



# Tenant in Common Frequently Asked Questions

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## Tenant in Common Frequently Asked Questions

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### What is a TIC?

Tenant in common is an ownership structure that allows several parties to own a fractional, undivided interest in a single property. TICs are essentially a co-ownership among two or more investors.

Tenant in common programs, also known as tenancy in common, fractional interest or co-tenant ownership, allow investors to buy a partial interest in a whole property. The property remains indivisible, but as a tenant in common you are entitled to

your percentage share of net income, tax advantages, appreciation and liability.

### Who should consider TIC ownership?

TIC ownership is rapidly growing in popularity among investors not only as a fail-safe for 1031 exchanges, but also as a first choice for their ease of ownership.

People who want passive income in a concrete asset, and people who could benefit from the tax advantages of TIC ownership, should consider TICs.

TIC properties serve as ideal replacement property in 1031 exchanges because they are flexible and able to meet investors' needs for purchase price, debt ratio and closing schedule. Pre-arranged financing also helps exchangors identify and acquire properties within the 1031 exchange timeline.

### What are the benefits of TIC ownership?

- You will realize increased net cash flow, tax write-offs and appreciation without the headaches and time commitment of individual real estate ownership.
- You will have access to larger properties than you could own individually. Imagine making a personal investment of \$250,000 to own part of a multimillion-dollar building with a billion-dollar credit tenant guaranteeing the long-term lease.
- Our TIC investments have various debt-to-equity ratios, allowing you to choose an asset that suits your investment objective.
- You may distribute smaller amounts of equity across a range of property types and geographic locations, diversifying your assets. Alternatively, you

may consolidate many management-intensive properties into one hassle-free asset.

- You share the risks and rewards proportionally with other investors.
- You are able to own institutional-quality assets without handing over control to institutional REITs and private equity funds, which lack the tax advantages of TIC-owned real estate.
- Since the amount invested in a TIC is flexible, you have greater flexibility in selling your relinquished property. You achieve a tailored solution for your replacement property by matching your fractional interest in the TIC exactly to your available equity.
- Your monthly cash flow can be tax-sheltered via depreciation pass-through and interest deductions. In many cases, more than half of your net income will not be taxed. You will also share in the appreciation of the property when it is sold.
- If you use a 1031 exchange to buy into a TIC, you will have more money to invest. By rolling the entire amount from the sale of one property into the purchase of another, you avoid capital gains taxes. This has a compounding effect on your investment.

#### **What will I own?**

You will own a high-quality commercial property such as an office building, retail shopping center, or industrial property. You will own a portion of the undivided building as a tenant in common with other owners. That means you share in the profits, expenses, debt and equity of the building, proportionate to your share of the property itself.

TIC owners have the same rights as if they owned the property individually. You will receive a separate deed and title insurance for your percentage interest in the property.

#### **Is it a partnership?**

No. Each TIC owner holds a deed for real property. All the benefits of owning real estate go with the deed. As a tenant-in-common, you are able to individually sell, exchange, borrow against, transfer, gift,

will and depreciate your property.

#### **What is RealNet's role as a TIC sponsor?**

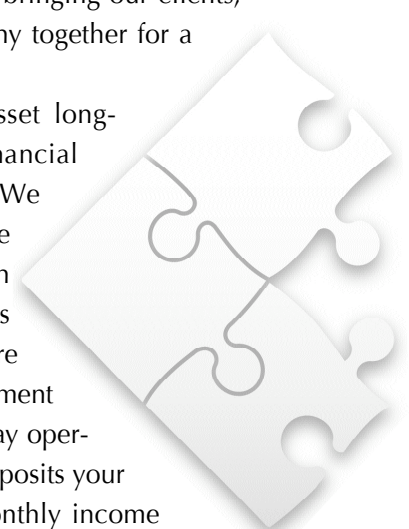
RealNet assists you in every aspect of the process to offer superior efficiencies in identification, acquisition, financing, and operating your property.

- We are active throughout the United States in identifying potential investment properties. We maintain relationships with brokers and property owners, and we keep abreast of market trends to ensure we are competitively buying real estate with good fundamental value.

- We perform or arrange the due diligence on each property, including appraisals, environmental reports, financial analyses, market analyses, reviewing leases, taxes, zoning and other factors affecting the property. This provides substantial savings to our investors, who would have substantial out-of-pocket costs associated with doing their own due diligence — and essentially waste that money if they elect not to purchase a property. We compile all due diligence information in an easy-to-read, indexed due diligence book, and provide you with a photo library of the property on CD.

- We work with lenders to secure a competitive loan rate and comfortable structure for loan repayment. We assist our clients in gathering and organizing all needed financial or personal documentation to satisfy the lender's requirements, and we shepherd the process of bringing our clients, lenders and title company together for a smooth closing.

- We manage the asset long-term, ensuring its financial health and stability. We negotiate leases, hire contractors, work with tenants to ensure rents are paid on time, and hire a local property management firm to oversee day-to-day operations. RealNet direct-deposits your portion of an asset's monthly income



in an account you specify. Long after you've acquired the property, you'll still be able to contact RealNet with any questions.

- We are responsive, insightful and thorough. Our principals and staff make clients our priority, ensuring excellent communication with you, and superior behind-the-scenes organization. We can tailor solutions exactly to your investment needs, and we maintain an excellent referral network of professionals to answer your legal, tax or financial questions.

#### **When do I see income?**

You will receive a check from RealNet the first month after you complete the purchase of your property. The cash flow distributions are tax-sheltered through depreciation and other operating expenses.

#### **Who is responsible for the property?**

RealNet takes responsibility for managing the asset, sending owners a monthly distribution check, hiring vendors and contractors when needed, and dealing with major tenant issues. Minor issues and day-to-day operations are handled by a professional property management company supervised by RealNet.

#### **How long will I own the property?**

Most investments have a four- to seven-year holding period, but you are able to own the asset for a longer or shorter period. The other owners of your property have the right of first refusal to purchase your interest in your property should you choose to sell it, and you also have a right of first refusal to the other owners' shares. You are also able to sell your interest in a property to an outside party. You will make decisions on the disposition of the property jointly with the other owners.

#### **What if I want to be the sole owner of a property at a later date?**

Returning to sole ownership is always an option if your investment preferences change. 1031

exchange rules allow you to move your capital out of a TIC-owned real estate asset and into a single-owner property, and vice versa.

#### **What kind of due diligence is performed?**

RealNet and the lender both perform extensive analysis to determine whether the property is physically sound, economically profitable, likely to increase in value and able to generate sufficient income to pay off debt and provide income to the owners.

RealNet provides thorough due diligence materials, such as environmental reports, appraisals, leases and tax information, however it advises clients to consult with their own tax, financial, legal and real estate advisors about the performance and suitability of a subject property. The due diligence materials should be carefully read and understood, and should be independently verified.

#### **How do I find a TIC asset to purchase?**

Often, TIC properties are sold out within days or fully committed before they are publicly offered. If you or your clients are considering purchasing a TIC investment asset, we suggest you register with RealNet so we may notify you as soon as new TIC opportunities are available. **Our e-mail notification service is free.** Contact Heidi J. Stout at [hstout@realnetinc.com](mailto:hstout@realnetinc.com) or 503-274-6241 to register.

#### **How can a TIC asset help my situation?**

TIC ownership can solve many problems for investors, including:

- Exchanging an asset that requires many hours of management each month for a hassle-free, professionally managed property. The management-free property gives you more time to travel, recreate, focus on your career or spend time with family.
- Exchanging raw or non-productive land for an improved property can create significant cash flow.
- You can trade a high-appreciation property, such as a house or apartment, for a high-cash-flow property, such as a retail shopping center.

- You can trade one property for TIC interests in several properties, or you can consolidate interests in several smaller properties (such as duplexes) for interest in one large, higher-grade investment.

- You can trade a property that cannot be refinanced, such as raw land, for an improved property that can support a new loan. This could create cash flow or reduce your interest rate.

- You could also use exchanges to support your own business. For example, an accountant could trade her rental house for a small office building for her practice.

### Why are TICs popular?

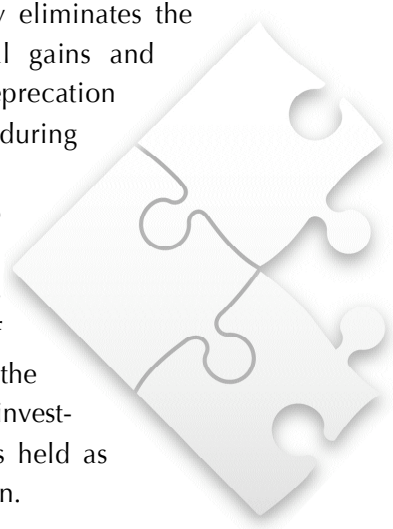
TICs are growing in popularity because they provide flexibility to 1031 exchangers, they are a hassle-free way to own real estate without managing it, and they are recognized by the IRS and lenders as a viable investment. On March 19, 2002, the IRS Revenue Procedure 2002-22 was issued, providing guidelines for the use of TICs in 1031 exchanges.

### How can TICs help in estate planning?

You can divide equity and select investment property appropriate for bequests to heirs or charities with TIC investments.

Real estate investment property typically qualifies for a one-time, step-up in tax basis to fair market value upon the death of the owner, which effectively eliminates the taxes for capital gains and recaptured depreciation that you enjoy during your lifetime.

Your estate might also benefit from a minority discount of 25% to 50% of the estate tax if the investment property is held as tenant in common.



# Tenant in Common Conditions

*The following is a summary of the 15 conditions that must ordinarily be satisfied for a Tenant In Common 1031 exchange.*

1. **The property is held in Tenants In Common ownership** by each of the co-owners under local law.

2. **Number of Co-Owners** is limited to no more than 35 persons (husband and wife are treated as a single person).

3. **No Treatment of Co-Owners as an Entity** so that co-owners not file a partnership tax return or otherwise conduct business under a common name or hold themselves out as a partnership, corporation or other business entity.

4. **Co-Ownership Agreement** where the co-owners may enter into a limited co-ownership agreement that may run with the land.

5. **Voting** the co-owners must retain their voting rights for unanimous approval required for any sale, lease or re-lease of a portion or all of the property, any negotiations or re-negotiations of indebtedness secured by the property, the hiring of any manager, or the negotiation of any management contract. For all other actions, the co-owners may agree to be bound by a vote of more than 50% of the undivided interests.

6. **Restrictions on Alienation** in general, each co-owner must have the right to transfer, partition, and encumber their interest in the property without the agreement or approval of any person. However, restrictions required by a lender and that are consistent with customary commercial lending practice

are not prohibited. Moreover, the co-owners or the sponsor may have a right of first offer and a co-owner may agree to offer an interest for sale to the other co-owners or the sponsor at fair market value before exercising any right to partition.

**7. Sharing Proceeds and Liabilities Upon Sale of Property** if the property is sold, any debt secured by the property must be satisfied and the remaining proceeds distributed to the co-owners.

**8. Proportionate Sharing of Profits and Losses** where each co-owner must share in all revenue generated by the property and all costs associated with the property in proportion to their interests in the property.

**9. Proportionate Sharing of Debt** where the co-owners must share in any indebtedness secured by the property in proportion to their undivided interests in the property.

**10. Options** where a co-owner may issue an option to purchase the undivided interest (call option), provided the exercised price reflects fair market value of the property determined as of the time the option is exercised. A co-owner may not acquire an option to sell the undivided interest (put option) to the sponsor, the lessee, another co-owner or the lender.

**11. No Business Activities** where the activities of the co-owners must be limited to those customarily performed in connection with the maintenance and repair of rental real estate. See Rev. Rul. 75-374, 1975-2 CB 261.

**12. Management and Brokerage Agreements** where the co-owners may enter into management or brokerage agreements, which must be renewable no less frequently than annually with a sponsor or co-owner but not a lessee. The management agreement may authorize the manager to maintain common bank accounts for the collection and deposit of rents and to offset expenses associated with the property against any revenues before dispersing each co-owners' share of net revenues.

The management agreement may authorize the manager to take certain actions on behalf of the owners (subject to the voting regime described above in Paragraph 5). The fees may not be based in whole or in part on the income or profits derived from the property and the fees may not exceed the fair market value of the manager's services.

**13. Leasing Agreements** where all leasing agreements must be bona fide leases for federal tax purposes and rents reflect the fair market value for the use of the property.

**14. Loan Agreements** where the lender with any debt that encumbers the property or is used to buy an undivided interest may not be a related person to any co-owner, the sponsor, the manager, or any lessee of the property.

**15. Payments to Sponsor.** The amount of any payment to the sponsor for the acquisition of the co-ownership interest and services must reflect the fair market value of the interest acquired and the services rendered and may not depend, in whole or in part, on the income or profits derived from the property.