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WOMAN'S COUNCIL OF REALTORS

Feb 20, 2009

A. Foreclosures & Short sales = Debt Relief

Problem: Debt Relief results from these types of sales. Lender issues form 1099-C or 1099-A. Debt relief is taxable under the IRS code. The same rules apply for credit cards, other retail credit when debt is reduced or eliminated. Debt relief and Bankruptcy are the two worst types of credit rating hits people can have.

Partial Solution: Tax relief if the following conditions exist:

Insolvency: Defined when person's assets are valued less than their liabilities.... AKA upside down.

Bankruptcy: Chapter 7 or 13 (11 for businesses like General Motors).

Non-recourse Debt: Secured by the property. Taxpayer not responsible for debt relief. Original purchase money only. CA state tax law. IRS agrees.

Tax Act 2008: Income Tax relief is available...but the taxpayer must give up some future tax benefits. Very complicated. Refer your client to their tax accountant. 12 Tax law changes in 2008 alone...and way more to come in '09. CA partial conformity...'07 and '08 years only

B. Primary Residence vs. second homes

1. Mortgage interest. A new audit target by CA and IRS.

Just when you thought there was one safe haven left in the tax code. Interest is

deductible...but has limits. Several conditions must exist:

Deductible amount: Original mortgage amount increased by home improvements reduced by principal pay downs, plus \$100K.

Limited to \$1 Million max.

How about all of those refi's over the years? Could be real trouble.

2. NEW: PMI on original purchase loan now deductible for 2008.

3. New: Non-itemizers can deduct property taxes up to \$500 singles/\$1000 MFJ. No joke.

4. New: First time homebuyers. WOW. Will get a lesser of 10% of the purchase price or \$7500 (\$3750 single) refundable credit on Form 5405. Restrictions and phase-outs exist. The credit must be paid back over 15 years!!!

C. Contributions-Charity. Heads-up.

1. All donations over \$250 must be substantiated by a receipt. Below that, a cancelled check is OK.

2. Salvation Army/Goodwill /old cars.... These types of non-cash contributions have much tighter standards. IRS has noted flagrant violations. Items must be in "good or better" condition, have receipt, and in some cases, a qualified appraisal.

D. Sale of Residence – Big Changes for 2009 and beyond. Be Aware.

1. If residence was used for rental / vacation rental after 2008, a new complicated calculation must be used to determine the taxable profit that must be reported at sale. It is basically a pro-ration of personal use vs. rental income use. Exceptions and restrictions apply.

2. The \$250K/\$500K exclusion still exists, but the profits under the new calculation will limit what can be applied to the exclusions limits.

3. For 2008, the 2 years out of 5 rule still exists. The IRS has identified several exclusions if the property is sold prior to 5 years. This rule still applies in the future if the residence has not produced income.

E. Section 1031 Exchanges. No significant changes

F. Other: Gay Marriages. It is still legal in California. They will be filing joint tax returns (state only) and may own real property as joint or joint WROS.

F. Issues regarding the business of selling real estate.

1. Deductible expenses: No changes. Here is the big deal. The IRS finds that sales people are sloppy. That means you are a prime target for audits. I'll repeat what your tax accountant has been telling you for years...Keep receipts!! Yes, including that darn auto mileage log!

Some of my overlooked favorites:

seminars....do not have to be local. Find a seminar where you like to have fun...ski.. Vegas..sail..Hawaii...romantic places...Palm Springs...HAVE FUN. No law against it!!

mileage log: Does not have to be separate. Keep it in your daytimer. All of your appointments should be there...so just put the mileage associated with that trip next to it and add them up weekly. Kill 2 birds with one stone.

Entertainment: Another place you can have fun compliments of Uncle Sam. Football, baseball, hockey games, sailboat charters, (my favorite, surfing), rollerblading... almost any activity and almost anywhere you like to go. Bring along a client, or other real estate professional (escrow officer, mortgage rep, title rep, etc); talk business, and have fun. Its deductible. Don't forget food and booz. Not just restaurants, but at the stadium, golf course, out on the town, and in-home get togethers too. Keep those Vons receipts.

2. Autos: Buy vs. Leasing. Economics almost always favor buying. Tax wise, buying is favored because of depreciation. Actual expenses vs. mileage is about twice as favored.

3. Form of Ownership: Corp Vs. Individual. Self-employed individuals are audited about 20 times more often than corporations. Do I have your attention? Damn good audit insurance! DRE allows it. Your broker may find it a pain. Beg, plead with them. The corporation files a separate tax return from you. Only a few small differences separate the deductibility of Sub-S Corp expenses over self employed....and there are some substantial self-employment tax savings advantage.

If you are an employee, Form 2106 expenses are Itemized deductions. Worse possible case; and they are subject to the AMT tax.

4. Wills and Trusts: As important to you as your clients. Get them. They avoid probate (large attorney fee savings) and allow your assets to go where you want them either jointly with or separately from you spouse.

LATE BREAKING NEWS

G. Economic Stimulus Bill – signed 2/17/09 - \$ 787 Billion

1. See attached handout for tax provisions

H. \$ 275 Billion – Mortgage Bill- Signed 2/18/09

1. Treasury to develop a uniform guideline for loan modifications intended to reach 3 – 4 million borrowers based on the model the FDIC used in bailout of IndyMac. All recipients of federal bailout money will be required to conform.

Citigroup has already announced they will conform.

2. Nationalized Freddy and Fannie will use existing protocol for loans they own or guarantee.

3. Lenders will be expected to reduce loan payments to 38% of a borrowers income. Treasury will match interest rate reductions dollar for dollar.

4. Existing loan servicers will get a \$1,000 fee for each loan modification and receive “pay for success” fees up to \$3,000 for 3 years; AND an incentive payment of \$ 1,500 on mortgages that are current and are modified before the borrower falls behind.

5. Treasury will create a \$10 Million insurance fund to protect lenders against further losses on modified loans down the road.

6. Refinancing: 4 – 5 million loans already owned or guaranteed by Freddie or Fannie will be allowed to refinanced to a lower monthly payment. This could cost up to \$400 Billion!

I. California Passes biggest tax increase in our history. 2/29/09.

1. Includes a \$10,000 tax credit for those who buy new homes. The credit can offset taxes up to 3 years, effective March 2009 thru Dec 2010.

J. Outlook for 2009 Tax wise.

1. Big tax liability increase for incomes over \$250K
2. A new \$ 1,000 tax credit for lower and middle-income families.
3. The Estate tax credit will freeze at the current \$3.5 Million. 2009
4. AMT will affect less people over the next several years.

K. Orange County Outlook-my perspective

Docs/tax seminar outline