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## About Short-Sales

Here are some things to keep in mind in a short-sale transaction in a pre-foreclosure process:

- **Buyer and Seller must be patient:** Lenders are usually inundated with many of these cases especially because of the current credit environment. The offer you will receive on your property will have to be considered along with many others. Thus, you have to wait for your turn. You are not dealing with a person who is dealing with only one sale. Never expect to receive a response in a day or two. It could take as long as **three to four weeks** (recently, it has been taking certain lenders **six to eight weeks** because of increased volume of transactions) before you get an answer (hopefully, an approval) from the lender.
- **Price it right:** The property must be priced right to ensure that an offer is received and that the offer price is reasonable. Remember that lenders will be losing money, and the lower the offer, the greater the lender's loss is going to be. By pricing it right, Buyer should consider offering a full price.
- **Inspection Contingencies (repairs, etc):** Unless buyer is writing a full-price offer, do not expect a lot in terms of concessions. Any negotiations on insignificant items will only cause a delay due to the approval process involved in a short-sale. The mortgage loan release the lender will give seller will be exact to the penny. Any deviation from this, no matter how small, will result in a delay. Thus, buyer must understand the **lender approval process**, how it works, and be realistic with the expected result.
- **Remember that in a short-sale, the seller is no longer in control; it is the lender.** Usually, the buyer's agent will be dealing with the seller's agent who is dealing directly with the seller's lender. The seller's role will be to simply sign the paper work and move on. Seller will usually not receive any money out of the transaction.
- **Seller may not be completely out of it.** Depending on seller's financial position, the bank could ask seller to pay for some of the loss incurred in the short-sale. Also, you must check with your tax accountant regarding the taxability of the debt that is "forgiven" by the lender. Can you imagine paying the tax on money you never received?

## Taxability of Short Sale

Short sale of property is treated as a sale of the property. For illustrative purposes only, this is how you may be subjected to tax. This illustration is simplified, and your actual situation could be more complex. Therefore, you **must** consult with your legal and tax advisor before acting on any matter contained in this section. The rules are complicated, and there are always exceptions to the rules.

Assume that you purchased your home for \$250,000, and that you spent an additional \$100,000 in improvements. Your total tax basis is \$350,000. Through refinancing over the years, your current mortgage balance is \$530,000. You then experienced financial difficulties at the time when real estate values are coming down, such that you can only sell your house for \$450,000. Due to your financial situation, the lender allowed you to sell your house, and they agreed to accept a lower payoff amount of \$450,000.

- Your **gain** is the difference between your tax basis of \$350,000 and the \$450,000 selling price of the property, or \$100,000. If you meet the requirements, you may be able to avoid paying tax under the \$250,000 (for single) or \$500,000 (for married) exemption on the sale of personal residence. If this is an investment property, and you meet the requirements, it may be subject to capital gains tax rate.
- In addition, you also have **ordinary income** for the difference between the cancelled *payoff amount* of \$530,000 and the \$450,000 fair market value of the property, or \$80,000. In general, your lender would issue a Form 1099 for the \$80,000 difference between your debt *payoff amount* and the amount realized in the sale. Note, that the *payoff amount* could be higher than the *mortgage balance* because the *payoff amount* would include prepayment penalties.
- In many cases, you are able to justify the short-sale because you are insolvent (i.e., your liabilities exceed your assets). If that is the case, you might not be liable for the debt forgiveness (i.e., the \$80,000 in the above example). However, you have to prove this insolvency to the IRS when filing your tax return. Again, seek advise from your tax professional now, and do not wait for the time when your tax return is due to be filed.

On December 20, 2007 Congress passed a law to provide financial relief for financially strapped homeowners facing foreclosure. The law gives a tax break to homeowners who have mortgage debt forgiven as part of a foreclosure or renegotiation of a loan. **NO TAXES WOULD BE OWED ON THE VALUE OF ANY DEBT FOREGIVEN OR WRITTEN OFF.** This tax relief is temporary and due to expire in 2010. **Always consult your local CPA for further information on this matter.**

## We can help...

1. We handle the paperwork that is required by the mortgage company for short sale negotiation.
2. Handle loss-mitigation negotiation with your lender
3. Prepare your Net Sheet (Estimated HUD-1)
4. Organize the entire short sale package
5. Submit the complete short sale package to your lender
6. Resubmit the package because bank lost it (sometimes as much as four times)
7. Confirm bank receipt
8. Follow-up with your Lender
9. Negotiate settlement with lender's loss mitigator
10. Receive discounted mortgage payoff letter
11. Fax you the approval from the bank
12. Coordinate closing
13. Keep you updated every time your file is updated

For more information, contact Community Title by calling (941) 460-9100  
or contact us via email [titleagent@comcast.net](mailto:titleagent@comcast.net).