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Capitalizing on the current depressed real estate market

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Due to the current state of the economy and depressed real estate market, property values have fallen significantly. Now is the time when property owners need to reevaluate their real estate ownership tax structure. Many corporations own real estate in a corporate structure, which in most cases is not tax efficient. In addition to double taxation, property can be exposed to liability from corporate creditors.

For example, a C-Corp which holds property may encounter liability and tax issues. The property may become subject to corporate creditors in claims of bankruptcy. Double taxation occurs because the appreciation of real property which is sold or transferred is taxed at a corporate rate and the subsequent distribution of the proceeds will also be taxed to the shareholders as a dividend. Let's take a look at an example: if you purchased a building for $100k and sold it for $1 million, you would have $900k profit. This profit will be taxed at the current federal corporate tax rate of 35%. In addition, proceeds that are distributed to the shareholders as a dividend will be taxed at 15%, the current capital gains rate.

However, there are opportunities to shield the property from creditors and also avoid double taxation. Since property values are depressed, companies should consider distributing its real estate holdings to its shareholders. A distribution of property from a corporation to a shareholder is considered a deem sale of the asset by the corporation at its fair market value, regardless of whether or not proceeds are received. Therefore, if the property purchased has decreased in value, double taxation can be minimized or eliminated. After the property is transferred, any future appreciation will now be taxed at one level when and if the property is sold, preserving more of your initial investment. If the property is held in an S-Corporation, shareholders are not exposed to double taxation. However, they can still benefit from this strategy. By removing the real estate from the corporate structure, it may be out of the creditors' reach. In addition, a number of federal, state, and local individual and corporate tax rates will be increasing over the next few years. Transferring corporate property before any increase in the tax rates may be beneficial to your tax minimization strategy.

Transferring your corporate property in this "soft" market can be beneficial to you and your shareholders. Speak with an advisor (accountant, attorney) to see if this strategy is right for you. If your property value is down, you may be able to retain a greater portion of your investment for the future.

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