Tax Issues for Realtors

Scripps Tax & Financial Group, Inc.
10650 Scripps Ranch Blvd.
Ste 216
San Diego, CA 92131
858.271.1488
jason@scrippstax.com

First-Time Homebuyer Credit

Qualifications

- Purchased on or after April 9, 2008 and before July 1, 2009
- Taxpayer or Spouse who has no present ownership interest in a principle residence during 3 year period ending on date of purchase
- Must be principle residence you are purchasing

First-Time Homebuyer Credit Continued….

Amount of Credit

- Refundable credit equal to 10% of purchase price not to exceed $7,500 (MFS $3,750)
- Credit reduced with AGI of over $75,000 (MFJ $150,000)
- $20,000 prorated range
- ($75K-$95K) ($150K-$170K)

First-Time Homebuyer Credit Continued....

Recapture of Credit

- Proof that it is not a "credit"
- Amount is recaptured (paid back) through the tax return over 15 year period ($500 per year assuming max)
- Begins in second year following the purchase
- If sell or change to rental or investment (not principle residence) then it needs to be paid back in year of conversion

Mortgage Insurance Premiums

- Congress extended the ruling to allow deduction (2007-2010)
- Phased out by 10% for each $1,000 over AGI of $100K (MFJ)
- Phased out by 10% for each $500 over AGI of $50K (MFS)
- Thus, no deduction is allowed if AGI reached $110K (MFJ) and $55K (MFS)

Mortgage Interest Deductions on Principle Home

- Acquisition Debt: debt incurred in acquiring, constructing or substantially improving your property (interest is deductible up to $1,000,000 of debt)
- Home Equity Debt: can be used in any manner desired (interest is deductible up to $100,000)

Exclusion from Sale of Principle Residence (Prior to 1/1/2009)

- Live there 2 out of last 5 years as your primary residence
- Owned the property during this timeframe
- Exclude up to $250K (Single) $500K (Married Filing Joint)
- Can do this every 2 years if you wanted

Exclusion from Sale of Principle Residence (On or after 1/1/2009)

- Takes into consideration the time period when property was not used as a principle residence
- Numerator is the number of nonqualified periods (not used as principle residence)
- Denominator is total years owned
- % equals taxable capital gains

Cancellation of Debt

- Debt forgiven is generally included as ordinary income on line 21 of the 1040
- Lender required to file 1099-C to government and to the taxpayer
- It is up to the taxpayer to figure out if it is taxable

When is Cancellation of Debt Not Taxable?

- Bankruptcy
- Insolvency
- Certain Farm Debts
- Non-recourse Loans

Bankruptcy

- Debt cancelled in a title 11 bankruptcy case is not included in income if the debtor is under the jurisdiction of the court

Insolvency

- COD is not taxable to the extent you were insolvent immediately before the cancellation
- If your liabilities (all recourse debt and the amount non recourse not in excess of FMV of property) exceeds the FMV of all of your assets (includes retirement assets) immediately before the cancellation then the COD is not taxable

Non-recourse / Recourse

- <u>Non-recourse</u>: loan for which the lender's only remedy in case of default to repossess the property being financed or used as collateral (No COD)
- <u>Recourse</u>: personally liable (taxable unless falls under one of the exclusions)

Mortgage Forgiveness Debt Relief Act of 2007

- Principle residence only
- Lived in property 2 years (within 5)
- Applies to portion of debt used to buy, build or improve the taxpayer’s primary residence
- Max $2 million ($1 million MFS)
- 2007-2009
- Amount excluded reduces the taxpayer’s basis in property

Purchase vs. Refi Loans

<u>Mortgage Forgiveness Debt Relief Act</u>

- Purchase loans always ok as long as secured by the home
- Refi loans ok if used to improve the home (if used to pay off credit cards, go on vacation, etc. = not forgiven)

Careful! Reduction of Tax Attributes

- If the cancelled debt is excluded by reason of bankruptcy or insolvency, you must use the excluded debt to reduce tax attributes
- Most common tax attribute reduced – cost basis in other property owned