Mortgage Interest Deduction
Allowed for Equitable Owners

Mortgage interest is deductible for tax purposes by the owner of a personal residence, a second home, and rental properties, but also must be the individual or married couple paying that mortgage, not a tenant or other party.

A taxpayer is allowed to deduct most or all of the “qualified residence interest” paid for their principal residence and a second home such as a vacation home.

The deduction is generally limited to the interest paid on the first $1 million of “acquisition debt” used to purchase, build, or substantially renovate a home secured by the qualified residence.

In addition you may deduct the interest on home-equity debt on loans of up to $100,000.

In this recent US Tax Court case an otherwise tenant who lived with the homeowner assisted in the refinancing the home and claimed in the loan process to be a co-owner in order to make certain renovations.

The taxpayer/tenant, John Wainwright, thereafter deducted the mortgage interest allocable to him pursuant to the loan terms which he paid.

In a subsequent audit the IRS disallowed the mortgage interest deduction he claimed.

The Tax Court disagreed, and awarded Mr. Wainwright the deduction.

To meet the tax law requirements the mortgage must be the obligation of the taxpayer claiming the deduction, and not the obligation of another.

However if a taxpayer is found to be an “equitable owner,” taking state law into account, he or she may be entitled to a mortgage interest deduction.

A taxpayer becomes the equitable owner of property by assuming the benefits and burdens of ownership.

In making the determination for this particular case, the Tax Court considered several key factors, including whether Wainwright:
• Had the right to possess the property and to enjoy the use, rents, and profits.
• Had the duty to maintain the property.
• Was responsible for insuring the property.
• Bore the risk of loss of the property.
• Was obligated to pay taxes, assessments, and charges against the property.
• Had the right to improve the property.
• Had the right to obtain legal title to the property at any time by paying the balance of the purchase price.

Based on these factors the Tax Court concluded that Wainwright was the equitable owner of the home and therefore was entitled to deduct the mortgage interest paid.

We here at Muffoletto & Company believe that the more informed you the more we can be of service.

Should you have questions relating to any tax or financial matters give us a call at (818) 346-2160, or you can visit us on the web at www.petemcpa.com!

Providing individuals, small businesses, corporations, partnerships, professionals, and other business entities with the necessary guidance and answers for a complex world.

IMPORTANT NOTICE

The contents of this email and any attachments to it may contain privileged and confidential information from Muffoletto & Company.

This information is only for the viewing or use of the intended recipient. If you are not the intended recipient, you are hereby notified that any disclosure, copying, distribution or use of, or the taking of any action in reliance upon, the information contained in this e-mail, or any of the attachments to this e-mail, is strictly prohibited and that this e-mail and all of the attachments to this e-mail, if any, must be immediately returned to Muffoletto & Company or destroyed and, in either case, this e-mail and all attachments to this e-mail must be immediately deleted from your computer without making any copies hereof.

If you have received this e-mail in error, please notify Muffoletto & Company by e-mail immediately.

To ensure compliance with Treasury Department regulations, we wish to inform you that, unless expressly stated otherwise in this communication (including any attachments) any tax advice that may be contained in this communication is not intended or written to be used, and cannot be used, for the purpose of (i) avoiding tax-related penalties under the Internal Revenue Code or applicable state or local tax law provisions or (ii) promoting, marketing or recommending to another party any tax-related matters addressed herein.
If you prefer not to remain on our email lists, please let us know. We will remove you as soon as you notify us.

You may do so by emailing us at pete@petemcpa.com