

DEBT RELIEF



ATTY. LAWRENCE YANG

Carmakers ask for more bail out money

on overhead, product lines and dealerships, Washington is expanding the capacities of printing presses so that more and more money can be printed to fund the bail outs. When the business gets bigger, so does the bail out. All this money being given to the titans of business, industry and banking so that very large businesses which are actually bankrupt can avoid going to bankruptcy court where they should be going in the first place to reorganize themselves. Most of the airline companies went through bankruptcy proceedings since September 11 and they have come out as leaner and profitable businesses without receiving any bail out funds from the government. And we still dare to fly with them. Why should the carmakers be treated as business prima donnas?

GM said it would run out of money by the end of March, that is five weeks from now. I guess they didn't foresee that when they got part of the \$17 billion last month. GM also said that it needs \$2 billion next month and another \$2.6 billion in April to remain solvent. This is a great way of

saying that they are solvent now and will remain solvent in two months if they get another \$4.6 billion between now and April. What they are actually saying though is that they were bankrupt last year but managed to stay afloat up to now because of the billions of federal loans they got in the last two months, but all those funds have been used up and they need another \$4.6 billion to stay afloat for the next 2 months.

On the other hand, Chrysler said that their "turnaround" plan needs another \$5 billion on top of the \$4 billion they already got from Uncle Sam last month. The powers that be say that the carmakers will start paying their loans back in two years and thereafter pay them back in five years. But what will really happen two years from now, after they ask for billions more of bail out money, is that none of the federal loans will be paid back. These unpaid loans will have to be converted into equity. Will these loans actually save the carmakers from bankruptcy? No, because they are actually bankrupt and have been bankrupt for some time.

As individuals, you might

also be actually bankrupt with too much debt and insufficient income to pay these debts off. For instance, you might owe \$50,000 of credit card debt and have a mortgage that eats up half of your net income. What you do to stay afloat is borrow \$1,500 more from credit cards to keep these cards current with minimum payments every month. You are in the same situation as GM. GM needs \$2 billion this month and \$2.6 billion next month to stay solvent after having received \$14 billion in the last two months to keep it afloat. Fortunately for you, you can rely on Federal bankruptcy law to get rid of your \$50,000 of credit card debt to give you a fresh start without accumulated debt. Aside from getting rid of your debts, you can keep your house, your cars, retirement accounts and most if not all of your assets.

If you need debt relief, contact my office. I will analyze your case personally.

Lawrence Bautista Yang specializes in bankruptcy, business, real estate and civil litigation and has successfully represented more than five thousand clients in California. Please call Angie, Barbara or Jess at (626) 284-1142 for an appointment at 1000 S. Fremont Ave., Bldg. A-1 Suite 1125 Unit 58, Alhambra, CA 91803. (Advertising Supplement)

Foreclosure vs. Short Sale

HOME BUYERS



KENNETH GO

WE are experiencing a high number of homeowners considering either letting their property go into a foreclosure or short selling their properties. I have had a number of caller who ask for my advice and I would always try and find out why they got into that situation. Hoping to find the cause of their current mishap, guess what majority of the reasons are because of Bad Loans and Bad Lenders? I have been in this business for more than 20 years and I have never seen so many homeowners being charged 20-30K thousands of dollars in fees. This is outrageous and yet crippling because we cant do anything about it now.

Who is to blame, unethical and dishonest lenders who have no conscience and care only about their own pockets? Now, you know how to be careful right? Very expensive lesson for all of you, for some, learn from this.

A "short sale" is selling the home for less than the mortgage balance and trying to get the lender to forgive the unpaid balance. A reason for debtors to consider a "short sale" instead of a foreclosure is to try to protect their credit history. How are foreclosures (and deeds in lieu of foreclosure) taxed? An important consideration in the results of a foreclosure (or a deed in lieu of foreclosure) is whether the debt is "recourse" or "nonrecourse." If the debt is "recourse" (most mortgage from cash out refinancing), the debtor is personally liable for the debt. If the debt is "nonrecourse" (most mortgages used to purchase a residence), the debt is only secured by the property, and the debtor is not personally liable for the balance. You should consult with an

attorney to determine the status of your mortgage.

Tax relief enacted for recourse mortgage on principal residence debt forgiveness. Congress has passed and President Bush has approved H.R. 3648, the "Mortgage Forgiveness Debt Relief Act of 2007." The legislation is effective for discharges of indebtedness on or after January 1, 2007 and before January 1, 2010. (California has not conformed to this legislation. Check your state.)

What happens with a "short sale"? Short sales are taxed under the same rules as foreclosures.

Recourse debt cancellation is not satisfied with the surrender of the property, so any debt not satisfied with the sale proceeds would be taxable as cancellation of debt income, except for certain "qualified principal residence indebtedness. See section on "tax relief", above. (Rev. Rul. 92-99, 1992-2 CB 518. Also see Treasury Regulations Section 1.1001-2(a)(2).)

"A 'short sale' can be a viable alternative to a foreclosure for debtors with nonrecourse debt and who qualify for the exclusion from income of a principal residence."

For nonrecourse debt short sales when the seller and buyer require the cancellation of the debt by the lender as a condition of the sale, the debt cancellation is included in the sale proceeds, like for a foreclosure. (Briarpark v. Commissioner, 5th Circuit, 99-1 US Tax Cases 99-1 ¶ 50,209, 1/6/1999; T.C. Memo 1997-298, 6/30/1997. Also see Treasury Regulations Section 1.1001-2.)

Therefore, a "short sale" can be a viable alternative to a foreclosure for debtors with nonrecourse debt and who qualify for the exclusion from income of the gain from the sale of a principal residence. What if the fair market value of the home has dropped after purchase? If the cancellation of debt was for "qualified principal residence indebtedness", it will be excluded from taxable income and be subtracted from the tax basis of the residence.

Please contact your CPA for more detailed explanation and your Attorneys. Go to www.irs.gov and look up your tax implication. For any other question, please call me at 562-697-7028 or write to kennethgo@verizon.net (Advertising Supplement)



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