

# 12 tax tips for real estate developers and investors

Real estate owners and investors face complex tax issues that can strain resources and drain profits. Grant Thornton LLP's tax professionals offer 12 tips to help you manage your tax burden.



**1. Understand your partnership or LLC agreement.** Do you really understand your partnership or LLC operating agreement? Do the allocations among members have a “substantial economic effect”? Are you aware of qualified income offset provisions? Do you comprehend minimum gain? Are your partnership allocations based on targeted capital? In real estate matters, operating agreements typically address these and other important tax issues. Chances are your agreement is written with such issues in mind, and it is important that you understand them completely.

**2. Properly account for your lease income.** You may be accounting for your lease income based on the cash received or the terms of the lease agreement. However, an Internal Revenue Code section specifically addressing leases may require the income to be accounted in a different manner.

**3. Maintain three sets of partnership books.** If your entity is a partnership, are you keeping three sets of books? If not, you may not be following the required tax rules and your allocations among partners may not be valid.

**4. Determine if you are a dealer or an investor.** Do you know if you are a real estate dealer or an investor with regard to taxes? Proper planning will ensure the desired treatment upon disposition of the property.

**5. Allocate land costs to your benefit.** To defer income upon the sale of parcels from a tract of purchased land, it is necessary to properly allocate the cost among the various parcels. The IRS requires that the cost be equitably apportioned, but how? Consider several methods when allocating costs.

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**6. Color your building green.** Take advantage of special deductions and credits for green, or environmentally friendly, buildings.

**7. Evaluate your capitalization methods for preconstruction costs.** Are you capitalizing direct and indirect costs on property that is held for future development? Are you capitalizing property taxes if it is reasonably likely that the property will be developed? If not, you may not be in compliance with tax rules, and your deductions could be disallowed.

**8. Take full advantage of depreciation.** Has your company recently undertaken new construction projects, expansions or renovations? Substantial long-term savings could result from a cost-segregation or non-betterments study.

**9. Beware of what you do with an installment note.** When an installment note received in connection with a sale is disposed of, the deferred gain will be triggered. In addition, the pledging of the installment note or the transfer of the note to an LLC might be deemed a disposition.

**10. Consider charitable contributions of portions of land, but make sure your motive is charitable.** Never contribute property without examining the alternative viewpoints the IRS could take with regard to your motives. If the IRS can successfully establish that you received a benefit in exchange for the charitable contribution, your deduction may be limited or entirely disallowed.

**11. Determine if your partnership qualifies for an income deferral for debt reacquisition transactions.** Has your business had debt forgiven? There is a tax election available that will allow you to defer cancellation of debt (COD) income until 2014, when it will then be recognized ratably over five years. Carefully consider the options before making this irrevocable election as your COD income could be fully excluded under other provisions.

**12. Take advantage of lower property valuations.** Have you considered gifting real estate property or partnership interest for estate-planning purposes? You may want to consider converting a corporation into an LLC since built-in gains may be low due to depressed real estate values.



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