

Property Management

Election may impact 10-31 exchange

By JESSICA ROBINSON

THE upcoming election may affect how Wyoming natives buy and sell agricultural land. The concern is that if the Democrats take the presidency, there may be an increase in capital gains. For those individuals who are looking to buy or sell land, this could have a huge impact on whether or not they decide to do a 10-31 land exchange.

Key Points

- A Democrat winning the presidency could lead to changes in capital gains taxes.
- 10-31 Land Exchanges allows sellers to defer paying taxes.
- In 2005 and 2006, 30% of the deals in Wyoming involved a 10-31 exchange.

A 10-31 land exchange allows sellers to defer paying taxes on their land once

they have sold it. For example, children who inherited a ranch from their father in 1970 when the land was worth only \$20 to \$30 per acre and decided to sell it now when it is worth \$1,000 per acre, would have to pay 15% of the difference in capital gains tax.

However, if they elect to do a 10-31 land exchange, they will have a certain amount of time to find a new property to purchase without paying the taxes. Once the seller has closed on the sale of

the base property, they have 45 days to identify a new property they are interested in buying. Once the property has been identified, they send a form into the Internal Revenue Service and then have 135 days to close the transaction on the property.

Guidelines must be met

There are certain guidelines that a seller is required to follow, and the most important of these is that the money from this type of transaction has to be placed with an intermediary.

Some of the other things to consider with the replacement transaction are that due diligence may take between 45 and 60 days, the earnest money can be nonrefundable after the due diligence, and the actual closing can take more than 30 days.

10-31 used for 30% land deals

According to James Rinehart, associate broker at Western United Realty LLC, in 2005 and 2006, about 30% of the deals in Wyoming involved a 10-31 land exchange.

As a broker, Rinehart's first priority is to find out exactly where the customer, or person coming out of the exchange, is in the identification process. Due to time constraints, the most important thing is to find property.

Rinehart explains that the most successful 10-31 land exchanges have been done in eastern Wyoming, in areas such as Torrington, where there are working ranches. Most of the properties from Laramie on west are valued more for their scenic amenities, which impacts the market differently.

Rinehart believes that a 10-31 land exchange has limited influence on the price of land. Exchanges basically meet the seller's goal to sell and get out of a property. He says that it may give a small percentage of owners the incentive to sell, and it may affect a small amount of properties that might not have sold otherwise. In general, 10-31 land exchanges have limited influence on the market.

Last year, Rinehart says he saw a trend where ranchers would sell their high-value properties in exchange for commercial properties, a transaction commonly referred to as a 10-31 Real Estate Investment Trust, or 10-31 Tenants in Common property.

For example, if the rancher sells his ranch for \$3 million and invests in a commercial property, he could get a return of 6% to 7%, plus the capital appreciation.

This opportunity may give sellers more incentive to do an exchange.

Election impacts sellers

The possibility of Democrats winning the presidency has had an impact on sellers willing to do a 10-31 land exchange.

Since most individuals who opt to invest in a 10-31 land exchange do so for a long-term haul, and since the value of the base property and the sale price of the new one are accounted for in an exchange, some feel it is cheaper to pay the 15% in taxes now than risk paying a higher percentage later down the road.

Robinson writes from Laramie, Wyo.

