

### **Deferral of Tax When Foreclosure Looms**

When a lender begins, or threatens to begin, foreclosure proceedings on a commercial property, the debtor may face a substantial tax liability for “recapture of depreciation” and “cancellation of debt”.

Although the debtor would not receive any money when the foreclosure occurs, the Internal Revenue Service treats the deductions that had previously been taken for depreciation on the real estate at a higher capital-gains rate when the property is disposed of—including in foreclosure.

That newly taxed amount is added back to the debtor’s basis in the property. If upon foreclosure the debtor is released of any debt in excess of that basis, then that amount is taxable, too. No debtor in foreclosure needs any part of this problem.

S.Crow Collateral Corp. can greatly mitigate both parts of the problem. We sign a no-money-down contract to buy the property or ownership interest. At the same we re-sell the property or ownership interest

to the lender in exchange for the debt (or certain rights related to the debt), which we re-sell to a cooperating private lender. The new lender does not reduce the debt, so no cancellation-of-debt income occurs. The installment contract defers the tax on depreciation recapture.

S.Crow Collateral Corp. makes some money on our sale of the loan or rights to the private lender, who charges the debtor a loan fee. Our installment payments completely fund the debtor’s future loan payments. Result: No further net debt cost, and deferral of the tax for 30 years.

(Photo by David Ryan Photography)