

TAXATION OF REAL ESTATE



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CREOBA
Weekly
Webinar

TOPICS

- Sales and Exchanges
- Non-Recognition Transactions
- Deductions
- Leases
- Financing
- Distressed Property
- FIRPTA
- Tax and Estate Planning

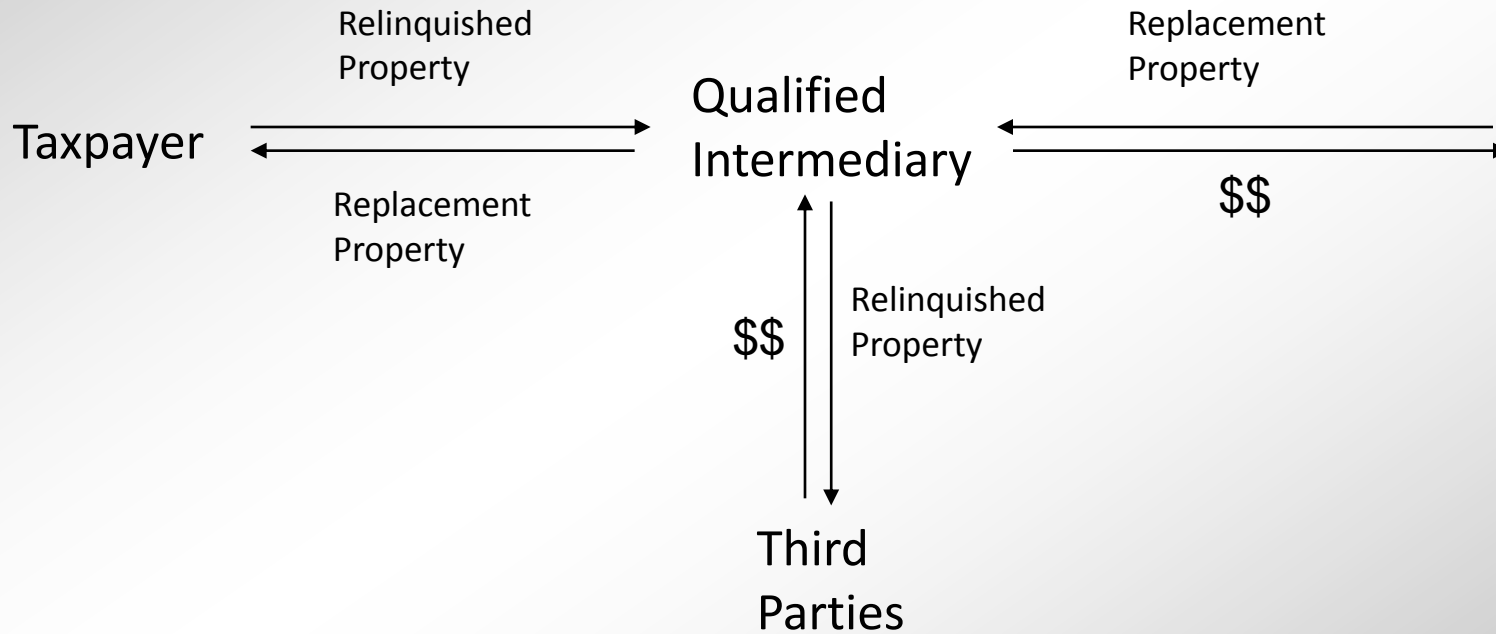
SALES AND EXCHANGES

- Gain = Amount Realized - Adjusted Basis
 - A/R = cash and FMV property received and liability relieved
 - A/B = acquisition costs +/- adjustments
 - Realization/Recognition
- Character: Capital or Ordinary
 - Capital assets and section 1231 assets
 - Inventory
 - Section 1237 safe harbor
 - Depreciation Recapture

NON-RECOGNITION

- Like Kind Exchanges (1031 Transactions)
 - Trading Up and the effect of boot
 - Like kind property held for productive use in a trade or business
 - Related parties
 - Deferred Exchanges
- Involuntary Conversions (1033)
 - Destruction, theft, seizure, condemnation
 - Qualifying replacement purchase during replacement period

1031 DEFERRED EXCHANGE



DEDUCTIONS AND CREDITS

- Depreciation
 - Trade or business and for-profit activity
 - ACRS/MACRS
 - Cost Segregation Study
 - ATRA 2012 extension of 15 Yr Depreciation
 - 50% Bonus Depreciation
 - Section 179 expense of up to \$250,000 of Qualified Real Property
- Credits
 - Investment Credit (Rehabilitation and Reforestation)
 - Low Income Housing
 - Disabled Access Credit
 - New Markets Credit
 - Empowerment Zones Credit

PASSIVE ACTIVITY AND AT RISK LIMITATIONS

- At Risk
 - Deductible losses limited to amounts “at risk”
 - Taxpayer’s share of qualified nonrecourse financing
- Passive activity losses limited to passive activity income
 - Individuals, estates, trusts, closely held C corps, and personal holding companies
 - Passive activity is trade or business in which taxpayer does not materially participate
 - Material participation = regular, continuous and substantial participation
 - Rental is passive unless real property business exception applies
 - Rental Real Estate Active Participation

LEASES

- Rents and Rent substitutes
- Section 467 Leases
- Leasehold Improvements
- Lease acquisition costs

FINANCING

- Mortgage financing
 - Mortgage acquisition costs
 - Points
- Option transactions
- Synthetic Leases
- Sale Leaseback
 - Sale vs. financing device
 - Tax exempt organizations

DISTRESSED PROPERTY

- COD Income
- Recourse and Non-Recourse Debt
- Qualified real property business indebtedness
- Other Exceptions and Exclusions to COD

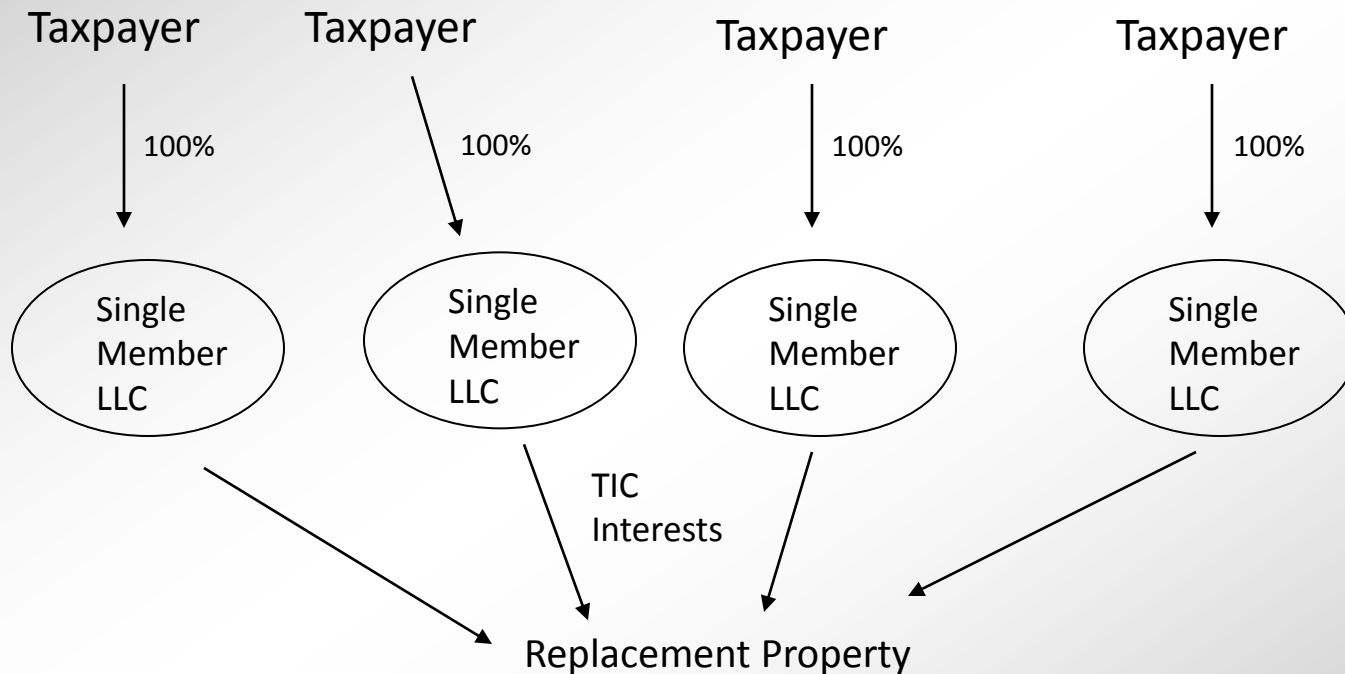
FOREIGN OWNERSHIP

- Withholding Taxes on Rents
- Effectively Connected Income
- FIRPTA
 - Federal and State Tax Withholding on Dispositions of USRPI by Foreigners
 - US Real Property Holding Corporations

INFORMATION REPORTING

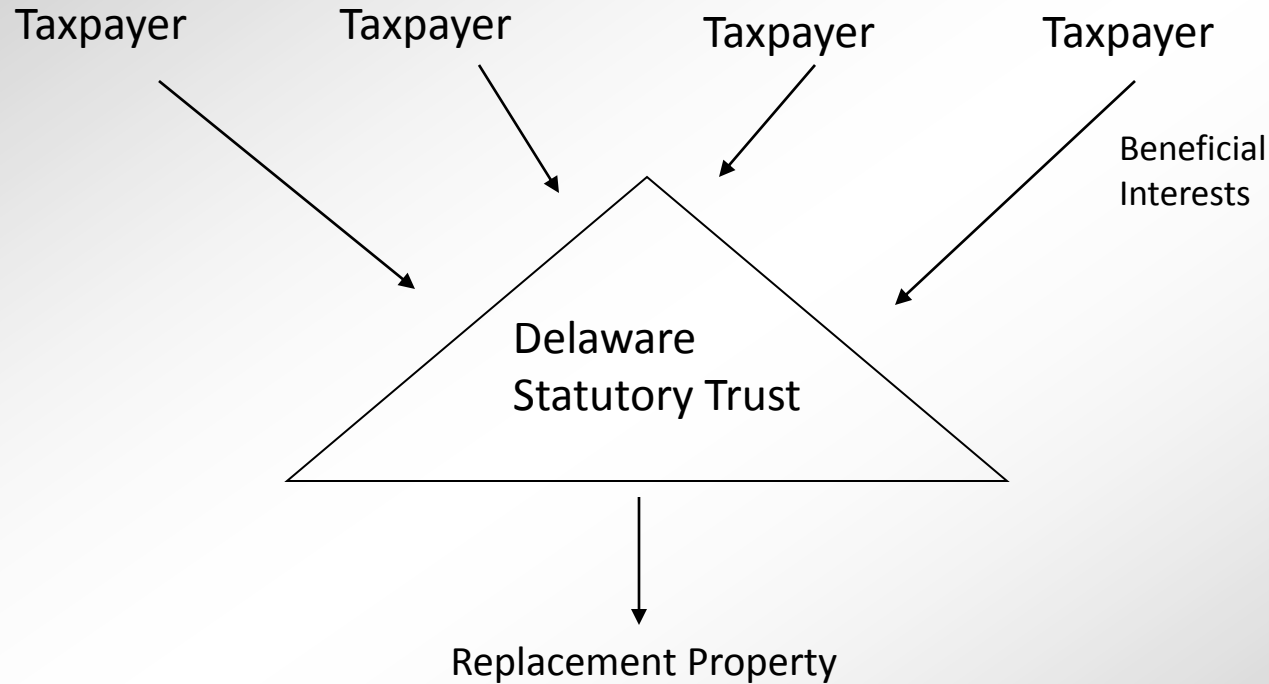
- Real Estate Broker Reporting
- FIRPTA Reporting
- Mortgage Interest Reporting
- Recipients of Real Estate Rental Income (repealed)
- FBAR/FATCA

SYNDICATED TIC INVESTMENT



Co-Ownership or TIC Agreement

DELAWARE STATUTORY TRUST



AMERICAN TAXPAYER RELIEF ACT OF 2012

- For individuals with taxable income over the \$400,000 single/\$450,000 joint:
 - top marginal tax rate of 39.6%
 - top marginal tax rate on long-term capital gains of 20%
 - top marginal tax rate on dividends of 20%
- Phase-out of tax deductions and credits for incomes over \$250,000 for individuals and \$300,000 for couples
- Estate and gift taxes at 40% of the value transferred in excess of \$5,250,000, indexed for inflation
- Alternative Minimum Tax indexed to inflation
- Two-year old cut to payroll taxes not extended - rate is 6.2%

ESTATE PLANNING

- Partnerships
- Pooled investment vehicles
- IRAs
- Syndicated 1031 Exchange Funds
- Family Partnerships and LLCs
- Developer Investor Structures



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