Dynamic Chiropractic

Rent to Your Children

Kenneth Satin, JD

Our ever expanding quest to discover new tax breaks for the DC has borne fruit in the real estate rental arena. Although one of the few tax shelters left (with limitations) is residential real property. The DC may secure an even greater benefit if he rents the property to a member of his family.

There are rules, of course, which indicate that the landlord must charge the family member a rental amount equivalent to fair rental value but, notwithstanding, it is generally conceded that although the Internal Revenue Service will research the rental values of similar properties in that locale, it is widely known that the taxpayer generally is able to rent for considerably lower than actual market value to family members.

Most of us also know that the so-called tax reform acts of the last few years have substantially reduced tax benefits, and we must look hard to find tax benefits which remain.

Nevertheless, residential real estate remains one of the best tax shelters still available, but the DC must break through the "passive activity" barrier.

This essentially means that if the activities are "passive," (meaning that the DC doesn't take an active role such as in a limited partnership), losses from passive activities may be offset only by gains in passive activities. In order to circumvent this requirement, the DC is required to have substantial involvement in the actual running of the business, even if it is a real estate business.

While it is still an open question as to what constitutes substantial activity, it might be adequate if the DC simply repairs defects in the property or even makes management decisions by setting rental rates.

There is also the requirement that the losses which can be offset against ordinary income are limited to $25,000, but this is slowly phased out when the DC's adjusted gross income reaches $100,000, and is eliminated entirely when the adjusted gross income is $150,000 or more.

Of course, despite the requirements above referenced, interest paid on a trust deed or mortgage on a second home is deductible without limitation.

Additionally, the rental structure might be created in such a way that the DC pays the utilities, factors that into the rent, and charges the renter accordingly. Since utilities would ordinarily be non-deductible, by building them into the monthly rent, what was previously non-deductible may become deductible after all.

MARCH 1990

©2024 Dynanamic Chiropractic™ All Rights Reserved