

NEWSBRIEF: LEGISLATIVE UPDATE

Every Cloud has a Silver Lining

by Dave Corsi, MREIA Legislative Awareness Chair

The downturn in the national economy as well as in the real estate market has created a unique opportunity for investors. Congress is acting busy, busy, busy, attempting to solve the financial crisis. Because they are totally incapable of reducing spending, they are scurrying around looking for:

- Programs to stimulate the economy
- Programs that will raise revenue

Along these lines we are looking to help. We have proposed changing the tax code to allow dealers (rehabbers, wholesalers, flippers, builders, etc) to take installment sale tax treatment when they hold a note and mortgage. A person or entity that buys and sells property on a regular basis may be deemed a dealer by the IRS. There is no concrete definition as to exactly how many deals a person has to do to be labeled a dealer.

Installment sale tax treatment allows the note holder to pay taxes on the money as it is received. Current law disallows these dealers from electing to take installment sale tax treatment. The current rule is that the a dealer taking back a note, will have to pay tax on his/her entire profit in the year of sale.

To illustrate: a rehabber purchases a property for \$100,000. The rehab & holding expenses are \$25,000 for a total of \$125,000. The rehabber finds a buyer for \$150,000. The rehabber agrees to hold a note for their \$25,000 profit for 10 years at 6%. The monthly payment is \$277.55.

In the above example assuming the property is sold on Jan 1st with the first payment due on February 1st. For that year, the seller / rehabber will receive \$3,053.05. If the rehabber is in the 30% tax bracket, the taxes owed would be \$7,500. even though the amount they received is \$3,053.05. So the rehabber/seller will have to come up with an additional \$4,446.95 (\$7,500 - \$3,053.05). This obviously creates a hardship.

Prior to the Tax Reform Act of 1986, if an investor sold a property and took back a mortgage, the taxes owed would be paid as the money is received.

Since 1992 we have been trying to get the law changed back to the old system. With the economy in dire straits we redoubled our efforts to get this rule changed. In the past year we have had countless meetings with members of Congress and their staff. It appears our efforts are finally bearing fruit. Congressman Bill Pascrell from North Jersey will be sponsoring a Bill that will allow dealers to use installment sale tax treatment. If it passes and becomes law, it will be a great win/win for everyone. For the government, increased revenue, job creation and less burden on financial institutions. For investor/ dealers a great opportunity to build cash flow.

To learn more about how changing the installment sale tax rules will be a great benefit, please read "The Installment Sale Proposal" in the Legislative Corner of www.mreia.com.

Soon we will be making a call to action for our members and the real estate community throughout the nation to contact their legislators.

Dave Corsi is a Past President of MREIA and has made presentations at MREIA meetings and the Learning Annex.