



51A Middle Street Newburyport, MA 01950

Phone: 800-588-7039 Fax: 877-902-4284

[contact@bhfe.com](mailto:contact@bhfe.com)

[www.bhfe.com](http://www.bhfe.com)

## Course Information

---

**Course Title:** *Real Estate Tax Planning #490815*

**Number of continuing education credit hours recommended for this course:**

**CFP®:** 8 (All states) CFP Board sponsor number: 1008. CFP Board Course ID# 195437.

**CPA:** 11 (All states)

In accordance with the standards of the CFP Board, the National Registry of CPE Sponsors and the IRS, CPE credits have been granted based on a 50-minute hour.

National Registry of CPE Sponsors ID Number: 107615.

Sponsor numbers for states requiring sponsor registration:

Florida Division of Certified Public Accountancy: 4761 (Ethics #11467)

Hawaii Board of Public Accountancy: 14003

New York State Board of Accountancy: 002146

Ohio State Board of Accountancy: M0021

Texas State Board of Accountancy: 009349

**EA, OTRP** 11 IRS: Qualified Sponsor number: FWKKO.

**CLU, ChFC/PACE Recertification: 11**

### Course Description

This book is designed to survey selected "hot" topics having a direct impact on the property owner and investor. The emphasis is on problem areas where the unwary beginner and expert alike can be trapped. You will learn to identify dangers involving installment sales, imputed interest, exchanging, equity participation, condemnation, passive loss rules, and transactions with foreign investors.

**Program Delivery Method:** Self-Study (NASBA QAS Self-Study/interactive)

### Subject Codes/Field of Study:

NASBA (CPA), CFP Board of Standards, Inc.: Taxes.

IRS (EA, OTRP): Federal Tax Law. (ERPA): Qualified Retirement Plan Matters

NAPFA: Taxes

## **Course Level, Prerequisites, and Advance Preparation Requirements**

Program Level: CFP Board: Intermediate; NASBA/CPA, IRS: Overview.

This program is appropriate for professionals at all organizational levels.

Prerequisites: Basic familiarity with federal taxation

## **Course Content**

Publication/Revision date: 4/13/2015.

Author: Danny Santucci, J.D.

Final exam (online) Eighty questions (multiple-choice).

## **Instructions for taking this course**

In order to receive CPE credit for this course, you must complete the course within one year of the date of purchase. This includes achieving a passing grade of at least 70% on the final exam. The exam may be retaken at no charge if not passed in the first attempt.

Complete the course by following the learning assignments and objectives on the following page and studying the review questions located after each major section. Once you have completed each learning assignment and you are confident that the learning objectives have been met, answer the final exam questions (online).

## **Instructions for Taking the Exam Online**

- Login to your account online at [www.bhfe.com](http://www.bhfe.com).
- Go to "My Account" and view your courses.
- Select "Take Exam" for this course and follow instructions.

**Have a question? Call us at 800-588-7039 or email us at [contact@bhfe.com](mailto:contact@bhfe.com).**

# Learning Assignments & Objectives

As a result of studying each assignment, you should be able to meet the objectives listed below each assignment.

<b>ASSIGNMENT</b>	<b>SUBJECT</b>
-------------------	----------------

<b>Chapter 1</b>	<b>Tax Economics</b>
------------------	----------------------

At the start of Chapter 1, participants should identify the following topics for study:

- \* Financial fundamentals and tax planning elements
- \* Taxable income
- \* Tax-free income
- \* Tax-deferred income
- \* Tax-sheltered income
- \* Budgeting
- \* Cash
- \* Acquisition
- \* Assets
- \* Management

### **Learning Objectives**

After reading Chapter 1, participants will be able to:

1. Determine what constitutes building an estate, preserving wealth and distributing assets in the context of financial fundamentals and tax planning elements.
2. Identify types of income, from a financial and tax perspective, to be budgeted into cash so that income-producing assets can be acquired and managed for an effective investment plan.
3. Recognize the types of fringe benefits that employers can provide to employees tax-free.
4. Specify budget rules, ways that cash can be used, guidelines that should be applied when purchasing assets and money management rules.

After studying the materials in Chapter 1, answer the exam questions 1 to 8.

<b>ASSIGNMENT</b>	<b>SUBJECT</b>
-------------------	----------------

<b>Chapter 2</b>	<b>Installment Sales &amp; Time Value of Money</b>
------------------	--

At the start of Chapter 2, participants should identify the following topics for study:

- \* Installment method
- \* Imputed interest
- \* OID
- \* Real property sales & casual sales of personality

- \* Related party sales
- \* Like-kind exchanges
- \* Contingent payments or price
- \* Dealer dispositions
- \* Installment obligations in excess of \$5 million
- \* Dispositions of installment obligations

### **Learning Objectives**

After reading Chapter 2, participants will be able to:

1. Recognize the importance of the installment method, select requirements set forth in §453 to determine whether the installment method may be used, and specify terminology associated with the installment method.
2. Determine the impact of §483 (imputed interest rules) and §§1271 through 1274 (original issue discount rules) on installment sales.
3. Specify the rules associated with real property sales and casual sales of personalty, the superstructure of provisions associated with the related party rules of §453 and the exceptions that override basic installment planning.
4. Identify how the contingent payment sales have changed due to the Installment Sales Revision Act of 1980, specify other contingent payment rules, and determine circumstances when dispositions of installment obligations occur.

After studying the materials in Chapter 2, answer the exam questions 9 to 23.

<b>ASSIGNMENT</b>	<b>SUBJECT</b>
<b>Chapter 3</b>	<b>Mortgage Finance</b>

At the start of Chapter 3, participants should identify the following topics for study:

- \* Mortgage costs
- \* Interest deduction
- \* Interest-free & below-market rate loans
- \* Imputed interest & OID
- \* Shared appreciation mortgages
- \* Tax treatment overview
- \* Types of equity participation debt
- \* Tests to determine what constitutes interest
- \* Option & conversion rights
- \* Convertible indebtedness

### **Learning Objectives**

After reading Chapter 3, participants will be able to:

1. Identify mortgage financing noting advantages and disadvantages and determine how to amortize mortgage costs.

2. Determine interest using *Deputy v. DuPont*, 308 U.S. 488, and specify key aspects of personal interest, investment interest, prepaid interest, and points.
3. Recognize interest-free or below-market interest rate loans and how they relate to lenders' interest income and borrowers' interest paid under §7872.
4. Identify long-term financing techniques and characteristics of a shared appreciation mortgage and their impact on lenders and borrowers.
5. Specify tests that determine what constitutes interest and their effect on the tax treatments of equity participation, and identify equity participation debt.

After studying the materials in Chapter 3, answer the exam questions 24 to 37.

<b>ASSIGNMENT</b>	<b>SUBJECT</b>
<b>Chapter 4</b>	<b>Home Sales &amp; Like-Kind Exchanges</b>

At the start of Chapter 4, participants should identify the following topics for study:

- \* Home sales under §121
- \* Special rules for ownership & use requirements
- \* Prorata exception
- \* Three elements of like-kind exchanges
- \* Related party exchanges
- \* Like-kind requirement for personal property
- \* Multiple asset exchanges
- \* Identification requirements for delayed exchange regulations
- \* Actual & constructive receipt rule for delayed exchange regulations
- \* Exchanges of partnership interests

**Learning Objectives**

After reading Chapter 4, participants will be able to:

1. Identify the elements of the \$500,000 home sale exclusion noting how to apply it, and specify safe harbor regulations associated with the home sale exclusion.
2. Determine the advantages of §1031 exchanges, its requirements and the types of true exchanges, and cite the rules of boot noting their effect on like kind exchanges.
3. Recognize the regulations for related party exchanges, foreign real property exchanges and personal and multiple property exchanges, and specify the codification systems noting how they relate to exchanged depreciable tangible properties.
4. Identify the regulations for delayed (deferred) exchanges, specify safe harbors that can be used without risk of actual or constructive receipt, and determine what partnership interests may be exchanged under §1031 and those that may not.

After studying the materials in Chapter 4, answer the exam questions 38 to 49.

**ASSIGNMENT****SUBJECT****Chapter 5****Involuntary Conversions**

At the start of Chapter 5, participants should identify the following topics for study:

- \* Threat of condemnation
- \* Property voluntarily sold
- \* Easements
- \* Condemnation award
- \* Severance damages
- \* Special assessment withheld from an award
- \* Gain or loss from condemnations
- \* Postponement of gain
- \* Replacement period
- \* Related party rule

**Learning Objectives**

After reading Chapter 5, participants will be able to:

1. Identify condemnations and involuntary conversions under §1033 noting their impact on the recognition of gain or loss.
2. Specify variables of a condemnation award including their effect on income and the cost of newly acquired property.
3. Determine severance damages and recognize the complexity of their treatment.
4. Cite the rules on the reporting of payments associated with involuntary conversions, determine gain postponement choices, and specify the related party rule.

After studying the materials in Chapter 5, answer the exam questions 50 to 58.

**ASSIGNMENT****SUBJECT****Chapter 6****Passive Loss & At-Risk Rules**

At the start of Chapter 6, participants should identify the following topics for study:

- \* Passive loss rules
- \* Material participation
- \* Activity definition
- \* Passive & nonpassive activities
- \* Passive activity loss
- \* Rental activities
- \* Recharacterization of passive income
- \* Passive activity credits
- \* Passive activity audit guide
- \* At-risk limits

## **Learning Objectives**

After reading Chapter 6, participants will be able to:

1. Identify basic type of income and the “buckets” of income and loss under §469 that can control what a taxpayer can deduct against other income.
2. Recognize the suspension of disallowed losses noting how it relates to passive losses, and specify the special rules for types of transfers that are not deemed to be fully taxable dispositions.
3. Identify taxpayers subject to §469 noting whether clients fall into one of the categories of taxpayers who are subject to the passive loss rules.
4. Specify ways that a taxpayer can avoid having an activity become subject to the passive loss limits identifying the requirements for each, and recognize the effects of the §469 limitations on credits and losses from passive activities.
5. Identify an activity and passive activity loss, determine the treatment of carryover losses and the allocation process, recognize the characterization of gain from the exchange, sale or other disposition of an interest in property used in an activity or held through a partnership or S corporation, and cite the special rule for rental real estate.
6. Specify the recharacterization rules under the regulations, determine passive activity credits, recognize the benefits and uses of the passive activity audit guide, and identify the impact of the at-risk limit rules.

After studying the materials in Chapter 6, answer the exam questions 59 to 74.

## **ASSIGNMENT**

## **SUBJECT**

### **Chapter 7**

### **Sales by Foreign Investors**

At the start of Chapter 7, participants should identify the following topics for study:

- \* FIRPTA
- \* United States real property interests
- \* United States property holding corporations
- \* Exceptions to U.S. property holding corporations
- \* Foreign corporations
- \* Distributions
- \* Withholding & reporting requirements
- \* Non-foreign affidavit

## **Learning Objectives**

After reading Chapter 7, participants will be able to:

1. Recognize the requirements of Foreign Investment in Real Property Tax Act of 1980, determine a United States real property interest using §897 to determine what dispositions by foreign investors will be taxed.

2. Identify interests in foreign corporations that can be used to avoid taxes on their disposition, and improve reporting of U.S. real property interests by foreign investors.

After studying the materials in Chapter 7, answer the exam questions 75 to 76.

<b>ASSIGNMENT</b>	<b>SUBJECT</b>
<b>Chapter 8</b>	<b>REITS</b>

At the start of Chapter 8, participants should identify the following topics for study:

- \* Benefits of REIT pools
- \* Advantages over limited partnerships
- \* Organizing a REIT
- \* Self-liquidating REITs
- \* Taxation
- \* Tax Reform Act of 1986
- \* Taxpayer Relief Act of 1997

### **Learning Objectives**

After reading Chapter 8, participants will be able to:

1. Cite reasons for establishing a REIT that generate annual income that is tax-sheltered and is apt to grow over time, specify advantages that REITs have over limited partnerships and their effect on investments and shareholders, and recognize the development of the self-liquidating REIT.
2. Identify how management operates a REIT, determine ways that REITs and the fees they pay their advisers can grow, and specify requirements with regards to organization, operation, assets and income that are set forth in §856 through §858.

After studying the materials in Chapter 8, answer the exam questions 77 to 80.

### **Notice**

This course and test have been adapted from materials and information contained in the above text and any supplemental material provided. This course is sold with the understanding that the publisher is not engaged in rendering legal, accounting, or other professional advice and assumes no liability whatsoever in connection with its use. Since laws are constantly changing, and are subject to differing interpretations, we urge you to do additional research and consult appropriate experts before relying on the information contained in this course to render professional advice.



# Real Estate Tax Planning

By  
Danny C. Santucci



The author is not engaged by this text or any accompanying electronic media in the rendering of legal, tax, accounting, or similar professional services. While the legal, tax, and accounting issues discussed in this material have been reviewed with sources believed to be reliable, concepts discussed can be affected by changes in the law or in the interpretation of such laws since this text was printed. For that reason the accuracy and completeness of this information and the author's opinions based thereon cannot be guaranteed. In addition, state or local tax laws and procedural rules may have a material impact on the general discussion. As a result, the strategies suggested may not be suitable for every individual. Before taking any action, all references and citations should be checked and updated accordingly.

*This publication is designed to provide accurate and authoritative information in regard to the subject matter covered. It is sold with the understanding that the publisher is not engaged in rendering legal, accounting, or other professional service. If legal advice or other expert advice is required, the services of a competent professional person should be sought.*

*—From a Declaration of Principles jointly adopted by a committee of the American Bar Association and a Committee of Publishers and Associations.*

**Copyright May 2015  
Danny Santucci**

# TABLE OF CONTENTS

<b>CHAPTER 1 TAX ECONOMICS</b>	<b>1-1</b>
Financial Fundamentals	1-1
Tax Planning Elements	1-2
Assets, Income, & Cash	1-2
Income	1-3
Budgeting	1-14
Cash	1-14
Acquisition	1-15
Assets	1-15
Management	1-15
<b>CHAPTER 2 INSTALLMENT SALES &amp; TIME VALUE OF MONEY</b>	<b>2-1</b>
Installment Method	2-1
Requirements	2-1
Formula	2-1
Definitions	2-2
Imputed Interest & OID	2-5
Complexity	2-6
Section 483 - Imputed Interest	2-6
Sections 1271-1274 & OID	2-7
Personal Use Property - Buyer's Deduction of Imputed Interest	2-8
Real Property Sales & Casual Sales of Personality	2-10
Real Property Sales	2-10
Mortgage in Excess of Basis	2-10
Recapture	2-11
Practical Issues	2-11
Related Party Sales	2-15
Resale Rule	2-15
Contingent Payments or Price	2-18
Installment Sales Revision Act of 1980	2-18
Maximum Selling Price Transactions	2-18
Fixed Payment Term Transactions	2-19
No Maximum Selling Price or Fixed Payment Term	2-20
Income Forecast Method	2-20
Special Rules	2-21
Repeal of Installment Treatment for Dealer Dispositions	2-22
Installment Obligations in Excess of \$5 Million	2-23
Pledging	2-23
Disposition of Installment Obligations	2-24
Gain or Loss	2-24
<b>CHAPTER 3 MORTGAGE FINANCE</b>	<b>3-1</b>
Overview	3-1
Two Major Benefits	3-1

Mortgage Costs	3-1
Amortization	3-1
Lender's Costs	3-2
Interest Deduction - § 163	3-2
Personal Interest	3-2
Investment Interest	3-3
Prepaid Interest	3-3
Points	3-3
Lender's Interest Income & Borrower's Interest Paid	3-4
Interest-Free & Below-Market Rate loans	3-4
Imputed Interest & OID	3-7
Overstated Interest	3-7
Reporting Mortgage Interest Received From Individuals	3-7
Equity Participation Debt	3-9
The Shared Appreciation Mortgage - SAM	3-10
Characteristics of a SAM	3-10
Tax Treatment Overview	3-11
Types of Equity Participation Debt	3-11
Does Equity Participation Debt Constitute Interest?	3-11
Partnership Recharacterization - Culbertson Rule	3-15
Tax Consequences of Debt Recharacterization	3-16
Option & Conversion Rights	3-17
Convertible Indebtedness	3-18

## **CHAPTER 4 HOME SALES & LIKE-KIND EXCHANGES** **4-1**

Home Sales - §121	4-1
Ownership & Use Requirements	4-1
Remainder Interests	4-9
Section 1031 "Like Kind" Exchanges	4-10
Exchange Advantage	4-10
Importance of Deferral	4-11
Three Elements	4-11
Related Party Exchanges	4-20
Foreign Real Property Exchanges	4-22
Personal & Multiple Property Regulations	4-22
Delayed (Deferred) Exchange Regulations	4-33
Reverse Exchanges - R.P. 2000-37	4-46

## **CHAPTER 5 INVOLUNTARY CONVERSIONS** **5-1**

Condemnations	5-1
Threat of Condemnation	5-2
Property Voluntarily Sold	5-2
Easements	5-3
Condemnation Award	5-3
Severance Damages	5-5
Expenses of Obtaining an Award	5-6
Special Assessment Withheld from Award	5-6
Severance Damages Included in Award	5-7
Gain or Loss from Condemnations	5-7
How to Figure Gain or Loss	5-7
Postponement of Gain	5-8
Choosing to Postpone Gain	5-8

Cost Test	5-8
Replacement Period	5-8
Related Party Rule	5-11
<b>CHAPTER 6 PASSIVE LOSS &amp; AT-RISK RULES</b>	<b>6-1</b>
Passive Loss Rules	6-1
Application	6-1
Calculating Passive Loss - The Fish Rules	6-2
Categories of Income & Loss	6-2
Suspension of Disallowed Losses	6-6
Taxpayers Affected	6-13
Material Participation	6-16
“Trade or Business” Definition	6-16
February 19, 1988 Regulations	6-16
Special Rules for Entities	6-21
Activity Definition	6-24
Final Regulations	6-26
Consistency	6-27
Regrouping	6-28
Partial Dispositions	6-28
Passive & Nonpassive Activities	6-28
Trade or Business	6-28
Rental Activity	6-29
Non-Passive Activities	6-31
Rental Activities of Real Estate Professionals	6-31
Working Interests in Oil & Gas	6-34
Activities within Activities	6-34
Passive Activity Loss	6-35
Husband & Wife	6-35
Special Rule for Closely Held Corporations	6-35
Carryover of Disallowed Losses	6-36
Treatment of Carryover Losses	6-36
Allocation Process	6-36
Significant Participation Activities	6-37
Income from Dispositions of Property Used in Passive Activities	6-38
Mixed Use of Property	6-38
Alternating Use	6-38
Disposition of Appreciated Property Formerly Used in a Nonpassive Activity	6-39
Rental Activities	6-39
Special Rule for Rental Real Estate	6-39
Net Leases	6-43
Recharacterization of Passive Income	6-43
Active Business Recharacterization	6-43
Portfolio Income Recharacterization Rules	6-45
Limitation on Recharacterization	6-45
Passive Activity Credits	6-45
Regular Tax Liability Allocable to Passive Activities	6-46
Exception for Real Estate Rental Activity Credits	6-46
Application	6-47
Credits Subject to Passive Activity Limits	6-47
Allocation of Disallowed Credits	6-47

Treatment of Carryover Credits	6-48
Passive Activity Audit Guide	6-48
Indicators of Audit Issues	6-48
Investment Interest	6-49
Material Participation	6-49
Significant Participation Activities	6-50
Active Participation	6-50
Net Lease Properties	6-50
Vacation Rentals	6-50
Self-Charged Expenses	6-51
Rental & Nonrental Activity Grouping	6-51
Divorce	6-51
At-Risk Limits	6-51
Amount At Risk	6-51
Taxpayers Affected	6-52
Loss Defined	6-55
Activities Covered by the At-Risk Rules	6-56
Grouping of Activities	6-57
At-Risk Amounts	6-58
Amounts Not At Risk	6-60
Reductions of Amounts At Risk	6-61
<b>CHAPTER 7 SALES BY FOREIGN INVESTORS</b>	<b>7-65</b>
FIRPTA	7-65
United States Real Property Interests	7-65
U.S. Property Holding Corporations	7-66
Definition	7-66
Exceptions	7-66
Foreign Corporations	7-66
Distributions	7-66
Withholding & Reporting Requirements	7-67
Non-foreign Affidavit	7-67
<b>CHAPTER 8 REITS</b>	<b>8-1</b>
REIT Pools	8-1
Benefits	8-1
Advantages Over Limited Partnerships	8-1
Organizing a REIT	8-2
Self-Liquidating REITs	8-3
Taxation	8-3
Tax Reform Act of 1986	8-4
Taxpayer Relief Act of 1997	8-5
<b>Glossary</b>	<b>8-36</b>
<b>Index of Keywords &amp; Phrases</b>	<b>8-37</b>