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ESTATE FOR YEARS LAND OWNERSHIP STRUCTURE

Background

The Estate-For-Years land ownership structure is a “structuring technique” which allows for 90%+ of the land value to be amortized for Federal Tax purposes. It is most applicable in for those properties which have a high land value ratio. The technique requires that the land be sold to an unrelated third party (the “Remainderman”) in a sale/leaseback transaction. The primary purpose of this structure is to allow for the inherent market value of the Estate-For-Years to be treated as prepaid rent; be amortized over the life of the Estate-For-Years; and, improve the tax sheltering aspect of the pricing model which will result in a lower rental payment for the prospective sub-lessee.

Target Market

This type analysis is generally marketed in conjunction with a Tax Oriented Sale/Leaseback analysis. There is some secondary activity in the valuation of these interests when the Remainderman donate, sell or negotiate a buyback of their positions. It is important to discuss the possibility of an Estate-For-Years land ownership structure analysis whenever a Tax Oriented Sale/Leaseback is discussed.

Valuation and Appraisal Requirements

The analysis of an Estate-For-Years structure consists of the valuation of three parts, namely; the Estate-For-Years, Land Lease Option, and Remainderman’s Interest.

The **Estate For Years** is generally the right to use the land for a period of years without paying rent. These typically are for a 20 to 25-year period. The “lump sum” paid for the Estate-For-Rent is treated as prepaid rent and is amortized over the Estate-For-Years period.

The **Land Lease Option** is generally reflective of the lease option which is granted to the lessee to lease the land for an additional period beyond the Estate-For-Years period. The option is always granted to allow the sub-lessor to benefit from the ability to control the land beyond the sub-tenants control of the building. By virtue of this lease option, we are able to render residual value opinions for the improvements at the expiration of the primary lease term and all fixed rate renewals.

The **Remainderman** is the ultimate land or property owner. The Remainderman’s interest consists of the right to receive no rent for the estate for years period; the contract rents over the lease option periods and the right to the land residual at the end of the Estate-For-Years period.

The valuation of the various interests requires an estimate of the current market value of the land assumed vacant. The market value of the Estate-For-Years is the difference between the market value of the land and the present worth of the unencumbered Remainderman’s interest. The unencumbered Remainderman’s interest is the future land value at the end of the Estate-For-Years without consideration of the proposed land lease option. The discount rate applicable is generally high due to the long term holding period and the risk associated with the real estate investments. The remainder interests are always subordinated to the debt and subject to purchase option provisions of the sub-lessee.

The Remainderman’s Interest is estimated as the present worth of the land lease option rental payments over the proposed lease term plus the present

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worth of the land value at the end of the total lease term.

Again, the discount rates here high for this position since it is a very long holding period with no rent paid during the Estate For Years period.

The value of the Land Lease Option is estimated by the difference between the unencumbered Remainderman's interest and the encumbered Remainderman's interest.

When the three components of the Estate-For-Years land ownership structure are totaled, they equal the market value of the land assumed vacant.

Conclusions

The Estate For Years land ownership structure is a structuring technique that allows most of the cost of the land to be amortized. **Marshall & Stevens** Incorporated has been instrumental in developing the techniques and methodologies used in the valuation of such interests. Our recognized expertise in this area is a competitive advantage which should be exploited when proposing on sale/leaseback engagements. Merle Atkins developed the valuation methodology in 1978 which has been the industry standard to date. It is a way to make land "depreciable".

If an opportunity arises for this type of service, contact the senior management of the National Real Estate Practice for assistance before providing a fee quotation to insure consistency and appropriateness of service to be provided.

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About Marshall & Stevens

Marshall & Stevens is a national valuation firm established in 1932.

The firm provides appraisal and valuation services to middle-market and Fortune 1000 companies, ESOP consulting and financing services, real estate financing and advisory services and investment banking advisory services.

Throughout the past seven decades of our existence, we have remained focused on one priority, providing our clients the independent consulting services they require.

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