



Case Study: **AVIATION** Forward Exchange



A publicly traded Fortune 500 company seeking to purchase a new corporate jet.

This Fortune 500 company, headquartered in the Midwest with regional offices in South America and Europe, relies upon a small fleet of corporate aircraft to help its top executives and senior management teams conduct business more efficiently and effectively across the U.S. and internationally. Operating a modern fleet is of key importance to the company, since older aircraft typically have more downtime and require increased maintenance costs. Therefore, every few years the company purchases a new aircraft and structures the acquisition as a tax-saving 1031 Forward Exchange.

Nationwide Exchange Services

The Challenge

Because of their low-volume production and long lead times, new aircraft orders can take two to three years for delivery. During the time period between ordering and taking delivery of its new aircraft, a Bombardier Challenger (valued at \$24 million), the company had gone from a private, family-run business to a publicly traded corporation. As a result, corporate governance and oversight of the company's financial practices had to be substantially increased, particularly those involving multimillion-dollar transactions.

Indeed, to continue to utilize a Forward Exchange for the acquisition of its new aircraft and the disposition of its older aircraft (a Bombardier Challenger, valued at \$14 million), the company needed to work with a Qualified Intermediary (QI) that could adhere to its new, more stringent corporate financial requirements.

Details Of The Transaction

- The company held title to a fully depreciated, debt-free Bombardier Challenger, valued at \$14 million.
- A new Bombardier Challenger, valued at \$24 million, had been ordered and was nearly ready for delivery.
- The company wanted to sell its old aircraft first, and then use the proceeds as partial payment for the new aircraft that was to be delivered 90 days later.
- The company wanted to structure the transaction as a Forward Exchange to defer depreciation recapture that would otherwise be triggered in an outright sale of the old aircraft.
- The company had to adhere to more stringent financial oversight and corporate governance.

The NES Solution

Working closely with the company's in-house tax counsel and treasury department, the NES Account Team was able to structure a customized Forward Exchange solution, which featured the highest level of funds security, transactional transparency and compliance in the 1031 industry.

- **Solid Funds Security.** NES established a Qualified Escrow account with one of its top-tier custodial banking partners to hold the proceeds from the sale of the older aircraft. Along with the bankruptcy protection afforded by the Qualified Escrow account, the company's funds were invested in a secure, liquid money market account.
- **Increased Transparency.** To give the company greater visibility, the solution utilized the NES customer portal. On this fully secure, password-protected website, the company was able to view all of their account information 24/7 – from balances to interest posting, signed exchange agreements to the status of the exchange.
- **Full Compliance. Full Reporting.** NES' SAS 70 Type II certification gave the company the assurance that the business processes and controls employed by NES are compliant with all the IRC Section 1031 regulations, as well as SOX 404. Moreover, NES could provide full audit trail reporting of the transaction.

The Results

The successful implementation of NES' customized Forward Exchange solution, with its added-value services and support, delivered outstanding results for the company.

- Strict adherence to SOX 404, full compliance with IRC Section 1031 and the Qualified Escrow account structure met with the company's new requirements for greater funds security, transactional transparency and compliance.
- Dramatically increased buying power as a result of the \$5.6 million in tax savings from the exchange of its older aircraft.
- Considerably reduced the cash outlay and financing needed to acquire the new aircraft.
- Still benefited from the ability to depreciate on the new Bombardier Challenger, based on the new aircraft's increased basis (\$10 million).

Tax-Deferral Comparison Chart		
1031 Forward Exchange Transaction	Without NES Solution	With NES Solution
Old Aircraft Sale Price	\$14M	\$14M
Old Aircraft Basis	\$0	\$0
Depreciation Recapture on Sale of Old Aircraft	\$14M	\$0
Ordinary Income/Tax Due on Sale of Old Aircraft at 40%	\$5.6M	\$0
Tax Savings	\$0	\$5.6M

Unmatched Expertise – Matched Only By Our Best Practices

Every year, NES conducts thousands of successful 1031 exchanges of varying forms and complexities across a wide spectrum of industries. NES Exchange Specialists are supported by an in-house legal team unparalleled in the 1031 industry. Our highly experienced attorneys are leaders in their field and include a former IRS National Office official who was instrumental in the development of important IRS 1031 guidance and is a nationally recognized author and speaker on 1031 exchange issues. This marketplace expertise along with our fully compliant business practices and processes have set new standards of excellence in the 1031 industry.

These best practices add immeasurable value to every client’s exchange, addressing the critically important areas of funds security, transactional transparency, and voluntary and regulatory compliance. All of which helps explain why we conduct more types of exchanges for more Fortune 500 companies than any other QI in the 1031 industry.

The NES Difference

- NES offers a comprehensive set of 1031 exchange and LKE Program solutions with the highest level of expertise in the industry.
- NES annually subjects its business practices, financial policies and customer provisions to an independent audit to ensure the highest level of funds security, transactional transparency and compliance.
- NES is the only SOX 404 compliant provider for Section 1031 exchanges.
- NES is the only QI to be awarded SAS 70 Type II certification (the same level of audit and certification required to obtain a federal bank charter).
- NES’ innovative technology platform provides full audit and reporting capabilities while providing 24/7 visibility of all account transactions to each client through a password-protected website.
- NES carries errors and omissions and fidelity bond coverage on every transaction.

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