trash, toilet, and tenants bothering you," he notes. You want to get out of that and you go into an institutional-grade piece of real estate that the economies of scale make sense to have a third-party management- and that's because of passive investments (like TIC 1031s).

With a 2002 IRS ruling clarifying criteria for TIC 1031 Exchanges, the special real estate transactions are blossoming into what likely will account for several billion dollars of all real estate exchanges this year, says Beynon. OMNI Brokerage works with real estate companies nationwide that specialize in offering shares in commercial, retail, industrial and institutional buildings, which in turn match with investors' needs, like the Hamiltons'.

There are 15 requirements the IRS has set in qualifying an exchange as a TIC 1031. A full review can be found online at www.irs.gov. Some of the highlights include:

- *The number of tenants-in-common / cannot exceed 35;*
- *The sponsor of the interests may own the property (or an interest therein) for only six months before 100 percent of the interests are sold;*
- *Any decision that has material or economic impact on the property to its owner must be approved unanimously by the owners; and*
- *Any management agreements must be renewable annually and must provide for market rate compensation.*

— Source: Ronald L. Raitz, CCIM

Besides getting the backing of the IRS, the tricky part of a TIC 1031 Exchange is the timing. There is a 180-day clock that starts ticking as soon as the owner sells his piece of the property. First, the investor has 45 days to identify TIC 1031 Exchange properties, then another 135 days to research them, make a hopefully-wise decision, and transfer the funds, which have been resting with a third-party intermediary, to close the exchange.

Investors save on the taxes they would have had to pay had it been a strictly cash-out transaction. But they do incur fees for the services provided by the likes of OMNI Brokerage and owners of the exchange property in which they invest.

Beynon likens the TIC 1031 Exchanges to a slice of pizza. "If you buy a piece of pizza by the slice, you're going to pay more by the slice than you're going to pay by the whole," he says. "It's a little bit more expensive for investors to buy this Tenant-In-Common real estate than it is for them to go out and buy their own real estate. One of the other pros, though, is that they can't get the same quality real estate with the amount of money as they can in a Tenant-In-Common piece."

Says Paul, "I think it's important to note that most of the deals that come into this marketplace, because of the nature of the investor being retirement age, would be considered stabilized properties that are income producing. So an investor's looking at usually between a 7 to 8.5 percent cash-on-cash deal, and that's what they're going to get in a monthly-annualized check. That income is after all the fees."

Beynon adds, "They [Boomers] are starting to want to turn their real estate over and turn it into retirement funds. So, they're exchanging because they don't want to pay a third of it to the government in taxes."

While OMNI Brokerage is a lean operation in-house, it grew its nationwide network of representatives from 20 to 50 this year, and projects doubling that to 100 in the next 12 months.

Licensed in all 50 states with branch offices in nine states, the company only grows because its clients are satisfied, according to Paul. Referrals are expected to push the total amount of equity represented by OMNI clients from \$25 million in 2002 to nearly \$100 million this year.

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