

Two

THE TRUCK:

M's PURCHASE OF THE TRUCK IS FOR BUSINESS PURPOSES, IT WOULD QUALIFY FOR A § 162 BUSINESS EXPENSE DEDUCTION - FOR PROPT

MOTIVE AND IS AN ORDINARY AND NECESSARY EXPENSE.

HOWEVER, THE TRUCK, AS IT HAS USEFUL LIFE OF OVER ONE

YEAR IS A CAPITAL ASSET, WHICH WOULD NORMALLY FORCE THE

UNDER § 263

TAXPAYER TO CAPITALIZE THE COST INSTEAD OF IMMEDIATELY

DEDUCTING IT AS AN EXPENSE. HER COST OF 40 K THEN

WOULD GO INTO THE BASIS OF THE TRUCK - 10% COST BASIS.

BECAUSE THE TRUCK LASTS, THE CODE TRIES TO MAKE THE TAX

BENEFIT LINE UP WITH THE EXPENDITURE. THE DEPRECIATION

REDUCTION UNDER § 167 (AS THE TRUCK IS ~~THE~~ BUSINESS

PROPERTY THAT CAN WEAR OUT) ALLOW HER TO QUICKLY

RECOVER HER BASIS IN THE TRUCK. AS THE TRUCK IS NOT

REAL ESTATE SHE COULD DO A STRAIGHT LINE DEDUCTION

GIVING HER 40K BASIS BACK EVENLY OVER THE 5 YEAR

RECOVERY PERIOD OF 5 YEAR PROPERTY LIKE A LIGHT TRUCK

168(e)/168(e) - GIVING HER 8K DEDUCTIONS OVER 5 YRS.

WHICH ARE ABOVE THE LINE ~~§162~~ BUSINESS EXPENSES

LISTED IN §162. HOWEVER SHE WOULD MAYBE CHOOSE

4 DOUBLE-DECLINING METHOD - WHICH ~~REQUIRES~~ ALLOW

MUCH FASTER RECOVERY. ^{168(b)} IT WOULD ALLOW HER A DEDUCTION

OF 40K DIVIDED BY 5 YEARS X 2 - HENCE "DOUBLE".

THIS WOULD GIVE HER 16K DEDUCTION IN YEAR ONE, BUT

SUBJECT TO THE HALF-YEAR CONVENTION IN 168(b) IN THE

FIRST YEAR - BRINGING IT BACK TO 8K. BUT THEN A MUCH

HIGHER DEDUCTION IN YEAR TWO - DECLINING FROM THERE

ENDING WITH A STRAIGHT LINE DEDUCTION IN YEAR 5.

ALL THIS ASIDE, SECTION 179 WILL PROVIDE HER A SMALL

BUSINESS EXCEPTION WHERE, BECAUSE SHE BOUGHT LESS

THAN 400K OF DEPRECIABLE PROPERTY, SHE CAN IMMEDIATELY

EXPENSE UP TO 100K OF CAPITAL ASSETS. SHE CAN

THUS DEDUCT THE 40K, IF THE DEDUCTION EXCEEDS

EXPENSES, SHE CAN CARRY BACK THE REMAINING N.O.L.

2 YEARS AND FORWARD 20 YEARS UNDER § 172.

DAUGHTER

MURIEL IS SINGLE. AS SUCH SHE CAN CLAIM HERSELF FOR A PERSONAL EXEMPTION OF \$3200 ON HER TAX RETURN UNDER § 151 AS LONG AS HER INCOME DOES NOT EXCEED 268K, WHICH IS THE LIMIT ON THE PHASE-OUT ON THE PERSONAL EXEMPTION - THIS IS CONGRESS' WAY OF TACKLING THE TP A BONE FOR PERSONAL EXPENSES NOT BEING DEDUCTIBLE.

MURIEL WOULD NOT BE ABLE TO DEDUCT DONNA AS A DEPENDENT EXEMPTION UNDER § 152, HOWEVER. A CHILD UNDER § 152 WILL HAVE TO MEET 4 ELEMENTS.

DONNA IS MURIEL'S BLOOD DAUGHTER; SHE DOES LIVE WITH MURIEL MORE THAN $\frac{1}{2}$ THE YEAR (WITH SCHOOL NOT COUNTING AGAINST HER); DONNA IS OVER 19 - BUT IS UNDER 24 AND IN SCHOOL FULL TIME; BUT DONNA PROVIDES OVER $\frac{1}{2}$ OF HER OWN SUPPORT WHICH KILLS HER QUALIFICATION ~~UNDER~~ A DEPENDANT CHILD OR

A DEPENDANT RELATIVE. THIS ALSO MEANS MURIEL CAN'T CLAIM ANY TAX CREDIT UNDER § 24 FOR ~~CHILD~~ ~~CARE~~ CHILD TAX CREDIT, AS THE CHILD MUST QUALIFY ~~AND~~ UNDER § 152. AS A SINGLE PERSON, MURIEL CAN TAKE HER STANDARD DEDUCTION OF \$5,000 UNDER § 63(b), BUT WILL LIKELY ITEMIZE BECAUSE OF HER BUSINESS DEDUCTIONS

THE APARTMENT BUILDING:

THE APARTMENT BUILDING IS A CAPITAL ASSET UNDER § 1221

MEANING THAT HER COST ON THE BUILDING OF \$50K IS

PUT IN THE BASIS - AN SHE IS ALLOWED DEPRECIATION

UNDER ~~FOUR~~ 168 ON A STRAIGHT LINE BASIS OVER 27.5

YEARS. HER COST BASIS UNDER § 1012 IS \$50K. THE

INCOME SHE RECEIVES FROM THE RENTS IS ORDINARY

BUT THIS IS A PASSIVE INCOME GENERATOR - NO PNL TO MATCH IN INCOME TO HER. THE \$0K IMPROVEMENTS TO

THE COMPLEX ARE LIKELY CAPITAL EXPENDITURES NOT

IMMEDIATELY DEDUCTIBLE UNDER § 162 BECAUSE THEY HAVE

LONG TERM BENEFIT TO THE PROPERTY AND WILL MOST

LIKELY BE CAPITALIZED AND ADDED TO HER BASIS TO

MAKE A ~~75K~~ ~~ADJUSTED~~ BASIS OF 600K IN THE PROPERTY.

HOWEVER, HER DEPRECIATION ~~DEDUCTIONS~~ DEDUCTIONS WILL

DECREASE HER BASIS IN THE PROPERTY BY 75K - MAKING

A TOTAL ADJUSTED BASIS OF 525K.

THE NOW-RECOURSE LOAN^A IS NOT INCOME TO MURIEL,
Taken to pay for the building

AND THE INTEREST SHE PAYS ON THE LOAN CAN LIKELY

BE DEDUCTED AS^A REGULAR ~~BUSINESS~~ EXPENSE ON THE

PRODUCTION OF INCOME UNDER §212.

WHEN MURIEL WALKS, THE TRANSACTION MUST BE TREATED

SIMILAR TO A SALE - THE BANK GETS THE BUILDING

BACK. UNDER CRANE/TUFTS THE MORTGAGE SHE

IS RELIEVED OF IS CONSIDERED INCOME TO HER. IN

WHICH CASE: 540K MORTGAGE RELIEVED MINUS

A 525K BASIS LEAVES HER WITH AN AMOUNT REALIZED

OF ~~20K~~ 15K ON THE TRANSACTION. THIS IS NOT

DISCHARGE OF INDEBTEDNESS BEST TO MURIEL BECAUSE

THE BANK GOT WHAT IT BARGAINED FOR. IT DID NOT

THINK IT WOULD GO AFTER MURIEL FOR THE DEBT -

IT DIDN'T CARE ABOUT HER CREDIT - SO THE INSOLVENCY

OF MURIEL IS Moot. IT KNEW IT WOULD GET THE

BUILDING IF MURIEL DEFAULTED - WHICH IT DID.

CRABY WAYNE'S CALCULATION TO SAVE FOOTNOTE 37

GIVES US THE SAME RESULT. HE TREATS IT AS

TWO SEPARATE TRANSACTIONS - SALE: FMV OF 490K

MINUS BASIS OF 525 = LOSS OF 35K. THEN

TREATS THE MORTGAGE RELIEF AS D.O.I. LOAN ~~490K~~

REMAINING OF 540K MINUS FMV AT THE SALE OF 490K =
GAIN OF 50K

BALANCE THE 50 GAIN WITH THE 35 LOSS - AND
THE RESULTING 15K GAIN IS THE SAME AS UNDER
THE RULE IN CRANE: THAT'S ~~THE~~ ON A
LOSING NO-RECOURSE VENTURE. THE RESULT
CAN FURTHER BE CHECKED BY ~~THE~~ ^{ANALOGY TO} ~~THE~~ ^{THE}
TAX BENEFIT RULE. MURIEL GOT TO TAKE ^{DEPRECIATION} DEDUCTIONS
WITH THE BANK'S MONEY ON THE BASIS OF PAYING ON
THE LOAN. SHE WALKED FROM THE LOAN - WHICH
IS INCONSISTENT WITH THE DEDUCTIONS SHE TOOK. SO,
THE DEDUCTION AMOUNT SHOULD BE BALANCED AGAINST THE
MONEY SHE PAID ON THE LOAN - WITH ANY EXCESS
TO BE REPORTED AS INCOME BECAUSE IT GAVE HER
LESS INCOME IN PRIOR YEARS. SO, :

$$75K \text{ DEDUCTIONS} - 60K \text{ PAID (60K LOAN - NOW AT 540K)} = \boxed{15K} !!$$

2
THE 15K GAIN ON THIS "TRANSACTION" SHOULD BE
§1221 CAPITAL GAIN TO MURIEL THROUGH AS A SALE OF
REAL PROPERTY. THAT WOULD TAX HER AT A LOWER
RATE THAN INCOME USUALLY - AT 15% MOST OFFEN. §1(h).

THE DEPRECIATION REDUCTION SHE RECEIVES ON THE
TRUCK THIS YEAR SHOULD WIPE OUT THE 15K
GAIN ON ^{THIS} TRANSACTION.