



## The Tax-Deferred Exchange *continued from page 1—*

property, or the taxpayer obtains a replacement property of lesser value than the relinquished property by reinvesting all of the equity from the relinquished property but incurring less liabilities for the purchase of the replacement property than the liabilities that existed on the relinquished property.

An example of these rules might take shape somewhat as follows: assume the taxpayer owns rental property with a fair market value of \$225,000, a mortgage of \$100,000 and, therefore, equity of \$125,000. The property has an adjusted basis of \$100,000 in the hands of the taxpayer. The taxpayer exchanges this rental property for new rental property with a value of \$250,000, a mortgage of

\$150,000 (and, therefore, equity of \$100,000) and cash of \$25,000.

**Rule one:** The taxpayer has traded up in value (\$225,000 to \$250,000) but not in equity (\$125,000 down to \$100,000). The taxpayer will recognize some gain and owe some tax on the exchange.

**Rule two:** The taxpayer will be taxed on the greater in the trade down in value (\$0) or trade down in equity (\$25,000), but only to the extent of realized gain in the transaction (\$225,000-\$100,000, or \$125,000). Therefore, the taxpayer's trade down in equity is taxed. Essentially, therefore, the taxpayer is taxed on all of the \$25,000 cash received.

**Rule three:** The taxpayer's basis in the replacement property is equal to the purchase price of the replacement property (\$250,000) less the gain deferred on the exchange (\$125,000 of \$125,000 or realized gain less \$25,000 of recognized gain equals \$100,000 of deferred gain), or a basis of the replacement property of \$150,000.

This is an overly simplified example of what may occur during a tax deferred exchange. Each taxpayer's situation is different, and the taxpayer is encouraged to seek the counsel and advice of his or her own attorney, accountant, or tax adviser.

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## John Thornton Scholarship Announced

■ *Michael S. Davis, Florida State Counsel*

As announced at the Florida Land Title Association 2002 convention held in Coral Springs, Old Republic National Title Insurance Company is sponsoring the John S. Thornton, Jr. Memorial Scholarship to be first awarded at the upcoming 2003 convention. Many of us remember John as not only a great legal mind but also as a true friend of the title industry. He was dedicated and devoted to our business and was always willing to give of his time to help a colleague, to participate in a seminar, or to serve on a board or committee. I consider myself very lucky to have worked with John for almost twenty years. John was born August 15, 1938. He died January 22, 2002. He will live forever in the hearts and minds of those who knew him.

Applications and terms of the scholarship will be published at a later date.

### COMMENTS:

We invite your feedback and welcome your suggestions regarding "**In The Title Corner**" and the publication of future articles. Address correspondence to:

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