



CELEBRATING
55 YEARS

nerej

Co-op qualification has been expanded

February 27, 2008 - Front Section

Tenant - stockholders of a cooperative housing corporation (a co-op) are entitled to deduct their allocable share of real estate taxes and qualifying mortgage interest paid by the co-op on their individual income tax returns. This deduction is based on the fact that the corporation which holds the real estate meets the four requirements of a cooperative housing corporation.

Co-ops may provide rental space to commercial as well as residential tenants, as long as they meet the four requirements. The most difficult test is 80% or more of the corporation's gross income for the tax year in which the taxes and interest are paid or accrued, must be derived from (residential) tenant-stockholders. Recently the rental market has experienced an increase for rents charged for commercial space, while the residential rental market has remained flat or decreased. This occurrence has jeopardized compliance with this 80% requirement, which could result in a co-op losing its classification and the tenant-shareholders losing the flow through tax benefits.

The new Mortgage Relief Act contains a provision which changes the requirement that 80% of gross income must be derived from residential property. The new provision states that 80% of the total square footage of the rental property must be used or be available for use for residential purposes or for purposes ancillary to residential use. A second change states that a co-op will not lose its classification, if 90% of the corporation's expenditures are paid or incurred for the acquisition, construction, management, maintenance or care of its property is for the benefit of the tenant-shareholder.

This change in the definition will allow these entities to take advantage of the profitable commercial real estate market, resulting in greater cash flow without the fear of losing their classification as a cooperative housing corporation.

Norman Posner, CPA, managing partner, Samet & Co., Chestnut Hill, Mass. Ron Mutascio, CPA MST also of Samet contributed to this article.

New England Real Estate Journal - 17 Accord Park Drive #207, Norwell MA 02061 - (781) 878-4540