

Official Publication of the Newport Beach Association of REALTORS®



FEBRUARY 2013

V18 N2

nbaor.com



NBAOR MEMBERS ARE APPRECIATED

Event photos page 10

Charity Golf
Tournament
page 8





When it comes to closing, this is the only effort your clients need to exert.

With on-time closings, choices of solutions and expert loan consultants, we take the hassle and stress out of the home buying experience – so you can offer your clients a better, more enjoyable way to home ownership.

Specializing in: FHA & 203K, VA, HomePath®, Conventional and Jumbo



Give our Newport Beach team a call today and we'll help your clients find the right solution and help you secure more sales.

John Reed
Branch Manager

(877) 270-7215

Ryan Grant
Sales Manager



Contents

Santa Ana Marsh Dredging Project

PAGE SEVEN

Residential Sold Stats

PAGE FIFTEEN

Capital Gains Tax and Health
Care Reform Tax Impact

PAGE TWELVE



Message from the President

PAGE FOUR

New Members

PAGE TWENTY-FIVE

Calendar of Events

PAGE TWENTY-SIX

Message from the GPA

PAGE SIX

Official Publication of the Newport Beach Association of REALTORS®

401 Old Newport Blvd., Ste. 100
Newport Beach, CA 92663
(949) 722-2300

The purpose of the Newport Beach Association of REALTORS® is to be a service and support organization through active participation in establishing programs and services that will enhance and promote the successful business endeavors of its members. With integrity and competence, it will provide a positive link to the local community by cultivating goodwill and protecting the individual rights to own, transfer and use real property.

Editor:

Tricia Moore / Kimberly Foreman

Production Coordinator:

Ned Foley, *Foley Publications, Inc.*

Advertising information:

1-800-628-6983

©Copyright 2000 Foley Publications, Inc.
All rights reserved.

The Coastal REALTOR® News

The Newport Beach Association of REALTORS® makes no warranties and assumes no responsibility for the accuracy of the information contained herein. The opinions expressed in article are not necessarily the opinions of the Association of REALTORS®.

2013 Officers and Board of Directors Newport Beach Association of REALTORS®

President - Mark Todd

Vice President - Mary Fewel

Treasurer - Kimberly Valentine-Poska

Secretary - David Girling

Directors:

Bianca Avila

Tony Bartos

Grant Bixby

Bob Milliken

Rob Norquist

Sue Podany

Stephen Sutherland

Executive Vice President:

Tricia Moore, RCE, CAE

2013 C.A.R. Directors:

Barbara Amstadter

Mary Fewel

David Girling

Rob Norquist

Stephen Sutherland

Mark Todd

2013 C.A.R. 32nd Regional Chairman:

Paula Consenza

Equal Housing Opportunity

Federal law prohibits discrimination based on race, color, religion, sex, handicap, familial status or national origin in connection with the sale of rental of residential real estate, in advertising the sale or rental of housing, in the financing of housing, and in the provision of real estate brokerage services.



President's Message



Mark Todd
2013
President

Cypher: well you have to. The image translators work for the construct program. But there's way too much information to decode the Matrix. You get used to it. I...I don't even see the code. All I see is blonde, brunette, red-head. Hey, you a... want a drink?

Neo: Sure

Cypher: You know, I know what you're thinking, because right now I'm thinking the same thing. Actually, I've been thinking it ever since I got here. Why, oh why didn't I take the blue pill? (Blue Pill made the characters unaware of the Matrix while the Red Pill inserted them into the Matrix.)

A few lines later Pantoliano finishes his envious dialogue with: "A little piece of advice. You see an agent, you do what we do. Run. Run you're a** off."

Neo: Thanks for the drink.

Cypher: Sweet dreams.

Well as you might imagine back in our

About Matrix

non-digitized real world of Newport Beach Real Estate that has pretty much been how it's gone for me and many others working to facilitate the change from our Tempo-MLS to our Matrix-MLS system. Actually, I must admit I am pleasantly surprised that the transition has not been as bad as I thought it might be, and that this a credit to caliber of talented Realtors we have in our community. Sure there are peccadillos to the system that seem awkward because we are not use to them but I am pleased to report that for the most part many people have been without complaint. Perhaps that's because the one thing we know for certain is that change is constant and perhaps we've all just grown more accustomed to expecting change. Certainly change for change sake is usually a poor decision but this conversion was simply originated from our board responding to the requests of hundreds of agents who wanted access to the information via their Windows Mobile, Android, or iPhone or their desire to operate from a different Internet Service Provider outside of just Internet Explorer.

There have definitely been some complaints and I wanting to assure you that we are listening and taking action to implement any and all feasible changes that we can make to accommodate your requests. Fear not. This system has a friendlier "eco-system" in that items can be added, subtracted and assimilated better than it could have ever been with Tempo MLS. Also everyone can now have access to the data across various internet service providers and computer operating systems. Rest assured that all of the information we need to do our jobs is still there in the system it's just in different

places. In fact there is probably more information there than we are used to having access to and in some places a little less.

Here are some informative facts about our Matrix MLS and a link for more information.

http://www.crmls.org/centsite/online_video.htm#Matrix

1) During the Tempo to Matrix conversion, the Auto-Sell rule in Matrix was applied to all Tempo Listings that were imported into Matrix.

2) The Auto-Sell rule states that an agent must provide an estimated close of escrow date for a property that enters a status of Pending or Backup. In Tempo, there was an exception for short sales and/or foreclosures from being subject to the Auto-Sell rule. When your Tempo listings were imported into Matrix, they may have been Auto-Sold as a result of the Auto-Sell rule in Matrix. To assist in correcting any listings that should not have been Auto-Sold, CRMLS has modified your access in the Matrix platform to allow you to change the status of your Auto-Sold short sale and/or foreclosure listings to Backup or Pending if applicable. Please note that your ability to make this type of modification to your Auto-Sold short sale and/or foreclosure listings will only be available until February 15, 2013. To update the status of your short sale/foreclosure listings, follow the steps below: 1. Click the Add/Edit tab in Matrix. 2. Enter your listing's Multiple Listing number in the MLS# Quick Modify field. 3. Click Edit. 4. Click Change to Backup or Change to Pending. 5. Enter all applicable information in the required fields and click Submit Listing. If you do not properly

modify the status of your listing or update the close of escrow or estimated close of escrow date in the future, your listing will be subject to the Auto-Sell rule again. For a summary of the Auto-Sell rule, please refer to the attached document.

2. Members are inputting the letter abbreviation of the builder's tract code rather than pulling it from the search window. For complete search results we encourage that they pull from the search window.

3. Although the City field is not a required field on Matrix, it is a commonly used search field. Since the city field contains the name of all of the cities in California, the list is quite long the scroll through. A short cut to get to the first letter of a city is: scroll down the city list and click on "more" which is located near the beginning of the city list, then type the first letter of the city name you want to find. The city list will move to the first city that starts with the letter you typed.

4. When printing in Matrix check the boxes of the listings you want to print from the RESULTS page. Then click "print" at the bottom. A new page will appear. Click on the tab that says "additional reports". Choose the report you want to print and click "print to PDF". You can then print from the pdf and have no problems with the font being too small or getting cut off.

5. In Matrix use the * as a wildcard. Such an example is when searching by street name for West Ocean Blvd. Enter in the street name field *Ocean* to ensure you get the best results and don't miss any listings. In the former Tempo-MLS system we used to use the % sign to do as such.

6. In Matrix "LIST PRICE" is equal to "ORIGINAL LIST PRICE". It is best when searching for active listings to search by the "CURRENT PRICE".

7. There is a one-time set up that you need to do in Matrix in order for the Tax Autofill for listing input to function.

There are also the daily updates that provide us all up to the minute changes and improvements. Some examples are as follows:

1) In the tabs at the top click on REAL LIST TAX, the first time you do this there will be an agreement screen, scroll to the bottom of the agreement and select I AGREE. You should then be taken into the tax service, close the tax service screen by clicking the x in the tax tab at the top.2) In the tabs at the top click on LINKS, scroll down until you find REAL LIST CLASSIC. Click on REAL LIST CLASSIC, the first time you do this you will get an agreement screen, click I AGREE at the bottom, then return to MATRIX. After accepting the agreements for both accesses to the Realist Tax System the Listing input Auto fill function will work.

Probably the greatest challenge we've encountered with the conversion is that the Matrix system only allows for one member User ID to be logged in at any one time. CRMLS recommends adding a personal assistant for those agents who have assistants that work on their behalf. To do make this change please contact the Association. Please keep in mind that Matrix also has the teams feature which can link member IDs together.

There are still Matrix training classes that are going on at the board and I know that many of the local larger offices have been providing their agents with in house training on the new system as well. Mastering the skills to be adept with the new Matrix system will ultimately just take some hands on experience and more repetitions by each of us on our own time despite how much training we get from outside. Honing our Real Estate craft is

much like the process the greatest professional athletes are renowned to do in the process of perfecting their game. All of the greatest shooters across all sports whether it is in basketball such as Michael Jordan, Larry Bird or Kobe Bryant; or in hockey such as Wayne Gretzky or Luc Robitaille or in baseball with hitters such as Josh Hamilton or Albert Pujols: They get in extra repetitions on their own time outside of the practice with their teammates.

I wish there were an easier way to get everyone up to speed on the new system such as they did it in the movie The Matrix. In that world they simply plugged Neo into the computer and all the skills he ever needed were instantly downloaded.

Tank: I...I got to tell you, I'm fairly excited to see what you're capable of, if Morpheus is right and all...I'm not supposed to talk about this, but if you are...a very exciting time. We got a lot to do. We got to get to it... Now, we're supposed to start with these operation programs first, that's a major boring s***. Let's do something more fun. How about combat training.

Neo: Jujitsu? I'm going to learn Jujitsu?

And Viola! He knew Jujitsu.

Well I don't know Jujitsu nor do I know Karate, but I do know Ka-razy; and if each agent isn't taking some of their personal down time to get up to speed and fast before our market heats up any more there will only be more down time for them as the business passes them by.

We all have our homework assignment. I wish you all the best and look forward to sharing more feedback with you in the months ahead!

GPA's Message

The REALTOR® Party – Newport Beach Chapter – Call For Action



By GPA Chairman **Dave Girling**

Hey! It's me – your past-president. I have been asked to be the 2013 Government & Political Affairs Committee Chair. You may have noticed from my monthly missives throughout 2012 as your president, that our political well-being is something I am deeply interested in. I have also been deeply involved for many years, as a citizen and a Realtor.

As the chairman, I will endeavor to disseminate unbiased information. We will discuss how local, state and federal legislation and regulations affect our industry. We will watch the positions taken by current politicians and those seeking political office on taxes and spending.

In particular, I will be keeping an eye on several issues that concern all of us as Realtors. Some are of imminent concern and need an immediate response.

For instance, The Drakes Bay Oyster Company at Point Reyes National Seashore – U.S. Interior Secretary Ken Salazar made another land grab using junk science to “return the area to the state of Wilderness designated for it by Congress.” The company will be closed, jobs lost, homes taken and another California food source destroyed.

This devastating decision will culminate in just weeks. The owners and the workers can only hope that phone calls to the White House from concerned California citizens might reverse this edict. If this can happen in Marin County it can happen along our coast-

line area as well. Search for more info at capoliticalnews.com and sfexaminer.com.

The Realtor Party also needs our help immediately to save the Mortgage Interest Deduction (MID). Phone calls and emails to Senators Feinstein and Boxer as well as Congressman (add name) will remind them of the importance of the MID and that it is a genuine deduction not a loophole.

Too many think of this as a subsidy to “rich” property owners forgetting that MID is a make or break benefit that turns renters into home owners. Taking legally allowable exemptions that increase take-home pay means an out-of-reach home price turns into an affordable monthly payment.

California Association of Realtors (CAR) President Don Faught's ‘call to action’ regarding this problem can be viewed via video at www.car.org. Also visit KeepTheMID.com.

Use the information to get the word out through your social media network. The public can reach Congress by calling (202) 224-3121, Monday-Friday, 9 a.m. – 6 p.m., Eastern Time.

The passage of Proposition 30 (Jerry Brown's raise taxes to fix our state) was puzzling. Perhaps the promise that it was only temporary tipped the vote in its favor.

I will be following closely the results of how “30” will affect California real estate. Will “30” really be a temporary measure?

U.N. Agenda 21 continues to push “stack & pack” housing in the northern part of our state. We will research and update you on this and any other tax-raising, anti-business schemes that need watching or immediate action.

Remember that we are not just sales people. We are advocates for property owners present and future. We are advocates for private property rights and overseers for only the righteous use of eminent domain. We are the Realtor Party.

Come visit me at ArchitecturalCollection.com.

“Ultimately property rights and personal rights are the same thing.”

- Calvin Coolidge

SANTA ANA MARSH DREDGING PROJECT UNDERWAY

U.S. Army Corps of Engineers - Project Update

The U.S. Army Corps of Engineers, Los Angeles District (Corps), has hired a contractor to remove sediment along the channels in the Santa Ana River Marsh (Marsh). The project will restore design channel depths to improve circulation and tidal flushing - both necessary to maintain the salt marsh habitat which includes many endangered species.

The Corps' project also includes a beach sand replenishment component. Good quality sand will be pumped through a pipeline to the nearshore, located 1,000 feet offshore from 60th Street. The sands have been thoroughly tested and approved by EPA for placement in the nearshore environ-

ment. Area residents and beach visitors will see that a temporary pipeline is in place and runs from the Marsh parallel to the Santa Ana River, then down along the beach and through the surf zone to the approved nearshore disposal location. Sand pumping will begin February 11 and continue for about two weeks. The temporary pipe is expected to be removed during the week of February 25.

Sediment not compatible for beach replenishment will be excavated and disposed of at an upland landfill. The California least tern island within the Marsh will also be cleared of weedy vegetation to improve the nesting habitat of this endangered species.

The proposed dredging and excavation is scheduled to be completed by the end of March 2013.

If you have any questions regarding the Marsh project, please contact the Corps' project biologist at (213) 300-9723.

If you have any construction-related questions or concerns, please call Corps inspector Larry Romero at (951) 961-2345. You may also call or e-mail Newport Beach Assistant City Engineer Bob Stein at (949) 644-3322 or rstein@newportbeachca.gov with your questions or concerns.

TRUSTED, TRIED & TRUE



Al Hensling

800-708-5626 ext. 110
Direct: 949-223-0310
Fax: 949-606-9045
alhensling@UAMCO.com
www.UAMCO.com
NMLS #: 71287



- 30 Years Experience
- FHA / VA / Conventional
- Purchase / Refinance
- Primary Residence
- Second Home
- Investment Property
- Personally Funded Over \$2.75 Billion in Residential Mortgages

State License # 01154798

NMLS #: 1942



Newport Beach Association of REALTORS® **CHARITY GOLF TOURNAMENT**

SeaCliff Country Club
Monday, April 29, 2013



9:30a.m. - Check-in & Registration

10:00 a.m. - Shotgun Start - Scramble Format

4:00 p.m. - Awards Banquet

Tournament Chairman:

Adam Vaughan, *Mariners Escrow*

Awards • Prizes • Raffle • Silent Auction

Awards for:

1st, 2nd, 3rd

Mens & Mixed Foursomes

Closest to Pin and Men & Women's Longest Drive

Proceeds Benefit:
Blind Children's Learning Center

Non-Profit Tax ID #95-6097023

Reservation Deadline is
April 15, 2013

Name: _____

Company: _____

Best Phone: _____

Player Names:

Banquet Only Names:

\$ _____ Golf and Awards Banquet, \$700 Foursome

\$ _____ Golf and Awards Banquet, \$175 Single

\$ _____ Awards Banquet Only, \$50.00 per person

\$ _____ Total

Please charge my Visa / MC Exp Date _____ Zip Code _____

Card # _____ CVC# _____ House # _____

Signature: _____ OR Attach checks payable to NBAR

Reservations by Payment Only - Sorry No Refunds.

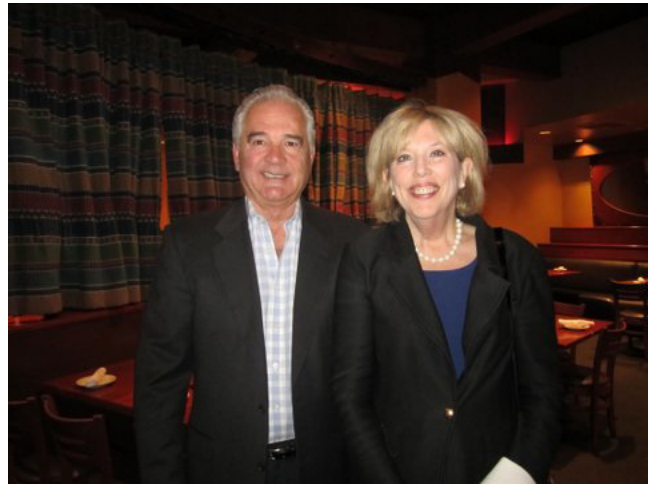
SCCC dress code:

Shorts must be 17" from inseam, shirts must have collars, no denim, jeans, t-shirts, tank tops, spaghetti strap tops or bare midriffs.

Mail to: Kimberly Foreman, NBAR, 401 Old Newport Blvd. Ste 100, Newport Beach, CA 92663 or Fax to: 949-642-4105



Member Appreciation Night Photos



PURCHASE POWER

Kinecta Home Loans

Loans up to \$4 mil. | Attractive mortgage insurance programs | Jumbo ARM at 90% LTV

Special Purchase Offers
Up to 0.625 discount on points¹ • \$500 OFF closing costs²

Discover Kinecta - Free on-site Lunch & Learn events available.



Jason Sasena, NMLS# 465199
Manager Mortgage Loan Sales
Tel: 855.273.9849
 jsasena@kinecta.org
 www.kinecta.org/JSasena



Terms and conditions subject to change. All loans subject to credit approval. Information is intended for Mortgage Professionals only and not intended for consumer use as defined by Section 226.2 of Regulation Z, which implements the Truth-In-Lending Act. The guidelines are subject to change without notice and are subject to Kinecta Federal Credit Union underwriting guidelines and all applicable federal and state rules and regulations. 1) Applicable to home purchase transactions only. 0.625 discount offer applicable to Conforming fixed-rate mortgages with 45-day rate lock. 0.500 discount offer applicable to Super Conforming fixed-rate mortgages with 30-day rate lock. Valid on home purchase loans locked on or after 5/17/2012. For investment properties or second homes, discount offers valid on loans with terms of up to 15 years. Not valid on detached condominiums. Offer subject to change without notice and maybe cancelled at any time. Ask Kinecta Mortgage Loan Consultant if offer is still valid at the time of rate lock. 2) \$500 Gift Card Offer restrictions: Offer applicable to home purchase transactions in the state of California financed with a Kinecta mortgage. Eligible Kinecta mortgages include conforming and government mortgages (including HomePath®). Limited to 1-4 unit primary residence, second home, or investment property. Loan amount must be from \$150,000.00 to a maximum of as much as \$625,500 (conventional) / \$729,750 (FHA), subject to specific county-based maximums which are lower for most counties. \$500 Gift Card will be mailed after mortgage funds (minimum of 3 weeks after the funding date). Visit www.kinecta.org/gift_cards for gift card terms and conditions, including fee information. Borrower may opt to forego \$500 gift card and instead apply a \$500 credit towards mortgage closing costs (request must be made prior to mortgage application submission). Other discounts, such as the existing VIP closing cost discounts, may not be applied in addition to the Purchase Power discount offer. 10885-08/12

Foley Publications, Inc. located in Denver, Colorado, is proud to partner with the **Newport Beach Association of REALTORS®**. Together we provide a professional, interactive monthly e-magazine for the Association's membership.



Foley Publications, Inc.



For advertising informaion, please contact Craig Foley or Ned Foley at 303-758-7878 or visit our website at www.foleypub.com.

20+ Years of Real Estate Publishing Excellence!

CAPITAL GAINS TAX AND HEALTH CARE REFORM TAX IMPACT

I. Introduction

The Taxpayer Relief Act of 1997 (the "1997 Act") and the IRS Restructuring and Reform Act of 1998 (the "1998 Act") provide for an exclusion from income for certain amounts of gain from the sale of a principal residence. The Mortgage Forgiveness Debt Relief Act of 2007 (the "2007 Act") provides clarification regarding certain capital gains issues as well.

The Jobs and Growth Tax Relief Reconciliation Act of 2003 (the "2003 Act") also made important changes to the federal taxation laws including, among other matters, lower capital gains tax rates, acceleration of a reduction in tax rates, increased child tax credits and a reduction in the so-called marriage penalty. Sunset provisions in the 2003 Act were extended by the Tax Increase Prevention and Reconciliation Act of 2005 (the "2005 Act").

With passage of H.R. 3221, the Housing and Economic Recovery Act of 2008, further changes were made to capital gains exclusions for a principal residence that wasn't used as a principal residence part of the time of ownership.

This legal article discusses portions of all of these laws having an impact on capital gains treatment for the sale of real property and providing an exclusion from income for gain from the sale of a principal residence.

In addition, this article discusses the tax impact of the federal health care reform law and the American Tax Payer Relief Act of 2013 (HR8).

II. Taxation on Sale of Principal Residence

Q 1. What happens if I sell my principal residence?

A Individuals are generally permitted to exclude from income up to \$250,000 (\$500,000, in general, for married couples filing a joint return) realized on the sale or exchange of their principal residence (26 U.S.C. § 121 also cited as IRC § 121).

Q 2. May I use this exclusion more than once?

A Yes, but generally not more than once every two years. In order to qualify, you must have owned and used the property as your principal residence for at least two years during the five-year period ending on the date of the sale or exchange. In addition, the two-year periods do not have to be continuous. (IRC § 121.)

Q 3. May I use this exclusion in connection with Internal Revenue Code ("IRC") section 1034 "rollover" of gain on the sale of my principal residence if I purchase a home of equal or greater value?

A No. The IRC § 1034 provision allowing a delay in the recognition of gain when purchasing a replacement residence of equal or greater value was repealed by the 1997 Act (IRC § 121).

Q 4. May I still take a one-time exclusion of \$125,000 of gain

from the sale of my principal residence if I am age 55 years or older?

A No. This exclusion was also repealed by the 1997 Act.

Q 5. If I have previously used the \$125,000 exclusion of gain, am I prohibited from using the new \$250,000 (\$500,000 for married couples filing jointly) exclusion of gain?

A Generally no. Even if you have previously taken the one-time \$125,000 exclusion, if you are otherwise eligible for the exclusion you can take advantage of the \$250,000 exclusion (\$500,000 for married couples filing jointly) as often as you meet the requirements. (IRC § 121.)

Q 6. How does the exclusion apply to married couples?

A The \$500,000 exclusion applies to married couples filing jointly when all of the following conditions are met:

- Either spouse meets the ownership requirement;
- Both spouses meet the use requirement; and
- Neither spouse has had a sale of their principal residence in the preceding two years subject to the exclusion.

(IRC § 121.)

Q 7. What if I marry someone who has used the exclusion within two years prior to our marriage?

A Even though your spouse has

used the exclusion within two years prior to your marriage, you would still be allowed a \$250,000 exclusion. Once both spouses satisfy the eligibility requirements and two years have passed since the last exclusion was allowed to either spouse, a full \$500,000 exclusion would be allowed for the next sale or exchange of a principal residence. (IRC § 121.)

Q 8. If my spouse dies, must I sell our principal residence within the year of my spouse's death in order to take advantage of the \$500,000 exclusion from gain?

A No. The 2007 Act amends IRC § 121(b) to allow the exclusion of \$500,000 in capital gains tax if the principal residence is sold within two years of the spouse's death (but this applies only for sales after December 31, 2007).

Q 9. What if I move before I have occupied my residence for two years or before two years have elapsed since the last time I sold or exchanged my principal residence?

A If you fail to meet either two-year requirement, you will still be entitled to a pro-rata amount of the exclusion as long as the failure to meet the requirement is because the sale or exchange is by reason of a change in place of employment, health or other unforeseen circumstances.

The 1998 Act provides that this ratio is that portion of the \$250,000/\$500,000 exclusion equal to the fraction of the two years that the ownership and use

requirement is met. Therefore, an unmarried taxpayer who owns and uses a principal residence for one year and then sells because of a job transfer may exclude up to \$125,000 of gain (one-half of the regular \$250,000 exclusion).

Example: Ms. Seller purchased and occupied her principal residence in 1998. One year later, she is transferred by her employer to another city and sells her house for a \$100,000 gain. Because she occupied her residence for one-half of the required two years, Ms. Seller is entitled to exclude up to one-half of the \$250,000 otherwise allowed, thereby covering her entire \$100,000 gain. This is a change from the IRS's previous position allowing her to exclude only one-half of her gain, or \$50,000.

Q 10. Are there clarifications to the permissible reasons for sale or exchange allowing a pro-rata exclusion?

A Yes. Treasury regulations provide clarifications and safe harbors for the exemptions from the two-year period. Treasury Regulation 1.121-3(b) provides that a sale or exchange is by reason of a change in employment, health, or unforeseen circumstances only if the primary reason for the sale or exchange is a change in place of employment, health or unforeseen circumstances. The regulation provides the following guidelines and safe harbors:

Place of Employment

Generally, a sale or exchange is

deemed to be a change in employment if the primary reason for the sale or exchange is a change in the location of a qualified individual's place of employment. (See Question 11 for a definition of qualified individual.)

The regulation provides a distance safe harbor if (i) the change of employment occurs during the period of the taxpayer's ownership and use of the property as the taxpayer's principal residence, and (ii) the individual's new place of employment is at least 50 miles further from the residence sold or exchanged than was the former place of employment, or, if there was no former place of employment, the distance between the individual's new place of employment and the residence sold or exchanged is a least 50 miles.

For purposes of the regulation, employment includes starting a job with a new employer, continuing employment with the same employer, and starting or continuing self-employment.

Health

A sale or exchange is by reason of health if the primary reason for the sale or exchange is to obtain, provide, or facilitate the diagnosis, cure, mitigation, or treatment of disease, illness, or injury of a qualified individual, or to obtain or provide medical or personal care for a qualified individual suffering from a disease, illness or injury. A sale or exchange that is merely beneficial to the general health or well-being of the individual is not a sale or exchange by reason of health.

Finance your home purchase with Wells Fargo Home Mortgage

Rely on the strength and stability of a well-established lender.

- Count on our commitment to helping as many customers as possible enjoy the benefits of homeownership.
- Expect us to work closely with you to explore and explain options that are right for your budget and goals.
- Know we work hard to help customers stay in their homes in times of financial difficulty.

Shop with reassurance

Use a **PriorityBuyer**[®] mortgage preapproval to pinpoint your price range before you begin your home search.¹ This shows sellers and real estate agents that you are credit-checked and ready to buy and allows you to house-hunt with confidence.

Contact Wells Fargo Home Mortgage today.



Steve Glass
Branch Manager
Newport Beach, CA
949-809-2555
NMLS ID
453218



Vikas Chaddah
Manager
714-612-5093
NMLS ID
453275



Jacob Neushul
949-644-7574
NMLS ID
450373



Michael Prime
949-809-2550
NMLS ID
468654



Tina Vo
949-809-5316
NMLS ID
450331



Lisa Chen
949-809-2578
NMLS ID
455425



Sandra Gonzales
949-809-2543
NMLS ID
460072



Don Haberlein
949-233-1800
NMLS ID
355829



Mary Gillany
949-809-2558
NMLS ID
460014



Sigal Ronen
949-933-9979
NMLS ID
447827



Joe Pirro
949-809-2590
NMLS ID
483673



Lisa Banhagel
949-500-5780
NMLS ID
463400



Steve Pertschi
949-718-3694
NMLS ID
450940



Joel Rodgers
949-887-0094
NMLS ID
448483



Loren Perez
949-436-1123
NMLS ID
448238



Andy Nguyen
949-809-2567
NMLS ID
455218



Joe Magallanes
800-419-8577
NMLS ID
491678



Minh-Thy Vu
714-881-6199
NMLS ID
484368



John Farrell
949-809-5327
NMLS ID
374639



Justin Purpero
949-809-5329
NMLS ID
373589



Bob Jacobs
949-809-5303
NMLS ID
11463



Denise Mower
949-809-2566
NMLS ID
780084

1. A **PriorityBuyer**[®] preapproval is based on our preliminary review of credit information only and is not a commitment to lend. We will be able to offer a loan commitment upon verification of application information, satisfying all underwriting requirements and conditions, and providing an acceptable property, appraisal, and title report. Not available on nonconforming products.

Wells Fargo Home Mortgage is a division of Wells Fargo Bank, N.A. © 2012 Wells Fargo Bank, N.A. All rights reserved. NMLS ID 399801 AS975132 1/13-4/13

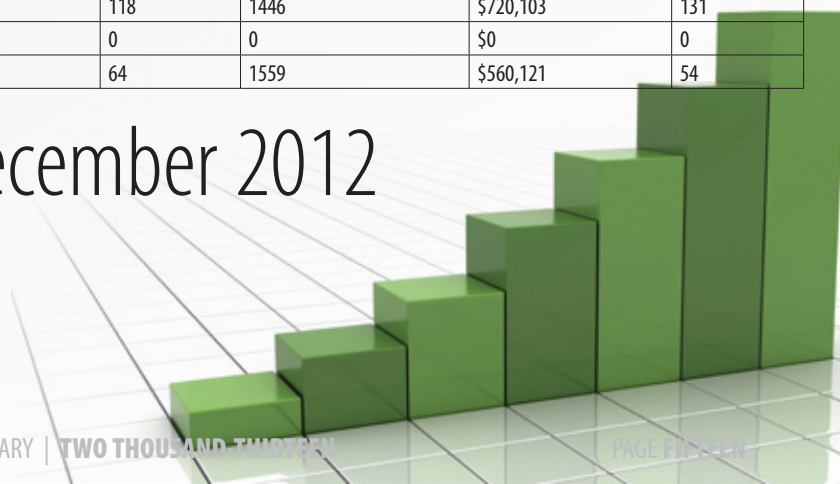


Together we'll go far



As of January 18, 2013	Attached			Detached		
		% Change Prior Year			% Change Prior Year	
December 2012						
Total Sales Volume	\$349,027,281	35.35%		\$1,297,269,725	50.33%	
Average Sales Price	\$343,193	20.97%		\$771,725	20.46%	
Median Sales Price	\$310,000	19.23%		\$530,000	14.55%	
Number of Units Sold	1017	11.88%		1681	24.80%	
Average DOM	78	-27.10%		82	-21.15%	
December 2011						
Total Sales Volume	\$257,878,755			\$862,971,714		
Average Sales Price	\$283,695			\$640,662		
Median Sales Price	\$260,000			\$462,700		
Number of Units Sold	909			1347		
Average DOM	107			104		
YTD 2012						
Total Sales Volume	\$3,899,230,074	24.74%		\$13,620,158,145	27.62%	
Average Sales Price	\$320,634	5.42%		\$702,251	6.04%	
Median Sales Price	\$290,000	5.49%		\$506,000	2.20%	
Number of Units Sold	12161	18.33%		19395	20.35%	
Average DOM	94	-8.74%		89	-10.10%	
January 2011 - December 2012						
Total Sales Volume	\$7,021,259,804	6.31%		\$10,617,327,396	-52.08%	
Average Sales Price	\$312,988	-0.04%		\$684,018	0.70%	
Median Sales Price	\$281,000	-1.40%		\$501,000	-0.36%	
Number of Units Sold	22433	6.35%		15522	-52.41%	
Average DOM	98	1.03%		94	0.00%	
January 2010 - December 2011						
Total Sales Volume	\$6,604,619,067			\$22,155,352,466		
Average Sales Price	\$313,119			\$679,237		
Median Sales Price	\$285,000			\$502,800		
Number of Units Sold	21093			32618		
Average DOM	97			94		
	Attached			Detached		
Inventory as of September 16, 2011	Units	Avg LP	Avg DOM	Units	Avg LP	Avg DOM
Active	3945	\$379,528	113	6576	\$1,202,687	108
Back Ups	1313	\$307,857	146	1933	\$637,624	137
First Right Status retired	0	\$0	0	0	\$0	0
Pending	1075	\$279,878	79	1422	\$565,272	77
	Attached			Detached		
Inventory as of October 13, 2012	Units	Avg LP	Avg DOM	Units	Avg LP	Avg DOM
Active	3815	\$376,017	112	6186	\$1,219,065	112
Back Ups	1342	\$300,324	151	1903	\$621,692	140
First Right Status retired	0	\$0	0	0	\$0	0
Pending	1057	\$283,202	72	1442	\$545,290	71
	Attached			Detached		
Inventory as of January 18, 2013	Units	Avg LP	Avg DOM	Units	Avg LP	Avg DOM
Active	1029	\$515,911	79	2203	\$1,785,633	92
Back Ups	972	\$340,537	118	1446	\$720,103	131
First Right Status retired	0	\$0	0	0	\$0	0
Pending	1042	\$298,351	64	1559	\$560,121	54

Residential Sold Stats - December 2012



The regulations provide a safe harbor if a physician recommends a change of residence for reasons of health. (See Question 11 for a definition of qualified individual.)

Unforeseen Circumstances

A sale or exchange is by reason of unforeseen circumstances if the primary reason for the sale or exchange is the occurrence of an event that the taxpayer does not anticipate before purchasing and occupying the residence.

The regulations provide a safe harbor for any of the following events occurring during the taxpayer's ownership and use of the residence as the taxpayer's principal residence:

1. The involuntary conversion of the residence;
2. Natural or man-made disasters or acts of war or terrorism resulting in a casualty to the residence;
3. In the case of a qualified individual:
 - a. Death;
 - b. The cessation of employment as a result of which the individual is eligible for unemployment compensation;
 - c. A change in employment or self-employment that results in the taxpayer's inability to pay housing costs and reasonable basic living expenses for the taxpayer's household (including amounts for food, clothing, medical expenses, taxes, transportation, court-ordered payments, and expenses reasonably necessary to the production or income, but not for the maintenance of an affluent or luxurious standard of living);
 - d. Divorce or legal separation under a decree of divorce or separate main-

tenance;

e. Multiple births resulting from the same pregnancy; or

4. An event determined by the Commissioner to be an unforeseen circumstance to the extent provided in published guidance of general applicability or in a ruling directed to a specific taxpayer.

(See Question 11 for a definition of qualified individual.)

(26 C.F.R. § 1.121-3.)

Q 11. Who is a "qualified individual" as used in Question 10?

A Qualified individual is defined in the regulations as the taxpayer, the taxpayer's spouse, a co-owner of the residence, or a person whose principal place of abode is in the same household as the taxpayer. For purposes of the pro-rata exclusion of gain for a sale or exchange due to health only, a qualified individual also includes (i) an individual with a relationship described as a dependent in IRC § 152(a)(1) through (8), without regard to whether they are actually a dependent, or (ii) a descendant of the taxpayer's grandparent. (26 C.F.R. § 1.121-3(f).)

Q 12. What if I do not qualify for a safe harbor?

A The regulations provide the following factors, which may be relevant in determining the taxpayer's primary reason for the sale or exchange:

1. The sale or exchange and the circumstances giving rise to the sale or exchange are proximate in time;
2. The suitability of the property as the taxpayer's principal residence materially changes;

3. The taxpayer's financial ability to maintain the property materially changes;

4. The taxpayer uses the property as the taxpayer's residence during the taxpayer's ownership of the property;

5. The circumstances giving rise to the sale or exchange are not reasonably foreseeable when the taxpayer begins using the property as the taxpayer's principal residence; and

6. The circumstances giving rise to the sale or exchange occur during the period of the taxpayer's ownership and use of the property as the taxpayer's principal residence.

(26 C.F.R. § 1.121-3(b).)

Q 13. May I deduct a loss on the sale of my principal residence?

A No. Although there were discussions about allowing homeowners to deduct losses on the sale of their principal residence, this provision did not become law.

Q 14. If I have gains from the sale of my principal residence above the \$250,000/\$500,000 exclusion limits, what tax rate will I pay?

A Depending on the length of time you owned your principal residence, your gain may be taxed at the more favorable capital gain rates discussed below. See Section II, below.

Q 15. Are there more special rules?

A Yes, including, among others, the following:

- A taxpayer can elect not to have the exclusion apply to any sale or exchange.

- Certain periods an individual resides in a nursing home on account of physical or mental incapacity are included as part of the two-year use requirement if certain other rules apply.

- An individual whose spouse is deceased on the date of the sale of the property can include the period the deceased spouse owned and used the property before death.

- An individual is treated as using the property as his or her principal residence during any period of ownership while the individual's spouse or former spouse is granted use of the property under a divorce or separation instrument.

Q 16. What happens if I transfer my principal residence into a revocable living trust?

A IRC § 676 provides that a grantor (the person who creates and funds the trust) is treated as the owner of the property when the grantor retains the power to revoke the trust and revert title in him or herself. The 2003 Act does not change this provision. This means that the \$250,000 exclusion (\$500,000 if married filing jointly) applies to a sale or exchange by a revocable living trust so long as the grantor of the trust and owner of the property before it was conveyed to the trust are the same person and that person, either as owner or grantor, has owned and used the property as his or her principal residence for two of the previous five years. In other words, because the grantor is still treated as the owner of the property, the transfer into the trust is not a taxable event.

Q 17. May I utilize an IRC 1031

(“like kind” tax-deferred exchange) in connection with an owner-occupied residence?

A No. However, individuals sometimes exchange one rental property for another planning to move into the acquired property and, after living in it for two years, sell it and take advantage of the capital gains exclusion. This sometimes occurred as soon as three or four years after the acquisition. As of October 22, 2004, this was no longer possible. Pursuant to the American Jobs Creation Act of 2004, a property acquired in a 1031 exchange and later converted to a principal residence must be owned for five years from the date of the exchange before the owner can claim the capital gains exclusion. Therefore, in order to take advantage of a 1031 exchange and the capital gains exclusion, the owner must both have used the acquired property as a principal residence for two years and owned it for five years.

Q 18. Is the exclusion treated differently for the sale of a principal residence that was used as a second home or as income property during the ownership period?

A Yes. For any periods of ownership occurring on or after January 1, 2009, under the Housing and Economic Recovery Act of 2008 (H.R. 3221), the exclusion from capital gains recognition will be reduced by the amount of time the property was not used as a principal residence (“non qualified use”). The gain from the sale will be allocated between periods when the property was used as a principal residence (“qualified use”) and periods

of non-qualified use. The math is as follows: The gain is multiplied by a fraction where the top number (the numerator) is the period that the property was used as a principal residence (qualified use) and the lower number (the denominator) is the total period of ownership.

Gain x (Time of qualified use/Total time owned) = exclusion from capital gains (capped at \$250,000 and \$500,000).

Example: A married couple filing jointly purchased a vacation property on January 2, 2009 which they sell on January 2, 2017 for a gain of \$600,000. During the last two years of ownership they occupied the property as their principal residence. They would multiply \$600,000 gain by 2 years of qualified use divided by 8 total years of ownership (or $\$600,000 \times \frac{1}{4} = \$150,000$). They could exclude \$150,000 from capital gains (which is less than the \$500,000 cap for joint filers) and the balance of the \$600,000 gain, \$450,000 would be taxed as capital gains.

Q 19. Are there exemptions from the non qualified use rules?

A Yes. There are three exemptions from the non qualified use rules:

- 1) Any portion of the 5-year ownership and use requirement occurring after the last date the property was used as a primary residence of the taxpayer or the taxpayer's spouse.

Some examples may help.

Example One:

In January 2009, married taxpayers filing a joint return buy a house and use it as their principal residence for

continued on page 18

the first two years. They then convert the residence to a rental for the next three years, after which they sell the residence and realize gain of \$600,000. None of the three years of otherwise non qualified use after the initial use as a principal residence would be used to reduce the capital gains exclusion. They would be entitled to the full \$500,000 exclusion and would owe capital gains on \$100,000.

The formula would be the \$600,000 gain times the five years of qualified use (the initial two-year qualifying use period plus the balance of the five-year qualifying ownership period following the two-year qualifying use period) over the five year total ownership period.

$\$600,000 \times 5/5 = \$600,000$ qualifying gain (capped at \$500,000 for joint filers).

Example Two:

The same couple buys a house in January 2009 and rents it out for the first three years. They then convert it to their principal residence for the next two years. Following this they once again rent the residence out, this time for three years, after which they sell the residence for \$600,000 gain. They owned the property for a total of eight years. They have three years of non qualified use and five years of qualified use (the two-year qualifying use period plus the balance of the five-year qualifying ownership following the two-year qualifying use period).

The formula would be \$600,000 gain times five years of qualified use over eight total years of ownership.

$\$600,000 \times 5/8 = \$375,000$ excluded from capital gains and capital gains tax

would be owed on \$225,000.

Example Three:

The same couple buys a house in January 2009 and rents it out for six years. They then occupy it as their principal residence for two years and sell it for \$600,000 gain. Since none of the five-year qualifying ownership period occurs after the two-year qualifying use period only the last two years of occupancy count as qualified use.

The formula would be \$600,000 times 2 years of qualified use over 8 total years of ownership.

$\$600,000 \times 2/8$ [or $1/4$] = \$240,000 excluded from gain and capital gains tax would be owed on \$360,000.

The other two exemptions from the non-qualified use rules are:

2) Any period (not to exceed an aggregate period of 10 years) during which the taxpayer or taxpayer's spouse is serving on extended official duty as a member of the Foreign Service or the uniformed services of the United States, and

3) Any other period of temporary absence (not to exceed an aggregate of two years) due to change of employment, health conditions, or other such unforeseen circumstances.

For more examples of calculating capital gains exclusions visit NAR's Web site at http://www.realtor.org/gapublic.nsf/pages/hr_3221_key_provisions.

III. Capital Gains Tax

Q 20. What are the basic capital gains tax rates?

A The 2003 Act reduced the maxi-

mum rate on the net capital gains rate of an individual (net long-term capital gains less net short-term capital losses) from 20 percent to 15 percent. Net capital gains previously taxed at 10 percent were reduced to 5 percent.

Q 21. Has the holding period for long-term capital gains changed?

A In order to qualify for long-term capital gains treatment, property must be held for more than 12 months.

Q 22. Are there further capital gains tax rate reductions?

A In 2008, the capital gains tax rate for gains taxed in the lowest tax bracket (5 percent) was reduced to zero.

Q 23. When did the reductions in capital gains take effect?

A The 2003 Act took effect May 6, 2003 and applies to taxable years ending on or after May 6, 2003.

Q 24. Do these capital gains rates expire?

A Under HR8, The American Tax Payer Relief Act of 2013, the capital gains rate reductions were extended for most taxpayers. For tax payer's whose income exceeds \$400,000 for single filers, \$450,000 for joint filers, and \$425,000 for heads of households, the top for capital gains and divided will be 20 percent. For all others, the capital gain will continue to be 15 percent. For those in the lowest tax bracket, the capital gain rate will continue to be zero.

Q 25. Are there any changes to depreciation recapture rules?

A No. Generally, when selling invest-

ment real property, a tax is imposed on all amounts previously taken as depreciation. Under prior law, these amounts were taxed as ordinary income and not capital gains.

The 1997 Act provides for a 25 percent maximum tax rate on any gain attributable to depreciation already claimed on the property in the case of real property for which the maximum tax rate is reduced to 15 and 5 percent. Although there was an effort to reduce the recapture rate, no reduction materialized.

Example:

Ms. Seller purchases a triplex for \$200,000 after January 1, 2001, and takes depreciation deductions of \$50,000 over the six years she owns it. She sells the duplex for \$300,000. Her basis in this property is reduced to \$150,000 because of her deductions for depreciation, and she would have a \$150,000 gain.

Under the 2003 Act, she would be taxed at a 15 percent (or 5 percent) rate on the \$100,000 portion of gain over her original \$200,000 basis and at a 25 percent rate on the \$50,000 portion of gain attributable to her depreciation deduction.

Q 26. Can you provide a summary of the capital gains tax rates?

A Yes. Sales of assets held more than 12 months and sold on or after May 6, 2003 qualify for the 15 percent capital gains rate (5 percent for lowest income taxpayers and zero percent beginning in 2008). The capital gains rate reverts to 20 and 10 percent for assets held for more than 12 months and sold after

December 31, 2010.

Q 27. Can I still take advantage of an IRC 1031 (“like kind” tax-deferred) exchange?

A Yes. The tax-free exchange of “like-kind” property used in a trade or business is not affected by the 1997, 1998, 2003 or 2007 Acts.

IV. Health Care Reform Tax Impact

A. New Medicare Tax on “Unearned” Net Investment Income

There has been great confusion in the REALTOR® world about a provision in the recently-passed health care reform bill that creates a 3.8% Medicare tax on unearned income for high-income households. Recently, one newspaper article made its way around the internet defining the new tax as a “Tax on Home Sales.” Sadly, the information going around the REALTORS® community does not present a full and detailed explanation of exactly what the new provision entails.

The new Medicare tax is for all unearned net investment income and includes interest-income, dividends, rents and capital gains. The new Medicare tax will not impact the capital gains exclusion for principal residences (\$250,000 for individuals/\$500,000 for married couples). So the 3.8% tax will apply to taxable gains above this exclusion.

The tax will take effect on January 1, 2013, and will be applicable for high-income taxpayers with adjusted gross incomes of \$200,000 or more for individuals or \$250,000 or more for married

couples.

More information, reproduced below, is taken from NAR’s Frequently-Asked Questions (http://www.realtor.org/small_business_health_coverage.nsf/Pages/health_ref_faq_state_of_play?OpenDocument).

Q 28. What is “unearned” net investment income?

A Unearned income is the income that an individual derives from investing his/her capital. It includes capital gains, rents, dividends and interest income. It also comes from some investments in active businesses if the investor is not an active participant in the business.

The portion of unearned income that is subject both to income tax and the new Medicare tax is the amount of income derived from these sources, reduced by any expenses associated with earning that income. (Hence the term “net” investment income.) Thus, in the case of rents, the taxable amount would be gross rents minus all expenses (including depreciation) incurred in operating the rental property. So if gross rents were \$100,000 with associated expenses of \$40,000, net rents of \$60,000 (\$100,000 minus \$40,000) would be included in Adjusted Gross Income (AGI).

Q 29. Who will be subject to the new taxes imposed in the health legislation?

A A new 3.8% tax will apply to the “unearned” income of “High Income” taxpayers. Another 0.9% tax will apply to the “earned” income of many of these same individuals. Both levies are referred to as “Medicare” taxes.

continued on page 20

Capital Gains Tax and Health Care Reform Tax Impact

continued from page 19

Q 30. Who is a “High Income” Taxpayer?

A Those whose tax filing status is “single” will be subject to the new unearned income taxes if they have Adjusted Gross Income (AGI) of more than \$200,000. Married couples filing a joint return with AGI of more than \$250,000 will also be subject to the new tax. (The AGI threshold for married filing separate returns is \$125,000.)

Q 31. Are the \$200,000 and \$250,000 thresholds indexed for inflation?

A No. Thus, over time, more individuals may become subject to this tax.

Q 32. When does the new 3.8% Medicare tax take effect?

A The new Medicare tax on unearned income will take effect January 1, 2013.

Q 33. Will the new tax will apply to rents from investment properties that I own?

A Maybe. Remember that net investment income includes only net rental income. Thus, gross rents would not be subject to the tax. Rather, gross rents would be reduced (as they are under the income tax) by all allowable expenses, including depreciation, cost of repairs, property taxes and all other expenses related to the property. AGI includes net income from rent, so if your AGI is above the \$200,000/\$250,000 thresholds, then the rental income might be subject to the tax. For many investment real estate owners, the net rents will be the same as or similar to the amounts reported on their Schedule E, filed with their Form 1040 Income Tax Return. (For calculations, see Question 35, below.

See also Question 36 through Question 39 related to capital gain from sale of principal residence, losses on sale and to vacation homes, below.)

Q 34. Does the tax apply to the yearly appreciation of an asset?

A No. Capital gains are subject to this new tax only in the year when the asset is sold. The amount of the gain will be measured in the same way that it is for income tax purposes. This rule applies to real estate and all other appreciating capital assets. Net capital gains are taxable only in the year of sale.

Q 35. How is the new 3.8% Medicare tax calculated?

A The new 3.8% Medicare tax is assessed only when Adjusted Gross Income (AGI) is more than \$200,000/\$250,000. (See Question 29 above.) AGI includes net income from interest, dividends, rents and capital gains, as well as earned compensation and several additional forms of income presented on a Form 1040 Income Tax Return.

The tax is NOT imposed on the total AGI, nor is it imposed solely on the investment income. Rather, the taxable amount will depend on the operation of a formula. The taxpayer will determine the LESSER of (1) net investment income OR (2) the excess of AGI over the \$200,000/\$250,000 AGI thresholds. Thus, if net investment income is the smaller amount, then the 3.8% tax is applied only to the net investment income amount. If the excess over the thresholds is the smaller amount, then the 3.8% tax would apply only to the excess amount.

For example, if AGI for a single indi-

vidual is \$275,000, then the excess over \$200,000 would be \$75,000 (\$275,000 minus \$200,000). Assume that this individual's net investment income is \$60,000. The new 3.8% tax applies to the smaller amount. In this example, \$60,000 of net investment income is less than the \$75,000 excess over the threshold. Thus, in this example, the 3.8% tax is applied to the \$60,000.

If this single individual had AGI if \$275,000 and net investment income of \$90,000, then the new tax would be imposed on the smaller amount: the \$75,000 of excess over \$200,000.

Rules of thumb for predicting the application of this tax year to year are not readily determinable, largely because the proportion of net investment income compared to AGI will vary from year to year and from individual to individual.

Q 36. Will the \$250,000/\$500,000 exclusion on the sale of a principal residence continue to apply?

A Yes. Any gain from the sale of a principal residence that is less than \$250,000 (individual) or \$500,000 (joint return) will continue to be excluded from the income tax. The new 3.8% tax will NOT apply to this excluded amount of the gain.

Q 37. Will the 3.8% tax apply to any part of the gain on the sale of a principal residence?

A The new Medicare tax would apply only to any gain realized that is more than the \$250K/\$500K existing primary home exclusion (known as the “taxable gain”), and only if the seller has AGI above the \$200K/\$250K AGI thresholds.

So, for example, if the taxable gain was \$30,000 and a married couple had AGI (which would include the taxable gain) of \$180,000, the 3.8% tax would not apply because AGI is less than \$250,000. If that same couple had AGI of \$290,000, then the application of the 3.8% tax would be subject to the same formula described above. The \$30,000 taxable gain on the sale would be less than the \$40,000 excess above \$250,000 AGI, so the \$30,000 gain would be subject to the new 3.8% tax.

Q 38. Is rent from a vacation home subject to the 3.8% tax? And what about the gain on sale of a vacation or rental property?

A The application of the tax will depend on whether the vacation home has been rented out, the period for which it has been rented and whether the property is solely for the enjoyment of the owner. If the owner has rented the home out to others, then the 14-day rent exclusion will continue to apply. Thus, if the owner rents the property to others (including family members) for 14 or fewer days, there would be no net investment tax. (Note that no deductions for expenses would be available, as under current law.)

If the home has been rented to others (including family members) for more than 14 days, then the rents (minus related expenses) would be considered as part of net investment income and could, depending on AGI and the calculations described above, be subject to the new tax.

If the vacation home has been used solely for personal enjoyment (i.e., there is no rental income and no associated expenses), then a gain on sale would be

treated as net investment income and could be subject to the tax, depending on AGI. Similarly, if the property had generated rents, any net gain on sale could also be included in net investment income. The amount of the tax (if any) would depend on the calculation formula, above in Question 34.

Q 39. My rental property generates a net loss each year. How will those losses be factored into the new tax? And what if I have net capital losses when I sell?

A Net losses from rents and net capital losses reduce AGI. Thus, the losses themselves would not be subject to the tax. If, after losses, AGI still exceeds the High Income thresholds, the 3.8% tax would still apply if there were any interest or dividends income. (Capital losses reduce capital gains. If losses exceed gains, no more than \$3000 of capital losses may reduce other income in any year.)

Note that passive loss limitations will continue to apply to rental income and loss.

Q 40. All of my income is derived from real estate investments that I own and operate myself. Will my rents and gains be subject to the new tax?

A No. If the ownership and operation of real estate you own is your sole occupation, then those activities are what's called your "trade or business." Income derived from a trade or business is not subject to the new 3.8% tax, but could be subject to the 0.9% tax on earned income.

If the owner of rental properties has a "day job," however, real estate invest-

ments are not considered as a trade or business, but are rather considered as investments, even if they are a major source of income. Note that many Realtors engage in business activities that are the "typical" selling, leasing and brokerage endeavors usually associated with the term "REALTOR®." If they also own real estate assets as part of their own personal investment portfolio, the rents from that portfolio could become subject to the new 3.8% tax on net investment income, depending on AGI.

Q 41. Is there a real estate "sales tax" or a transfer tax in the new health care bill?

A No. There is neither a real estate "sales tax" nor a real estate transfer tax in the bill.

Q 42. Will "High Income Filers" lose any portion of the Mortgage Interest they are allowed to deduct?

A No. The mortgage interest deduction is unchanged. No cap was imposed on any itemized deductions.

Q 43. Why is this new tax called a "Medicare tax"?

A The revenues generated from this tax will be allocated to the Medicare Trust Fund that is part of the Social Security System. That fund is currently on shaky financial footing. The additional revenues generated from the new earned income and unearned income taxes are intended to shore up the Medicare Trust Fund.

Q 44. How will this new tax affect marginal (the highest) tax rates when it is combined with

continued on page 22

existing law and with the possible expiration of the Bush tax cuts enacted in 2001?

A Marginal tax rates are the tax rates assessed on the “last” dollars included in taxable income. If the Bush tax cuts are allowed to expire, then the marginal rates for upper income individuals will increase, particularly for capital gains income. Download the chart below to view the impact of those changes, based on implementation of current law effective dates.

B. New Medicare Tax on Earned Income: Wages, Salaries and Commissions

Q 45. What is “earned” income?

A The term “earned income” is essentially the income derived from an individual’s labor. It can take the form of wages, salaries, commissions or similar compensation arrangements. Employees of an organization and self-employed individuals are generally compensated for the work they do in some form of earned income.

Q 46. Who will be subject to the new taxes imposed in the health legislation?

A A new 0.9% tax will apply to the “earned” income of “High Income” taxpayers. Another 3.8% tax will apply to the “unearned” income of many of these same individuals. Both are described as “Medicare” taxes.

Q 47. Who is a “High Income” Taxpayer?

A Those whose tax filing status is “single” will be subject to the new taxes on earned income if the earned income that is part of Adjusted Gross Income

(AGI) is more than \$200,000. Married couples filing a joint return with earned income of more than \$250,000 will also be subject to the new tax. (The earned income threshold for married filing separate returns is \$125,000)

Q 48. Are the \$200,000 and \$250,000 thresholds indexed for inflation?

A No. Thus, over time, more individuals could become subject to this tax.

Q 49. When does this tax go into effect?

A Implementation will begin January 1, 2013.

Q 50. Does the new 0.9% tax apply to all of an individual’s earned income?

A No. The 0.9% tax applies only to the portion of a high income taxpayer’s earnings that exceed the \$200,000 or \$250,000 thresholds. Taxpayers with adjusted gross income below those amounts will experience no change in their Medicare taxes.

Q 51. Does the new tax apply to gross commissions?

A No. The tax applies only to net commissions, i.e., gross commissions minus the expenses of earning the commission. For many Realtors, this will be the amount reflected in the Schedule C they file as part of their annual Form 1040 income tax filings.

Q 52. So will a self-employed person pay an additional tax of 1.8% (i.e., both the “employer” and “employee” portions of the Medicare tax) on the taxable portion of earnings?

A No. There is no “employer” portion of this new tax. The rate for all individuals subject to the tax will be 0.9%, whether they are employees or they are self-employed. Real estate professionals who have employees would not be required to pay any portion of this tax for any of their employees who might become subject to it. (Note, however, that real estate professionals who have employees may have responsibility to withhold the new tax on behalf of employees who might be subject to it.) Independent contractor sales agents will always pay the full share of this tax they might owe on their earned income.

Q 53. How does the new tax on self-employment income interact with the current rules for the Self-employment Tax (SECA)?

A Under current law, self-employed individuals must pay a Medicare tax (also known as Hospital Insurance tax, or HI) of 2.9 percent (1.45% “employer” and 1.45% on “employee”) on ALL self-employment income. Generally, self-employment income is comprised of earnings from self-employment activities minus the expenses associated with generating those earnings.

For example, a REALTOR® might have gross commissions of \$95,000 and expenses associated with that income of \$35,000. That individual’s self-employment income would be \$60,000 (\$95,000 minus \$35,000). Assuming no other earned income sources, this Realtor would not be subject to the new tax.

By contrast, a high producer REALTOR® might have net self-employment income of \$280,000. If that Realtor were single, the tax would apply only to

the \$80,000 that exceeds the \$200,000 AGI threshold. Thus, the additional new tax would be \$720. ($\$280,000$ minus $\$200,000 = \$80,000$) ($\$80,000 \times .009 = \720). A married couple with earned income of \$280,000 would pay an additional new tax of \$270 ($\$280,000$ minus $\$250,000 = \$30,000$) ($\$30,000 \times .009 = \270).

(Note that these examples are oversimplified. Determination of self-employment income requires more calculations than are presented here. The example is intended to illustrate that the new tax applies only to a portion of an individual's or couple's earned income.)

Q 54. Under current law, a self-employed Realtor deducts one-half of his/her SECA/HI payment for income tax purposes. Can all or some portion of this new tax be deducted?

A NO AMOUNT of any payment of the new 0.9 percent HI tax on self-employment income will be deductible for income tax purposes.

Q 55. Why is this tax called a "Medicare" tax when it is structured so differently from SECA?

A The revenues generated from this tax will be allocated to the Medicare Trust Fund that is part of the Social Security System. That fund is currently on shaky financial footing. The additional revenues generated from the new earned income and unearned income taxes are intended to shore up the Medicare Trust Fund.

Q 56. Is there a real estate "sales tax" or a transfer tax in the new health care bill?

A No. There is neither a real estate "sales tax" nor a real estate transfer tax in the bill.

Q 57. Will "High Income Filers" also see a reduction in the amount of Mortgage Interest they are allowed to deduct?

A No. The mortgage interest deduction is unchanged. No cap was imposed on any itemized deductions

SENDING YOUR PESTS TO A BETTER PLACE!



THE TERMITE GUY



1440

1438



\$10

\$10

FOR ALL YOUR TERMITE AND PEST CONTROL NEEDS CONTACT VALERIE ACEVEZ



CALL 1.877.TERMITE TO SCHEDULE AN INSPECTION
MENTION MY NAME AND GET A \$10 STARBUCKS GIFT CARD!



VALERIE ACEVEZ | CELL 949.295.5576 | FREE 1.877.TERMITE | EMAIL VALERIE@877TERMITE.COM

\$10

\$10

DESIGNATED REALTOR MEMBERSHIP

Maureen Carpenter

(Added Board To MIs only membership)
Maureen Carpenter

Judy Chiang

Judy Chiang, Broker

Jessica Cho

Villa Real Estate

George Greiner

George Greiner, Broker

Julie Hardesty

Julie Hardesty, Broker

Tom Iovenitti

Tom Iovenitti

Harri Keto

Harri J. Keto

Eric Pastrmac

Eric Pastrmac

REALTOR® MEMBERSHIP

Beck, Randy

Hom Sotherby's Intern.

Christian, Marilyn

Hom Sotherby's Intern.

Escobar, Carlos

Harcourts Prime Prop.

Fox, Amy

Rogers Realty

Hinderberger, Michel

Prudential Calif

Jack, Hunter

Re/Max Fine homes

Jones, Pallie

CB/Previews Inter.

Langford, Phillip

Surterre Prop.

Le, Lisa

Trojan Financial Solutions

Long, Sharon

Trojan Home Loans

Miner, Diana

CB Previews Intern.

Murray, Debbie

Hom Sotherby's Intern. Realty

Nicks, Carolyn

Julie Hardesty Realty

O'Brien, Shelley

Teles Properties

Watson, Eric

Hom Sotherbys Intern

Woolever, David

Jim Heydorff

MULTIPLE LISTING MEMBERSHIP

Elio Amato

Elio A. Amato, Broker

David Giunta

David M. Giunta

Michael T. Hall

Colony Pacific Advisors

Carole Rawleigh

Carole Rawleigh

Tony Urresti

Tony Urresti

Drey, Valerie

Prudential California Realty

AFFILIATE MEMBERSHIP:

Cheryl Wine Farrell

Innovative Organization

CLERICAL USER

Daniel Amaral

Irvine Pacific

Tara Bleakley

Irvine Paific

Ryan Hewson

Alan Van Devort & Assoc.

Laura Bryan

Rick Weiner

Anne Marie Kane

J. C. Manning Co.

MEMBER TRANSFERS

Jamie Fairley

*from Hom Real Estate
to CB/ Previews*

Jan langford

*from Prudential Cali.
To Surterre Prop.*

William Perry

*from Prudential Calif.
to First Team Estates*

Tracy Schroeder

*from Surterre Prop.
to The Schroeder Co.*

Mary Lou Skowronski

*from CB/Previews
to Prudential Calif. Realty*



WELCOME NEW MEMBERS

CALENDAR OF EVENTS



- Wed, Feb 6** 9:00 AM - CRMLS Training
- Wed, Feb 6** 9:00 AM - Affiliate Committee Meeting
- Wed, Feb 13** 9:00 AM - Gov't/Political Affairs Meeting
- Thu, Feb 14** 9:30 AM - Young Professional Network Meeting
- Mon, Feb 18** Association Office Closed
- Wed, Feb 20** 9:00 AM - HUD Workshop
- Wed, Feb 27** 9:00 AM - CRMLS Training
- Thu, Feb 28** 9:00 AM - Board of Directors Meeting

