TAXES

Losing Interest Deduction on Personal Residence

by Dyches Boddiford

You know that interest you pay on your personal residence is generally deductible on your personal tax return, right? Well, you should be aware of a limitation illustrated in a recent Tax Court case (*T.C. Summary Opinion 2013-88*). In this case, a couple borrowed money for their residence from a parent. They signed a Note and a Mortgage collateralizing the debt with their residence. However, they did not record the mortgage in the county records.

IRC Section 163(h)(3)(B) requires that the debt be secured by the residence for interest to be deductible. A mortgage is the document used to secure the debt. BUT, a mortgage must be "perfected" by being filed in the appropriate property records to be enforceable. Since the mortgage for this loan was not filed, it was not enforceable. Thus, technically, the debt was not secured by the residence as required by Treas. Reg. 1.163-10T(o)(1)(iii).

Reprinted by Permission. © Copyright 2013 Dyches Boddiford. All Rights Reserved. The Oaks Group, PO Box 505, Marietta, GA 30061. Dyches is a National Speaker has been a MREIA featured speaker at past meetings. Visit www.assets101.com for more information.