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...n those configured to cost
...have a relatively small
...ies. The base model of the
...reen.
...rately made the Studio One
...it on a kitchen counter,
...ers can walk up to it and
...viewing photos, surfing the
...other tasks. It even comes
...ar program, called Cozi; a
...l feature for leaving mes-
...ling finger-painting pro-

...orked pretty well, and the
...work in regular Windows
...n the Touch Zone. The only
...ter capability is that, to
...easier, Dell has blown up the
Vista, with the unfortunate
...g some program icons look
...ou can turn this effect off.)
...n scenario, I have my
...m, the Studio One took up
...ace—it's as wide as my mi-
...ired keyboard and mouse
...els clutter up the counter.
...d, there's nothing cluttered
...amo laptop. Like the Mac-
...uses a solid metal case and
...d it simultaneously projects
...ty. It's gorgeous, in both its
...sions, and feels great in the
...is hidden, you'd think it was
...not Dell.
...the ThinkPad 300 series, the
...n that's about 13 inches,
...n. And, like its two competi-
...n fact, the Adamo is thinner
...r at the latter's thickest
...lso has a far better selection
...n its Apple rival, though al-
...miently placed in a protrud-
...t of the machine.
..., the Adamo has touch fea-
...rackpad. It has a built-in
...e the Apple and the Lenovo.
...er and use less power than
...but cost more. Also like the
...rive...

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...ago, the 52-year-old baseball fanatic caught his first-ever foul ball in these seats. "I thought you had to be rich to have seats like these every game," says Mr. Brandon, a machinist, his arms dangling outside the railing.

The cost of his four tickets: $30 a ...

...addition to offering lower prices, clubs around the league are rewarding season-ticket holders with other benefits, such as early entrance to games, access to services that resell unwanted seats, exclusive gatherings with players and team executives, and concierges to address their every need.

...g baseball's hard-core ...-league sea change. In the p... ...ance was rising, the clubs' market... ...rtments focused on big-dollar sales ...ch as corporate suites and stadium-naming rights. But last year, attendance at ballparks fell 1% even before the economy crashed. Suddenly, clubs remembered that nobody matters more than loyal fans—people like Frances Ingemann, a retired linguistics professor who drives 50 miles from

*Please turn to the back page*

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# *A Short Sale May Not Mean You're Home Free

By Ruth Simon

Financially troubled borrowers may think that foreclosure or a short sale of their home means their mortgage woes are over.

Not necessarily.

Some homeowners are finding that when they sell their homes for less than the outstanding mortgages—a so-called short sale—their mortgage companies are going after them for some or all of the difference. Mortgage companies are also sometimes taking legal action to recover unpaid amounts after a foreclosure is completed.

In a growing number of cases, holders of mortgages or home-equity loans are requiring borrowers in short sales to sign a promissory note, which is a written promise to pay back a loan or debt. Real-estate agents and attorneys say they have seen an increase in requests for promissory notes as mortgage companies look to short sales as an alternative to foreclosure.

In many states, lenders have always had the right to pursue former homeowners for unpaid mortgage debt. Yet until recently, most borrowers who ran into trouble were able to refinance or sell their homes and pay off their loans. Now, falling home prices are widening the gap between home values and mortgage balances, and the number of homeowners who can't make their mortgage payments is rising as the economy has weakened. More than 3.8 million homes will be lost in 2009 and 2010 because borrowers can't make their mortgage payments, according to forecasts from Moody's Economy.com.

Some borrowers are surprised to find themselves on the hook. Jodie Byrd sold her home in the Los Angeles area in a short sale last summer after her husband lost his job and the couple realized they wouldn't be able to make their mortgage payments. The sale price covered the $685,000 mortgage, but their lender, Washington Mutual Co., then began pursuing them for the $21,600 balance on their second mortgage.

Ms. Byrd says a clause in their contract gave Washington Mutual the right to pursue the debt, but adds that her real-estate agent said that wasn't likely to happen. The couple eventually settled the claim for $4,000.

A spokesman for **J.P. Morgan Chase & Co.**, which acquired Washington Mutual last year, says it's the company's policy not to comment on individual cases. Speaking generally, he says, "a short sale may

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# Wiped Out: Along With Jobs, Laid-Off Lose Photos, Emails

By Joseph De Avila

Michele Wallace had worked for **Medialink Worldwide** Inc. for 18 years when the New York video-distribution company laid her off last May. When the company's information-technology staff quickly shut down her com... majority of their time at the office often treat the company PC as their personal gadget, filling it with music, photos, personal contacts—even using the computer's calendar to track a child's soccer schedule. That makes it all the more distressing when a newly laid-off worker learns that his digital belongings are company prop...

## Since You Can't Take It With You...

- Limit the amount of personal files you keep at work and keep back ups at home.
- Be careful about downloading or printing ...

# Quick Fix

## *A Kit for Fast Fixes*

**Problem:** You procrastinate about small home repairs because it's a hassle to rummage around the house and garage to gather the appropriate tools and supplies.

**Solution:** Create a kit of essential tools and single-use repair products to store in a closet. Pour trim paint for high-traffic areas, such as the kitchen, into small, labeled jars and include a paintbrush for ... convenient touch-...

# It's Not Over After a Short Sale

ontinued from page D1
esolve the first mortgage, but the econd mortgage ... would be a eparate negotiation with the ender or servicer."

Some experts say that mortgage companies may pursue leftover debt, or "deficiencies," in greater numbers as the housing market settles. Lenders are "doing everything possible to work with their borrowers and trying to bring stability back to the lending and real-estate market," says Marc Ben-Ezra, an attorney in Ft. Lauderdale, Fla., who represents mortgage companies in foreclosures. "However, the ability to get a deficiency judgment is a valuable right that I think lenders will pursue aggressively in the future as the market stabilizes."

## One-Year Moratorium

HSBC Finance, part of the North America unit of **HSBC Holdings PLC**, has implemented a one-year moratorium on the collection of deficiency balances for short sales and foreclosures that occur after April 1, "given the current economic environment," a company spokeswoman says.

Other mortgage servicers say their actions are often dictated by their contracts with investors or mortgage insurers. **Bank of America Corp.**, for example, will "attempt to seek a promissory note whenever it is feasible" in a short sale "in the interest of protecting investors and shareholders from the losses," a spokeswoman says. In the case of a foreclosure, the investor or insurer "is generally the one who pursues the deficiency, but we do ourselves on some bank-owned assets," she says.

Not every troubled borrower is hit with such a claim. Often, mortgage companies don't go after borrowers for unpaid amounts either because state laws prohibit or limit such actions or the cost outweighs the potential return. Borrowers subject to a deficiency may also elect to file for bankruptcy in an effort to have the debt discharged.

How a borrower is treated can depend on mortgage company policy, the size of the unpaid debt, whether the borrower has a job or other assets, or whether the home was bought as an investment. "If there isn't a financial hardship ... that's where the investor or mortgage insurer will go after the homeowner for more," says David Knight, a senior vice president at **Wells Fargo & Co.**'s home-mortgage unit.

### It's Payback Time

Mortgage companies are sometimes going after unpaid debt after a short sale or foreclosure. Here are some factors they may consider:

- How big was the unpaid debt?
- Was the property purchased as an investment?
- What are the borrower's assets and income?
- What is the policy of the investor or mortgage insurer?

A **PMI Group** Inc. spokesman says the mortgage insurer "primarily target[s] borrowers who are not experiencing hardship—but those who simply elected to walk away from the property due to its decline in value."

## Promissory Notes

Still, the number of short-sale agreements that are made with strings attached is increasing. In the past month and a half, "every short sale I have has had a promissory note or gives the lender the right to collect a deficiency," says Pamela Simmons, an attorney in Soquel, Calif., who represents financially troubled homeowners. Often, the terms are buried in the sale contract, she says.

Regina Rivard, a real-estate consultant in Apollo Beach, Fla., has completed 22 short sales in the past six months. In half of them, the holder of the first or second mortgage required that the borrower sign a promissory note or retained the right to pursue the deficiency. The amounts borrowers were obliged to pay ranged from a few thousand dollars to as much as $100,000, she says.

Some borrowers are balking. Mack Ransom, a mortgage broker in Ashland, Ore., recently brought Countrywide Financial Corp. a short-sale offer for $279,000—well below the roughly $415,000 he owes on his two mortgages. Countrywide countered that it would accept a $310,000 bid, provided Mr. Ransom signed a $48,000 promissory note, he says. Mr. Ransom rejected that offer and is pursuing a different short sale.

"I would take the foreclosure and the credit hit over that," he says. A spokeswoman for Bank of America, which acquired Countrywide last year, declined to comment on a specific case, but said: "The company will ask the borrower to sign a promissory note during the short-sale process if dictated by investor guidelines."

## Going to Court

Other borrowers who have already gone through foreclosure are being taken to court by mortgage companies for unpaid debt, though such actions are still relatively uncommon. In Lee County, Fla., deficiency actions have increased in the past six months, with most filed by holders of second mortgages, says Charlie Green, clerk of Lee County Circuit Court. "The sale of the property was not enough to cover the total amount that was owed on the note or notes," says Mr. Green, who recently began tracking such filings in response to the increase.

Dunstant King, a cab driver in Boston, refinanced his mortgage in 2007, thinking it would save him money. Instead, his payments increased as the economy slowed. In January, Mr. King, who had a $290,400 mortgage and a $72,600 home-equity loan, lost his home to foreclosure. In February, a lawsuit seeking $92,000 was filed in Suffolk County, Mass., Superior Court on behalf of the loan pool that holds the second mortgage, according to court records.

"I don't have the money to pay them," says Mr. King. "Business is really bad." His attorney, David Dineen of Greater Boston Legal Services, says, "We believe Mr. King has legal defenses" to avoid that debt.

A spokesman for **Deutsche Bank AG**, the trustee for the loan pool, says that the decision to file the lawsuit was made by the mortgage-servicing company, **Franklin Credit Management** Corp. Franklin executives did not respond to requests for comment.

Blake Brewer, an attorney in Independence, Ohio, is currently representing a borrower who completed a short sale with the approval of his lender, National City Corp. The following year, Mr. Brewer's client was sued for the $65,000 loan balance, plus accrued interest, on his home-equity line of credit. The borrower "fully believed National City understood they weren't going to get paid," says Mr. Brewer.

A spokesman for **PNC Corp.**, which acquired National City late last year, said the company's policy is not to comment on pending litigation.

~ WSJ April 30 2009 (

TAX GUY

# Tax Hits on Property Short Sales

By Bill Bischoff

It's not so unusual these days to have mortgage debt that exceeds the current value of your principal residence. If you hang on to the property long enough, you have a reasonably good chance of riding out the storm with little or no harm done. On the other hand, if you have to sell now, you face what's called a "short sale"—which means selling for a net sales price (after subtracting commissions and other closing costs) that's less than the outstanding mortgage debt.

What are the tax consequences of a short sale? The easiest way to explain it is with some examples.

**■ Tax gain on a short sale.** Say you paid $200,000 years ago for a principal residence that you could now sell for a net sales price of $300,000. Unfortunately, you also have $350,000 of first and second mortgages against the property because you took out a big home-equity loan a couple of years ago at the top of the market when the home was worth $500,000.

Believe it or not, you'll have a $100,000 gain for tax purposes if you sell. Why? Because the net sales price exceeds the tax basis of the home: $300,000 sales price minus $200,000 basis equals a $100,000 gain. (Your tax basis equals what you paid for the property plus the cost of any improvements made over the years, minus any past depreciation writeoffs if you rented the property out or used part of it for deductible business purposes.)

SMARTMONEY

While it doesn't seem fair that you could have a $100,000 tax gain from a sale that leaves you $50,000 in the red with your mortgage lenders, that's the way the law works. Mortgage debts don't enter into the gain-on-sale calculation.

Now for the good news: You'll probably be able to exclude the $100,000 gain for federal income-tax purposes, thanks to the federal home-sale-gain exclusion break. If so, you won't have to report the $100,000 gain on your Form 1040. You may or may not qualify for the same favorable treatment on your state income-tax return.

**■ Tax loss on short sale.** Of course, you can also have a short sale where the net sales price is less than your tax basis in the property.

Say you paid $415,000 for a principal residence that you could now sell for a net sales price of $300,000. You also have $350,000 of first and second mortgages against the property. For tax purposes, you'll have a $115,000 loss if you sell because the sales price is lower than your tax basis in the home: $300,000 sales price minus $415,000 basis equals a $115,000 loss.

Will the IRS let you claim a writeoff for that loss? Nope. You can only claim a federal income tax loss on investment or business property. A loss on a personal residence is considered a nondeductible personal expense. Most states follow the same principle.

**■ Excess debt.** In both the preceding examples, the mortgage debt exceeded the net sales price by $50,000. If the lender won't let you off the hook for any of that excess, you'll have to figure out a way to pay it, and you won't get any tax break for doing so.

If you're more fortunate, the lender will forgive some or all of the excess $50,000. To the extent debt is forgiven, you have so-called debt-discharge income, or DDI. The general rule is that DDI is taxable income. For the year that DDI occurs, the lender should report the amount to you (and to the IRS) on Form 1099-C. Happily enough, there are some taxpayer-friendly exceptions to the general rule that DDI is taxable. Here they are:

■ Up to $2 million of DDI from mortgage debt that was originally taken out to acquire, build or improve the borrower's principal residence is tax-free (you must reduce the basis of the residence by the tax-free amount). This super-favorable rule is not available for DDI from debt that was not used to acquire, build or improve the principal residence, such as DDI from a home-equity loan used for other purposes.

■ If the borrower is in bankruptcy proceedings when the DDI occurs, the DDI is tax-free.

■ If the borrower is insolvent (that is, has debts in excess of assets), the DDI is tax-free as long as the borrower is still insolvent after the DDI occurs. If the DDI causes the borrower to become solvent, part of the DDI will be taxable (to the extent it causes solvency). The rest will be tax-free.

■ To the extent DDI consists of unpaid mortgage interest that was added to the loan principal and then forgiven, the forgiven interest that could have been deducted (had it been paid) is tax-free.

■ If the DDI is from seller-financed mortgage debt owed to the previous owner of the property, it's tax-free. However, the basis of the property must be reduced by the tax-free DDI amount.

The important thing to understand is that a real-estate short sale can potentially result in a taxable gain and/or taxable DDI. Thankfully, you can probably exclude the gain from taxation under the federal home-sale-gain exclusion deal, and you might be able to exclude some or all of the DDI, too, under the favorable exceptions explained above.

*Bill Bischoff, the tax columnist for SmartMoney.com, has been a tax specialist and licensed CPA for 25 years.*