

An Introduction: “C453” FOR THE SALE OF CAPITAL ASSETS

Anyone who contemplates the sale of a capital asset—whether it is real estate or an interest in real estate, a partnership or other ownership entity, a contract right, capital stock, art or antiques, aircraft, a classic automobile, a personal residence, equipment, a patent, a copyright, or whatever else—should carefully consider the advantages of using a “collateralized installment sale” or “C453” transaction as the mechanism for the sale.

This is true *regardless* of the selling price.

Nothing else can match the performance of C453.



An Introduction to “Collateralized Installment Sale” (“C453”) Transactions

Scope and Achievements

On the sale of nearly all kinds of capital assets, including both business and non-business properties, mineral rights, personal residences, partnership interests, professional practices, corporate stock, art collections, and so on, collateralized installment sale transactions can achieve the following results:

- Tax deferral for the seller for as many as 30 years, or even more;
- Non-taxable loan proceeds available at the closing, from a third-party lender, in lieu of taxable sale proceeds;
- De-leveraging without adverse tax consequences;
- Minimized credit risk, default risk and performance risk;
- Maximized investable funds and return on investment;
- Increased flexibility for investment and use of funds; and
- Tax deferral for the assisting broker’s commission, as well.

The way to accomplish all of these is to defer the tax with an installment sale, while the seller immediately receives non-taxable loan proceeds from a third-party lender in an amount nearly equivalent to the selling price, without risk of having to use funds other than the installment payments to repay the loan.

Variations on the process nicely handle the tax problems which arise from real-property depreciation recapture, debt over basis, and cancellation of debt.

S.Crow Collateral Corp.: A Capital-Assets Dealer under Section 453

As a dealer in capital assets, S.Crow Collateral Corp. re-sells the asset at the same time as it purchases it. Therefore, in each instance, there are two simultaneous transactions, one in which S.Crow Collateral Corp. buys from the seller, and one in which S.Crow Collateral Corp. re-sells the asset to the buyer who otherwise would have purchased it directly.

The installment sale occurs under Section 453 of the Internal Revenue Code, which provides for deferral of the tax on the gain until the seller receives the

principal of the selling price. Under Section 453, there is no property-replacement requirement, as there is for a tax-deferred exchange under Section 1031. In contrast to tax-deferred exchanges, no time limits or maintenance-of-leverage requirements apply, and, with cash in hand, no risk arises that financing might not be available for purchase of a replacement or other investment.

Disclaimer

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A Clear Way Forward