Your Future is Our Focus

RINA accountancy corporation

Real Estate Report

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New Rules Make It Easier for the IRS to Audit Partnerships

By: Ray Evans, Stockholder and Tax Department Head

For rental real estate and other partnerships, whose taxable years start after December 31, 2017, the IRS has issued new proposed rules for determining how the IRS will conduct audits of partnerships and who will bear the burden of tax liability, if any, determined under an audit.

In 2015, Congress enacted Section 1101 of the Bipartisan Budget Act of 2015, P.L. 114-74, which implement new centralized audit rules for partnerships. These new rules replace the existing rules which required that after an audit of a partnership any audit adjustments were passed through to each partner resulting in adjustments to each partner's tax return and payment of tax at the partner level.

Under the new centralized rules, the audit of a partnership will be similarly conducted at the partnership level, however, the partnership will now be responsible for a "imputed underpayment" that may be due as a result of the audit. The imputed underpayment is equal to the "total netted partnership adjustment" multiplied by the highest federal income tax rate (individual or corporate) then in effect. Audit adjustments that do not result in an imputed underpayment will be passed through to the partners as a non-separately stated item of loss, credit, or reduction in income.

The partnership may elect to "push out" the imputed underpayment to its reviewed year partners. The election must be made by the partnership within 45 days after the date of the notice of final partnership adjustment. In addition, the partnership must send statements to each partner reporting such partner's share of the imputed payment, penalties, and interest.

Under the new rules, the partnership on its tax return, must designate a "partnership representative." The representative replaces the tax matters partner and does not have to be a partner. The representative has the sole authority to act on behalf of and bind the partnership in audit matters. Each taxable year, the partnership designates the representative for that tax year only. If a representative is changed in the next tax year, he or she does not replace the representative for the prior tax year.

The representative can be anyone, including entities, who have:

1. the ability to meet with the IRS in the United States,
2. have a street address and telephone in the United States,
3. and a United States taxpayer identification number.

Partnerships can elect out of the new centralized rules if they meet both of the following conditions:

a. The partnership must have 100 or fewer partners; and
b. All partners must be eligible partners (individuals, C corporations, or foreign entities that would be treated as C corporations if they were domestic, S corporations, and estates of deceased partners).

Partnerships, trusts, disregarded entities, and other nominee interests would make the partnership ineligible to elect out of the new rules.

General partner or managing member! Now is the time to amend your partnership agreement to reflect the new audit rules, as well as replace the tax matters partner with the new partnership representative. Please contact your RINA representative to help guide you through the process.

As of January 1, 2018, we will no longer be mailing the quarterly RINA Real Estate Report, but will continue to email it. If you are receiving our printed version and would like to receive the email version, please contact Amanda Vergara at avergara@rina.com or 925-627-2829.

The Hidden Wealth In Real Estate

By: Marcella Silva, Velur Enterprises, Inc., Land Banking Consultant

As you look around the Bay Area, you will find tremendous growth, with little land available. Construction projects prevail and business is booming! Then there are the projects most Californians aren't even aware of that is causing the largest land rush in history.

With the reality of California's population growing at such an alarming rate, a strong economy, and the lack of available, much less affordable land, we have created a perfect storm. While growth patterns top the charts, and the desire for this precious limited resource mounts, individuals and investors turn toward alternative ideas that make more sense for them, seeking ventures that do not break the bank.

Historically, California's population grows at a rate of 250,000-350,000 people per year! Statistics from March 2017, show growth by 0.7% in the Bay Area. This progress not only minimizes the availability of our precious land, but also drives up the costs, sending savvy investors towards this scarce resource.

Land Banking, the art of investing in land that lies in the path of growth, creates an alternative investment plan for those who would like to explore other opportunities. As our land becomes more scarce, it also becomes more valuable, basically - supply and demand at its best. Just imagine if you had purchased land in the Bay Area 20 years ago for $5000/acre, and now it's worth well over $1,000,000/acre…This is the power of land banking!

While some choose to and struggle with "toilets, termites, and trouble," other investors flock to find the best bang for their buck without the headaches of getting involved in bad blood with tenants. They realize that there has to be something else to quench their thirst for why they invest in the first place.

Investing in land is a great alternative for those who want to do a 1031 exchange, who have an old 401k or IRA that is underperforming, or for those who have some cash that they just are not sure about where they can invest it for a great return.

Land banking, with the proper guidance, is a creative solution for the average investor who would like to increase their wealth. By safely and affordably investing in the right land, your financial future can be worry-free.

For more information please contact Marcella at:
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SAVE THE DATE

Real Estate Advice Series Seminar

2018 Commercial Real Estate Outlook

Tuesday, January 16, 2018
8:30 am to 10:00 am

Scott's Seafood Restaurant
1333 N. California Blvd.
Walnut Creek

Our Speaker
Jeffrey Weil, Executive Vice President
Colliers International

For More Information, Contact Amanda Vergara
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