

## THE LAW OF INSTALLMENT SALES

### Question

### Answer

Which section of the tax code governs installment sales?

Section 453 of the Internal Revenue Code provides for the tax effects of installment sales.

Is a Monetized Installment Sale an installment sale within the meaning of Section 453?

Yes. Section 453(a)(1) says, "The term 'installment sale' means a disposition of property where at least 1 payment is to be received after the close of the taxable year in which the disposition occurs."

((Continue reading on the next page.))

(Photos by David Ryan Photography)



## Question

What is the installment method of reporting?

Is installment reporting automatic?

In a Monetized Installment Sale, when are the principal payments made?

Is the tax due, if the installment buyer re-sells the property before the installment contract is paid?

Is the seller entitled to installment reporting if the seller could have had a cash sale?

Is installment reporting available, if the installment obligation is guaranteed in some way?

Note: None of the information presented here is, or is intended to be, or may be taken as, legal, tax or investment advice. As a principal only, S.Crow Collateral Corp. does not act in the capacity of a tax or legal adviser and does not accept any fee in relation thereto. Circumstances may affect tax and legal outcomes. Each transaction is different and unique to each participant. Neither S.Crow Collateral Corp. nor any of its officers or employees may or does provide tax, legal or investment advice. Interested parties should consult their legal, tax and investment advisers before participating in any transaction.

## Answer

Section 453(c) says, "For purposes of this section, the term 'installment method' means a method under which the income recognized for any taxable year from a disposition is that proportion of the payments received in that year which the gross profit (realized or to be realized when payment is completed) bears to the total contract price." In other words, the taxpayer is required to pay the tax proportionately as the principal payments are received.

Under Section 453(d), an installment sale is entitled to installment reporting, unless the taxpayer affirmatively elects not to have it be treated as an installment sale.

In a Monetized Installment Sale with S.Crow Collateral Corp., no principal is paid until the end of the term, typically 30 years. Because no principal is paid during the 30 years, none of the capital-gains tax should be due during the 30 years, in the usual situation. .

Under Section 453(e), resale by the installment buyer has no effect on the installment seller, if the installment buyer is unrelated to the installment seller.

Yes, under Section 453(d), cited above. Installment reporting has been included in the Internal Revenue Code from its very beginning, and the availability or non-availability of a cash sale as an alternative has never been a condition or a factor.

Yes, under Section 453(f)(3), which says, "**(3) Payment.**—Except as provided in paragraph (4) [readily tradable securities transferred from buyer to seller], the term 'payment' does not include the receipt of evidences of indebtedness of the person acquiring the property (whether or not payment of such indebtedness is guaranteed by another person)."

