

**REVENUE PROCEDURE 2000-46:  
CO-TENANCY INTERESTS**

Co-tenants of property in which some services are provided to tenants can, under certain circumstances, be treated for Federal income tax purposes, as partners in a partnership - even though no formal partnership agreement exists.

When a Taxpayer acquires a co-tenancy interest in property as his replacement property, the issue can arise as to whether he is acquiring a partnership interest, which is excluded property under Section 1031(a)(2)(d), or a true tenancy in common interest in property.

This issue has been of particular concern to the IRS because of the marketing of a vast number of co-tenancy interests by promoters, in which certain types of partnership characteristics may arguably exist (i.e. the waiver of partition rights and co-tenancy and management agreements which may resemble partnership type agreements).

Faced with a number of applications for private letter rulings on tenancy in common programs, the IRS announced, in Rev. Proc. 2000-46, that it would no longer issue rulings on Section 1031 exchanges where a co-tenancy interest is acquired as replacement property in a Section 1031 exchange. Instead, the Service would continue to study the issue and the facts and circumstances relevant to co-tenancy arrangements. The product of that study was the issuance of Revenue Procedure 2002-22.

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