A Sampling of Articles that Quote Julian Block

Will Your Home Sale Be Tax-Free?
Wall Street Journal, June 22, 2013

After years in the doldrums, housing markets are heating up in many parts of the country. That makes it a good time review the taxes—and the tax breaks—on home sales.

"Home sellers get some of the best breaks in the tax code, and often no federal tax is due," says Julian Block, an attorney in Larchmont, N.Y., who has written many tax guides, including one for people selling their homes.

Yet Uncle Sam's largess in this area is quirky. For example, the sale of a boat that you live in could be tax-free, but profits on the sale of a second or third home are taxable. People often misunderstand the rules. Here is what sellers and sellers-to-be need to know.

• **The principal-residence tax break.** Since 1997, sellers of a principal residence have been allowed to skip tax on a large chunk of their gain—up to $500,000 for married couples filing jointly and up to $250,000 for singles. Profits above those cutoffs are usually taxed as long-term capital gains. The current effective top rate on such gains is now almost 25%.

Note that this benefit applies to *profits* on a sale, which excludes the cost of the home and any improvements (see below). Say a couple bought a home for $200,000 in 2000 and spent $100,000 on improvements such as an extra room and landscaping.

Their cost basis, as it is called, would be $300,000, so between that and the $500,000 break, they could sell the house for as much as $800,000 without owing federal tax.

"For most homeowners in most markets, this benefit is all they need," Ms. Labant says.

Homeowners can claim this break as often as every two years. To qualify, they must have lived in the home for at least two years out of the previous five. (Short absences, such as for a vacation, aren't an issue.) A residence needn't be a free-standing house; it can be a duplex, condominium, or even a boat or mobile home, as long as it has eating, sleeping and toilet facilities. It can even be outside the U.S.

Special rules apply in some cases. For surviving spouses, there is an especially useful provision: Widows or widowers often retain the $500,000 exclusion if they sell their residence within two years of their partner's death.

If sellers don't meet the two-year requirement but have to move because of a change in employment, health (such as moving to a new school district for a special-needs child) or other unforeseen circumstances (such as a death or divorce), a reduced exclusion is available. See IRS Publication 523, “Selling Your Home,” or get expert help.

Sellers who didn't owe tax on residences bought and sold before 1997 because of prior tax rules could have to adjust their cost basis downward to reflect the earlier tax deferral, Mr. Block says.

What if your vacation home becomes your first home? Complicated rules can apply when you sell it. The break is often prorated depending on how long it has been your primary residence, he says. Expert help might be a good idea here as well.

• **Rental unit in the home.** Does your residence have a rental unit, such as a garage apartment, that you have let to tenants?

Tax rules require that you divide the property into the percentage that is your residence and another that is the rental unit and treat them separately. Only the residence portion qualifies for the $250,000/$500,000 tax break.

• **Repairs versus improvements.** Although the principal-residence break wipes out taxes for many home sellers, experts say it still is a good idea to track improvements that can be added to the purchase price of your home.

In general, routine repairs—such as repainting, fixing gutters or replacing a broken window—don't count.

Renovations and additions, though, count as improvements, as would a new roof, a satellite dish or a new central air-conditioning system. For a more complete list, see IRS Publication 523.

• **The new 3.8% tax.** This year brings a new 3.8% tax on net investment income for most couples with adjusted gross income above $250,000 ($200,000 for singles). Although this tax can apply to gains on the sale of a home, it probably won't in all but the priciest markets, such as New York and San Francisco.

In cases where the gain is greater than the home's cost, plus improvements, plus the $250,000/$500,000 break, the tax will affect only the amount above the benefit—but capital losses can be used to offset such gains, if they are available.

• **Sales at a loss and forgiveness of debt.** While gains on sale of a residence can be taxable if they are large enough, losses aren't deductible because the home counts as personal property. Special rules allowing deduction of losses can apply if you turn the house into a rental property.

If a lender forgives mortgage debt, ordinarily the amount forgiven would be treated as taxable income. However, in 2007 lawmakers exempted up to $2 million of forgiven debt per taxpayer from this provision. The exemption lasts through 2013. Taxpayers can claim it on IRS Form 982; a few exceptions apply.

• **Home-office recapture.** If you took depreciation deductions for a home office, you will have to adjust the cost basis of the house downward to reflect them. In addition, the sum of the deductions taken after May 6, 1997, will be taxed when you sell the home. The rate could be as high as 25% (plus the 3.8% surtax, if you owe it), according to Mr. Block.

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Your Money; Heirs Could Use More Than a Will
New York Times, Dec. 30, 1989

EVEN among the minority of people who have wills, relatively few have completed what can be an equally important document, a letter of instructions to heirs and executors, says Julian Block, a tax lawyer in Larchmont, N.Y.

Fortunately, this oversight is easily rectified, for the letter is a do-it-yourself project. And now is an ideal time to prepare it.

For those who have been thinking, "Next year I've got to get organized," sorting through financial records at the beginning of the year to write the letter is a way to accomplish both goals. And records can be organized for income taxes.

"A side benefit is your desk won't be as cluttered," Mr. Block said. "You're going to wind up throwing out a lot of stuff."

The letter is intended to inform heirs of one's assets and liabilities and exactly where all important papers are kept and to make personal requests that a will may not include, like funeral or pet-care arrangements. Although not legally binding, the letter is valuable to an executor or heirs.

An executor's first duty is to marshal all assets of an estate, and it can be a formidable task to ferret out another person's records for bank and brokerage accounts, insurance policies, other assets like real estate or art, debts, mortgages, tax records or if the person had a safe-deposit box.

The letter of instructions should spell all this out with account numbers. It should list the names, addresses and telephone numbers of people and organizations to be notified - friends and relatives, as well as lawyers, accountants, employers and financial institutions.
It should also list assets that pass outside the estate, like jointly owned bank accounts or real estate, or insurance policies with a specified beneficiary. And it should cover other details that would not be in a will - job-related benefits or benefits from Social Security, the Veterans Administration or fraternal or professional organizations.

"Say someone dies while traveling on business," Mr. Block said. "That person's employer may have an extra accidental-death policy, and he may also have $5,000 coverage if he is a member of the automobile club." Some credit cards also provide casualty insurance with tickets that are charged.

The letter should also tell where important documents are kept, including a will, birth and marriage certificates, military records and diplomas.

While the letter is easy to write, it is tedious to organize the needed records. So Mr. Block advises breaking the work into segments and spending a couple of hours on each of four or five evenings.

Copies of the letter should be given to one's spouse, adult children, a close friend, a lawyer and the executor, he said. The letter should be revised annually, or when an important event like a new job or a marriage occurs, he said. More on the letter is contained in the chapter on estate planning in his book, "Julian Block's Year-Round Tax Strategies."

After the Hurricane, a Mound of Tax Math

N.Y. Times, Feb. 10, 2013

PEOPLE who lost their homes or suffered extensive property damage in Hurricane Sandy may qualify for some help from the IRS, but with the usual caveats: the tax code isn’t simple, and not everybody will qualify.

Still, income tax deductions are available for some people who have major losses from a casualty, which the IRS as “the damage, destruction or loss of property from an identifiable event that is sudden, unexpected or unusual.” Do you qualify, though? The I.R.S. provides a workbook, Publication 584, to help figure it out.

For one thing, the losses can be deducted only if they are more than 10 percent of a taxpayer’s adjusted gross income plus $100.

In addition, the deduction applies only to uninsured losses, according to Julian Block, a tax lawyer in Larchmont, N.Y. Any insurance payments for damaged or destroyed property have to be subtracted from the loss, which makes homeowners who did not have flood insurance more likely to be eligible.

Any payments that storm victims received from the Federal Emergency Management Agency for repairs to damaged or destroyed homes or their replacement must also be deducted from a casualty loss, according to Anthony Burke, an I.R.S. spokesman. Other FEMA payments, like those for food and temporary housing, do not have to be deducted, he said.

Beyond deducting insurance and FEMA payments, some people who start calculating their losses will bump into rules on fair market value.

The value of destroyed property is what it was worth just before the storm, not what it was worth when it was new or what it cost to replace. An example: Someone whose car, bought five years ago for $25,000, was submerged in salt water and destroyed and he received the $10,000 book value of that car from an insurance company. If a similar-model new car was then bought for $30,000, that person may think “I took a beating.”. But there is no loss for tax purposes, he explained, because the person has recovered the fair market value of a five-year-old car.

Some property, though, doesn’t lose much value over the years. If waterlogged walls have to be replaced, for example, the repair bill will most likely be the amount of the casualty loss.

The cost of repairs to damaged property is acceptable as evidence of the value of the loss, as long as the value of the repairs doesn’t increase the value of the property beyond its prestorm value.

Even then, the loss is limited to the property’s original cost. Mr. Block gave this example: Say that someone paid $30,000 decades ago for a beachfront house that was worth $300,000 just before the storm. That taxpayer could claim only a loss of $30,000, plus the cost of any improvements, if the house was washed away.

Different rules apply to business or investment property. For one thing, there is no deduction of 10 percent of income. But any depreciation that has been claimed in previous years does enter into the calculation.
While FEMA repair funds generally go only to primary residences, not vacation homes or rental property, such property is eligible for casualty losses, Mr. Block said. The test, he said, is this: “Are you the owner of the property?”

The calculation of a casualty loss is made on Form 4684, and the amount is carried from that form to Schedule A of Form 1040, where itemized deductions are listed.

For taxpayers who meet all the tests, the losses are not deducted from income dollar for dollar. Rather, their worth depends on the taxpayer’s bracket. The loss also reduces state and any city income taxes.
Some taxpayers may not yet know if they have a deductible casualty loss, because they are awaiting the resolution of insurance claims. One way to deal with that is to request an automatic six-month extension of the April 15 tax filing date.

INSTEAD of deducting casualty losses on their 2012 returns, taxpayers can opt to use them to reduce 2011 income, by filing an amended return. That might benefit someone whose income dropped drastically in the last two months of last year because of the storm, and to whom the deduction is thus more valuable against 2011 income.

Some people may have sustained such drastic losses that they wipe out an entire year’s income. In that situation, Mr. Block said, the losses can be carried back three years, by filing an amended return, to reduce previous years’ taxes and produce refunds for those years, or carried forward for up to 20 years, reducing taxable income in the future.

If You Don’t File, Beware the Ghost Return
N.Y. Times, Feb. 12, 2012

WHEN confronted by a letter from the Internal Revenue Service, some people look as though they’ve seen a ghost. And when they open certain letters, a few people do see a ghost — or, more accurately, the ghost of a tax return.

When the IRS detects that a person had reportable income but did not file a return—even after much cajoling—it steps in and does the job itself. Based on what it knows, the agency prepares what it calls a "substitute for return"—a Form 1040. It lists income, calculates the tax due, adds interest and a penalty for failing to file, and sends the recalcitrant taxpayer a bill based on its efforts.

In one way, that may be a relief to procrastinators who just didn't get around to filing — perhaps for years. But it often comes at a very high price.

Substitute returns are really no substitute for ones that taxpayers could have filed themselves. That's because the I.R.S. uses data from only the income side when it creates such a return, which means that it doesn't include all kinds of items that might offset that income, according to Julian Block, a tax lawyer in Larchmont, N.Y.

The IRS works from W-2 reports of wages paid, filed by employers, and reports of payments to self-employed people from companies that used their services. The agency also uses reports from financial institutions about interest and dividends paid and reports from brokers about assets sold. All these things are taxable income.

The IRS now has an easier task in detecting delinquent taxpayers because it receives electronic reports of far more kinds of income than it did several years ago.

What the IRS does not consider, Mr. Block said, are offsetting amounts like exemptions for a brood of six children or deductions for mortgage interest or a big charitable contribution or thousands of dollars of dental work.

For self-employed people, in particular, there is often a big disparity between payments received and taxable income, because much of what they receive goes for supplies or salaries or other expenses. But the IRS will know only the gross payment, and will plug that figure into its return.

It does not even know about the original cost of assets that were reported sold.

In other words, the IRS does not include many of the deductions to which a nonfiler may be entitled. But this doesn't mean that the IRS is being mean or vengeful or evil.

In fairness to the IRS, they generally give the individual more than ample opportunity to get a return filed before stepping into the breach.

The IRS is candid that it does not even look for deductions. In a fact sheet in what it calls the "tax gap" series on its Web site, the IRS warns that a substitute return it prepares is a "basic" one that "will not include any of your additional exemptions or expenses." It is the worst possible result for the taxpayer.

Substitute-return calculations "are always based on a standard deduction," Mr. Block said. "The IRS does it in a straightforward way. It treats you as a single person. It makes no difference that you could have filed a joint return."

The substitute return is its move of last resort, said Anthony Burke, an IRS spokesman, and is prepared only after sending the taxpayer several letters saying it has no record of a return for a given year. Mr. Block calls them “We miss you” and “We’re thinking of you” letters. Typically, the return will not be prepared for at least a year, after the IRS’s patience has worn out.

The IRS investigates about a million “nonfiler situations” a year, Mr. Burke said. But it does not prepare a substitute return for everyone that it believes failed to file. People in the underground economy do not leave a trail that can contribute to such a return, tax experts said. If those people are caught, they may not get an official printout in the mail. A visit from someone who dangles handcuffs from a belt is more likely.

And the IRS substitute is not used when a taxpayer has filed a return but the agency believes that he or she failed to report some income. It has other methods for resolving those issues—often an audit, Mr. Burke said.

A taxpayer prompted to action by a substitute return can file the return that he or she should have filed in the first place, and “the IRS will adjust the taxpayer’s account accordingly,” Mr. Burke said.

That step, in which taxpayers can claim their exemptions and deductions, can sharply cut the amount due or even yield a refund.

Many nonfilers wouldn’t owe large amounts if their returns were done properly. The IRS fact sheet says its research shows that such failures “could simply be due to procrastination.”

Mr. Block recalled the case of a client whose sale of hundreds of thousands of dollars’ worth of stock was reported to the I.R.S. The agency sought tax on that amount on a substitute return, having no way to know that the client earned almost no profit on the sale. With an accurately prepared return, he said, she was due a small refund.

But even if a return calls for a refund, it won’t be paid if the return is filed more than three years after it was due, because of a statute of limitations, Mr. Block said.

ONCE a ghost return appears in the mail, simply avoiding it isn’t a viable option. The IRS will send reminders. If there is no response, it will start collection efforts, based on its calculations.

The worst thing a taxpayer can do is not file a return and then ignore letters from the IRS.

But taxpayers sometimes do just that, provoked by fear, paralysis, and denial — how could this be?.

Mr. Block says enforcement efforts against people who don’t respond are quite straightforward. “You don’t need Eliot Ness to do this,” he said. Typically, the agency will put a levy on an employed person’s paychecks, taking a chunk from each one until the bill is paid. It may direct a company that pays a self-employed person to send the money directly to the government. It can also freeze bank accounts and put liens on homes.

Unpleasant though it may be, filing a tax return—and paying the bill to begin with—may prove much more appealing than those alternatives.

Some Advice for Wary Spouses: Consider Filing a Separate Return
N.Y. Times, Feb. 13, 2011

What if your spouse ran a Ponzi scheme, reaping millions or billions, and you didn't know it? What if the scheme unraveled, and, along with everything else—your spouse's shame, inmate number and myriad lawsuits—the IRS came after you for the unpaid tax on those dirty dollars?

If this nightmare happened to you, and you had filed a joint income tax return, you would probably have little defense against the IRS's claims.

But tax experts say that a wary spouse—a husband or wife who suspects a partner of not reporting income or of claiming fictitious deductions—can take a crucial protective step that will provide legal insulation.

The trick, the experts say, is to file a separate return, which married couples are entitled to do. In that situation, neither spouse is responsible for tax debts owed solely by the other, while if they file jointly, the IRS can seek to collect from either of them—even if they later divorced. A separate return, though, cannot cut off liability for previous years' returns that were filed jointly.

Filing separately will often result in a higher tax than the couple would pay on a joint return, although that is not always the case. Julian Block, a tax lawyer in Larchmont, N.Y., noted that for married taxpayers each with taxable income of $34,000 or less—after all deductions —there would usually be no difference in the tax owed.

And if there is a difference, it can sometimes be minimized. The goal is to get the taxable incomes of the two spouses nearly as equal as possible, said Mr. Block, the author of "Julian Block's Tax Tips for Marriage and Divorce." That might mean giving the partner with the higher income—if they are on speaking terms—more deductions, like those for the property taxes on a jointly owned home, for instance.

One wrinkle is that both spouses filing separate returns must choose the same method—either taking the standard deduction or itemizing deductions.

But separate returns can provide quite a tax wallop because certain benefits and deductions are unavailable to or severely limited for spouses filing separately—for instance, a $25,000 rental loss deduction, tuition deductions, education credits and the dependent-care care credit.

It's easy for the adviser to say "don't file a joint return," but it could be difficult to tell a spouse of that intent. If the separate tax is not much higher, that can be a persuasive argument.

If the tax owed on two separate returns is more than it would be on a joint return, that higher tax might be considered "an insurance premium" for someone who suspects that something may be amiss, Mr. Block said.

"It's nothing compared to the additional expenses she will incur if she files jointly and needs professional help to seek innocent spouse status" he said, referring to a narrow loophole in tax law. "Not to mention the additional tsouris."

Or the long odds.
Anthony Burke, an IRS spokesman, said that in the 2010 fiscal year, there were 50,149 applications for innocent-spouse relief; 7,683 of them were granted and an additional 6,383 partially granted.

Short of filing a separate return, the wary spouse should ask questions. Look at the returns. If anything does not look reasonable, that is the time to balk.

“Don’t be naïve. Don’t blindly put your name on it without looking at it. If you don’t like what you see, don’t sign it,” and file separately instead.

If a spouse’s confidence later rises, Mr. Block noted, the I.R.S. allows three years to file an amended return claiming joint status and, perhaps, a lower tax.

Conversely, amending a return to change from joint to separate filing status may be done only before the return’s due date. A return can always be amended to report more tax due, without changing the filing status, of course.

Under federal law, the IRS cannot say whether a specific person—for example, Ruth Madoff, the wife of Bernard, the convicted swindler—has sought or received innocent-spouse relief. Mr. Burke said.

Ms. Madoff’s lawyer, Peter A. Chavkin, declined say whether she had sought or might seek such status.

The most likely way a person’s innocent-spouse status or request would become public is if the taxpayer revealed it or an IRS denial of innocent-spouse status were challenged in court. Success in such court battles is far from assured, because of what the taxpayer has to prove.

The standard is that you must not have known or have had reason to know of the understatement of tax.

In addition, the applicant must show that it would be unfair to hold him or her liable. One of the tests of unfairness is whether the otherwise innocent spouse received, in the IRS’s words, “a significant benefit” from the tax evasion, even if he or she did not know about it.

So, for example, a wife who lived sumptuously on her husband’s income from a Ponzi scheme might not be relieved of liability when the scheme was discovered and the government demanded tax on the gains, even though she had no knowledge they were ill-gotten, because of the lifestyle they supported.

But if she asked questions and became suspicious, she might at least use some of that wealth to pay for separate tax returns in the future.

How to Write Off Job-Hunting Expenses
Second Act, Nov. 9, 2011

If you looked for work, you may be able to deduct job-hunting expenses.

The operative word is "may." To qualify, the IRS makes people jump through so many hoops that few actually do.

As discouraging as that sounds, you still should crunch the numbers. If you don't, you could give the government more money than you need to, says Julian Block, an attorney and onetime IRS special agent. Block has written extensively about taxes, including *Julian Block's Tax Deductible Travel and Moving Expenses*.

To be eligible to deduct job-hunting-related expenses, Block says you must:

- File the longer, more complicated IRS 1040 form
- Use Schedule A of the 1040 form to itemize deductions
- Not be subject to the alternative minimum tax
- Have job-hunting and other miscellaneous expenses on Schedule A that are more than 2 percent of your adjusted gross income; expenses under 2 percent aren't deductible.

One more caveat: You can only deduct job-hunting expenses if you looked for a new position in the same line of work, Block says. "The person looking to take these deductions should understand going in [that] it's a tough go," he says.

In an interview with Second Act, Block shared other advice on how to tackle job-hunting expenses come tax time:

SA: What are typical job-hunting expenses?
JB: They're things like fees paid to a career counselor, expenses for resumes and postage for mailing applications, which might seem like an anachronism in the internet age. Also faxes, phone calls, ads in newspapers, trade magazines and websites.

SA: What about paying for premium membership on LinkedIn so you can email prospective employers who aren't your connections?
JB: Sure, that would qualify as a job-hunting expense because the individual is incurring the expense to find out about jobs.

SA: How about joining professional organizations?
JB: If you're a health-care professional, for example, and you join an organization for health-care professionals and your employer doesn't reimburse you for that expense, you could deduct that. The deduction would be for an unreimbursed employee business expense, which is a separate miscellaneous expense on Schedule A. And you could claim that as an expense even if you weren't doing a job search.

SA: What can you deduct if you travel to look for a job?
JB: If you used your car, you could take a deduction for mileage. If you pay for parking, it's deductible. Parking tickets aren't deductible. If you park in a garage, the tip you give to an attendant is. You can also deduct for airplane, taxi and train fares. If you're going out of town for a job interview and you're not reimbursed for your expenses by the prospective employer, you can deduct 100 percent of your lodging and 50 percent of the cost of your meals.

SA: What about trips you take that are partly for fun and partly to look for work?
JB: If you go to Orlando for a week and spend six days at Disney World and one day job hunting, you'd

deduct one-seventh of your lodging as a job-hunting expense. If you live in St. Louis and go to Los Angeles for vacation, and while in Los Angeles fly to San Francisco for a job interview, you can only deduct the flight from Los Angeles to San Francisco.

SA: Suppose you paid for child care while you traveled to an interview appointment?
JB: Payments to babysitters don't qualify as job-hunting expenses. But they might qualify under the separate child-care credit.

SA: Are there job-hunting expenses people assume are deductible that really aren't?
JB: You can't deduct the cost of clothing that's suitable for everyday use. If you buy a suit for an interview that you could wear off the job, that's not deductible. If you're interviewing for a job as a firefighter or policeman and buy a uniform, it would be, but it's unlikely you'd have to buy clothing to go on a job interview.

SA: Can you deduct the cost of training classes?
JB: You can take a deduction for educational expenses that help you improve or retain existing skills. You can't take a deduction for expenses that qualify you for a new job. For example, if you teach Spanish in high school and you take courses to qualify you as an instructor in French, that's deductible. But if you're a real estate broker and you take courses to become a high school teacher, those expenses aren't deductible.

SA: Why can't you deduct the expenses of looking for a job in a new field, which is fairly common for midcareer professionals?
JB: That's the way the IRS reads the law. If you find a new job in the same line of work but end up staying in your old job, expenses you incurred would be deductible. If you were unemployed at the time you were looking, the IRS says your occupation is whatever you did for your last employer. There's a narrow exception: If you worked in different kinds of jobs before, it would be OK to look for any of those past positions, provided they were recent, to establish that you were looking for a new job in the same line of work.

SA: What's the best way to keep track of expenses?
JB: Write checks or use a credit card. If you're paying for things in cash, keep a log of what, when and why you spent. That way, if you claim them as deductions and your return is audited and the expenses are questioned, you have something to substantiate them. It could be the type of work sheet that accountants use, but it doesn't have to be elaborate. Just write it down and keep it. Also, keep a log in your car's glove compartment to record odometer readings for when you take job-hunting trips.