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## Facilitated by Todd Clarke CCIM

- 4<sup>th</sup> Generation Commercial Realtor
- 2<sup>nd</sup> Generation CCIM
- 35 years selling apartments – listed/sold over 16,411 units in 801 transactions totaling \$727M
- Development consultant or property tax protest consultant on another \$2.5B of commercial properties
- 27 years International Award Winning CCIM instructor
- Apartment Association of NM industry champion
- Founder first commercial Realtor Association - CARNM (1994)
- Total data geek and policy wonk
- Use tax benefits on a daily basis



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## Co-Hosted by Kyle Deacon

- 2nd Generation Commercial Realtor
- Owner / Qualifying Broker Deacon Property Services in Albuquerque, NM
- Manages 2,200+/- units
- Owner/partner in apartments in ABQ and Las Cruces
- 15 Years Brokering Apartment Sales throughout NM
- Over 180 Units sold in 2023



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## Co-Hosted by Marvid Charlson

- Co-Owner/Qualifying Broker Property Management & Investments of New Mexico
- Licensed since 2013
- Manages 1,000+/- units
- Owner/partner in apartments in ABQ and Las Cruces
- Over 75 units co-brokered in 2023
- Father of 2 young adults, Jenah, 20, & Jacob, 19
- Los Angeles Dodgers fan



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# Welcome/Agenda

## Agenda

- 1. Update on Las Cruces apartment stats - recent sales, updated rent survey
- 2. Presentation of new investment deals in the market (all)
- 3. How to take advantage of the 2018 tax cut and jobs act to lower your federal tax rate from 35% to 10-15%

Part of **Las Cruces Apartment Investors - 1 groups**

### Las Cruces Real Estate Apartment Investors Meetup Group

Las Cruces, NM, USA  
36 members · Public group  
Organized by **Todd Clarke**

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**What we're about**  
A sharing environment for investors to discuss market trends, tax benefits, financing and the ups/downs of investing apartments.

**Organizer**  
 **Todd Clarke**  
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# Round Robin:

## Introduce Round:

- Name
- Geography
- Role in market
- Hopes for today's meeting

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# Market Comp/Case Study:

1550 Durazano, Las Cruces – 7 units x 1,054 square feet each

## Sold in 2021

- Same owner 30+ years
- \$525,000 – avg rent \$633
- 6% cap rate

## Sold in 2023

- NM based investment group owned 2 years
- \$1,009,000 – avg. rent \$1,150 – 6% cap rate

1550 Durazano  
Las Cruces, NM 88001

7 Units  
Size: 7,378 sf  
Land: 0.64 acres  
YOC: 1958  
Price: \$525,000  
GRM: 9.88  
Cap Rate: 6.0%  
After Tax IRR: 16.9%

Register for Confidential Information: [www.nmreapartment.com/durazano1550](http://www.nmreapartment.com/durazano1550)

Conveniently located 7-plex with large 1,054 sf units

1550 Durazano, Las Cruces, NM 88001

New Market High for price per unit in this size:  
**\$144,286**

7 Units  
Size: 7,378 sf  
Land: 0.64 ac  
Price: \$1,009,143  
GRM: 11.29  
Cap Rates: 6.22%  
After Tax IRR: 13.7%

Register for Confidential Information: [www.nmreapartment.com/durazano1550](http://www.nmreapartment.com/durazano1550)

Conveniently located 7-plex with large 1,054 sf units

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# Round Robin:

## Have/Want round:

- I have a property for sale
- I am looking for a property for sale
- I have a question about the market
- I have a question about vendors
- I just have a question
- pass

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**Organizer**  
Todd Clarke  
[Message icon]

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**New Listing**  
coming to market– next week:  
950-4 Augustine,  
Las Cruces

950 –954 Augustine, Las Cruces,  
NM 88001




Register for Confidential Information: [www.nmapartment.com/950-954augustine](http://www.nmapartment.com/950-954augustine)  
Virtual Tour <http://www.nmapartment.com/954augustine3d>




**7 Units**  
Size: 4,323 sf  
Land: 0.36 ac  
Price: \$802,986  
GRM: 11.78  
Cap Rate: 5.70%  
After Tax IRR: 12.0%

**Conveniently located 7-plex**

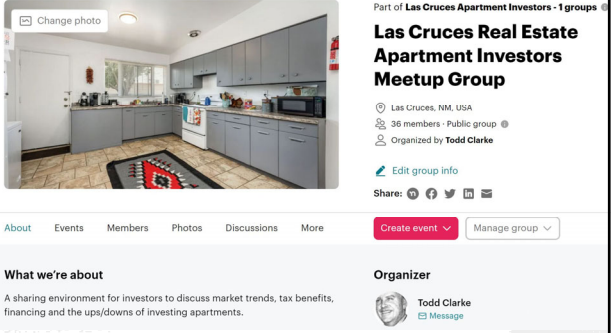
9



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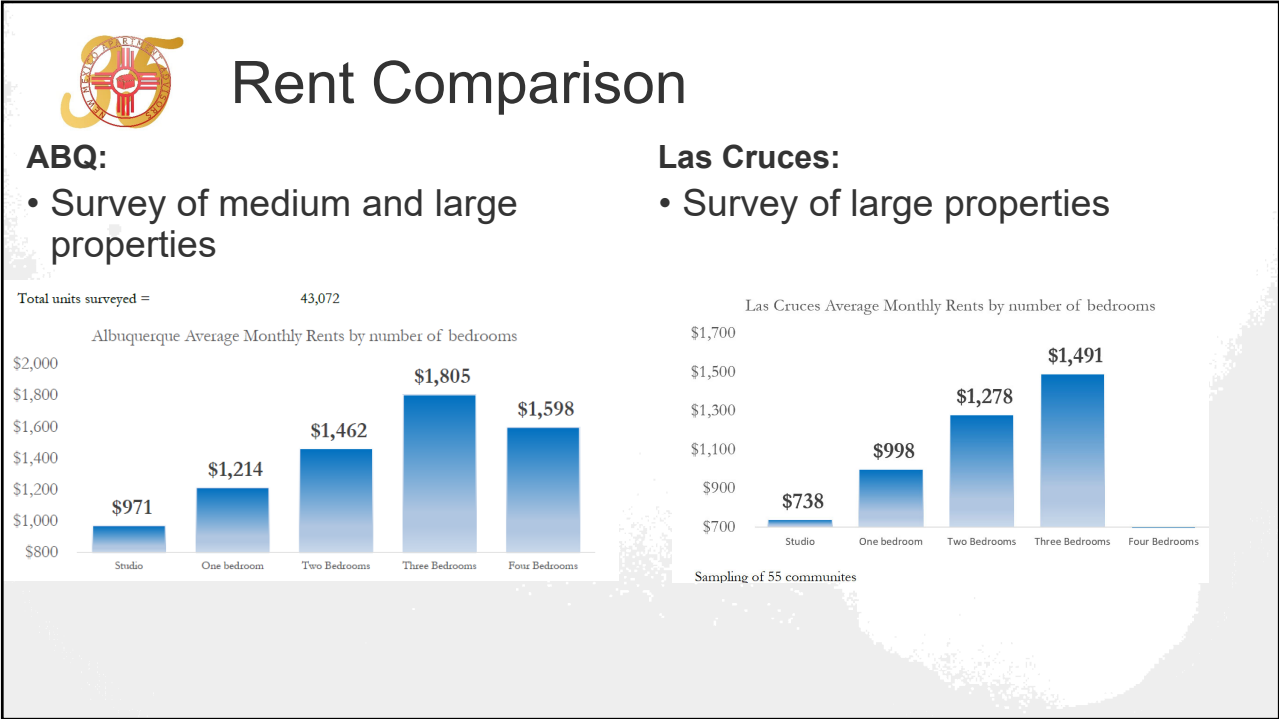
Edit group info  
Share: [Facebook] [Twitter] [LinkedIn] [Email]

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## Legislative update:

### 2023:

- Rent Control
- Landlord registry
- Rental Rate registry

### 2024:

- Property tax – price disclosure
- Insurance

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## Sample Case Study: Taxation in CRE

- Straight line Cost Recovery
- Cost Segregation Cost Recovery
- 2018 Changes in tax law under Tax Cuts and Jobs Act



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Planning for taxation is like...



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## Agenda:

1. Benefits of owning commercial real estate
2. Introduction to case study property – sound economics on its own
3. Benefit of Cost Recovery
4. Benefit of Cost Segregation studies
5. Benefit of 2018 tax changes - 2018 Changes in tax law under Tax Cuts and Jobs Act
6. Comparison of #3-#5
7. How to drive your effective tax rate to 0.0%
8. Why you should acquire before year end 2023
9. Bonus Round – are you fulltime in commercial real estate?


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## Case Study:


715 Fruit NW  
Fourplex

Parts 2-3:

- ✓ Introduction to case study property – sound economics on its own
- ✓ Benefit of Cost Recovery



4 Units  
Size: 2,660 sq ft  
Land: 0.1779  
Price: \$399,000  
GRM: 10.59  
Cap Rate: 5.57%  
After Tax IRR: 15.80%



### Investment Summary for Downtown Fourplex

**Additional resources**

Virtual Tour Main House: [www.nmapartment.com/715fruitnw](http://www.nmapartment.com/715fruitnw)

Virtual Tour Unit A: [www.nmapartment.com/715fruitnw/unita](http://www.nmapartment.com/715fruitnw/unita)

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## Annual Property Operating Data (APOD)

NM Apartment Advisors Financial Overview for: **Fruitful Fourplex** 715 Fruit NW

Prepared by: Todd Clarke CCIM 9/18/2020 "AS IS" Condition

Unit/Rent Summary		E		C		A		Total \$f	
#	Type Unit/Exp	Approx Size	Owners Actual Rents	Street Rents	Potential Downtown Rents	Actual Rent \$/sf	Total Actual		Total Max. Rent Potential for this type
1	2/1 Main/Mar 2021	1,095	\$ 1,195	\$ 1,195	\$ 1,295	\$ 1.09	\$ 1,195	\$ 1,195	\$ 1,295
1	0/1 715 1/2 / May 2021	565	\$ 695	\$ 795	\$ 900	\$ 1.23	\$ 695	\$ 795	\$ 900
2	1/1 A&B MTM	500	\$ 625	\$ 750	\$ 850	\$ 1.25	\$ 1,250	\$ 1,500	\$ 1,700
4 total units			Avg. Unit Size= 665 sf	Total= 665 sf	Total= 850 sf		\$ 3,140	\$ 3,490	\$ 3,893
			Avg. Actual Rent= \$ 785	1.18 Annualized =			\$ 37,680	\$ 41,880	\$ 46,740

**Benchmarks**

Offering Price: \$350,000

\$/unit: \$87,500

\$/sf: \$131.58

GRM: 7.49


CAP Before Reserves: 6.35%

CAP After Reserves: 6.09%

Cash on Cash: 7.64%

DCR: 1.46

Walk Score: 77; Transit Score: 56; Bike Score: 85



**Income**

A. Total Potential Market Income: \$ 46,740

B. Less: loss to market lease: \$ -4,860 (10%)

C. Total Potential Income (Street): \$ 41,880

D. Less: Loss to lease: \$ 4,200 (10%)

E. Total Income: \$ 37,680

F. Less: vacancy: 5.0% \$ 1,884 Estimate

G. Effective Rental Income: \$ 35,796

H. Plus: Other Income: \$ -

I. Gross Operating Income: \$ 35,796 2019 actual was \$32,250

Expenses (Annual)	EOY 2019			Based on:			Proforma 2020			Based on:		
	\$/unit	\$	%	2019 Actual Amount	2019 Actual	%	\$/unit	\$	%	Income: Line C - F + H	Est. for new market value @ 65%	Potential 2020 = 2019 + 3%
Real Estate Taxes	\$4,968	\$1,242	14%	assessed at \$310,813			\$3,636	\$909	8%		\$ 227,500 est. assumat	
Personal Property Taxes					Owner Actual 2019		\$1,420	\$355	3%			
Property Insurance	\$1,379	\$345	4%				\$3,832	\$958	8%	8% plus NMGR		
Property Management					Deacon Property Services		\$2,544	\$636	5%	Potential 2020 = 2019 + 3%		
Off Site Management	\$2,609	\$652	7%				\$2,198	\$550	5%	Potential 2020 = 2019 + 3%		
Taxes/Workman's Compensation	\$2,470	\$618	7%	2019 Actual			\$26	\$6	0%	Potential 2020 = 2020 + 3%		
Repairs and Maintenance	\$2,134	\$534	6%	2019 Actual			\$900	\$225	2%			
Utilities:					Assume resident pays		\$14,556	\$3,639	31%			
Water, Sewer, & Garbage					Assume resident pays		\$29,847			Potential Market less 5% vacancy + other income		
Gas							ADS	Loan	LTV	Pmt	Term	Interest
Electric							\$14,624	\$ 262,500	75%	\$1,219	30	3.77%
Miscellaneous	\$25	\$6	0%	2019 Actual			\$15,223					
Cleaning					repairs+unit turn+reserve=8to10%							
Reserve for replacement	\$900	\$225	3%									
Total Operating Expenses	\$14,485	\$3,621	40%									
Net Operating Income	\$21,311	\$5,328										
Conventional - 25% down												
Less: Annual Debt Service	\$14,624	\$ 262,500	75%									
Cash Flow Before Taxes	\$6,688											

## Benefits:

- Cap rate
- Cash on cash
- Income

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## Internal Rate of Return (IRR)

	Year	Calculated for 1st year of next owners' ownership					
		1	2	3	4	5	
Total Potential Market Income	3.0% Increases	\$46,740	\$48,142	\$49,586	\$51,074	\$52,606	\$54,184
2 Less: loss to market lease	10.4%	\$4,860	\$5,006	\$5,156	\$5,311	\$5,470	\$5,634
3 Total Potential Income (Max Rent)		\$41,880	\$43,136	\$44,430	\$45,763	\$47,136	\$48,550
4 Less: Loss to lease	10.0%	\$4,200	\$4,326	\$4,456	\$4,589	\$4,727	\$4,869
5 Total Income		\$37,680	\$38,810	\$39,975	\$41,174	\$42,409	\$43,681
6 Less: vacancy	5.0%	\$1,884	\$1,941	\$1,999	\$2,059	\$2,120	\$2,184
7 Effective Rental Income		\$35,796	\$36,870	\$37,976	\$39,115	\$40,289	\$41,497
8 Plus: Other Income	2.0% Increases	\$0	\$0	\$0	\$0	\$0	\$0
9 Gross Operating Income		\$35,796	\$36,870	\$37,976	\$39,115	\$40,289	\$41,497
Total Operating Expenses	1.5% Increases	\$14,455	\$14,702	\$14,922	\$15,146	\$15,373	\$15,604
Net Operating Income		\$21,341	\$22,168	\$23,054	\$23,969	\$24,915	\$25,893
Mortgage Balance		\$257,690	\$252,695	\$247,509	\$242,123	\$236,532	
ADS		\$14,624	\$14,624	\$14,624	\$14,624	\$14,624	
Principal Reduction		\$4,810	\$4,995	\$5,186	\$5,385	\$5,592	
= Mortgage interest		\$9,814	\$9,629	\$9,438	\$9,239	\$9,032	
= cost recovery (annual)	27.5 yrs	\$9,738	\$10,182	\$10,182	\$10,182	\$9,738 includes mid moon	
= Taxable Income		\$1,740	\$2,357	\$3,434	\$4,589	\$6,125	
Tax on income at ordinary income rate of	2, 35%	\$609	\$825	\$1,202	\$1,592	\$2,144	
NOI		\$21,311	\$22,168	\$23,054	\$23,969	\$24,915	
Amortized Debt Service		\$14,624	\$14,624	\$14,624	\$14,624	\$14,624	
= Cash Flow Before Tax		\$6,688	\$7,544	\$8,430	\$9,345	\$10,291	
Less Ordinary Income Tax		\$609	\$825	\$1,202	\$1,592	\$2,144	
= Cash Flow After Tax		\$6,079	\$6,719	\$7,228	\$7,753	\$8,148	

### Benefits:

- Income appreciation
- Interest deduction
- Cost Recovery (C/R Straight line)
- C/R taxed at 25%
- Capital gains (profit) taxed at 20%

As a commercial real estate investor, the federal tax code gives you three advantages compared to other investments including:

1. Deduct your annual mortgage interest before you calculate your taxable amount;
2. Deduct your cost recovery/depreciation before you calculate your taxable amount, in the future when you sell the property, you only pay back 25% of the benefit you received;
3. Your long term profit, or capital gain, is taxed at 20%

The combination of these benefits could help lower an investor's effective federal tax rate from 35% federal tax rate to only 20%.

n	\$
0	(\$7,500)
1	\$6,688
2	\$7,544
3	\$8,430
4	\$9,345
5	\$10,291 + \$154,698


n	\$
0	(\$7,500)
1	\$6,079
2	\$6,719
3	\$7,228
4	\$7,753
5	\$8,148 + \$133,937

Investor's Effective Tax Rate = 20%

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## Part 4:

Cost Segregation:



August 16, 2022

Mr. Todd Clarke  
Managing Partner  
Casitas Clarke, LLC  
524 Central SW, Suite 801  
Albuquerque, NM 87102

Dear Mr. Clarke:

This letter summarizes the results of the cost segregation study we have performed for your property located at 715 Fruit Avenue NW, Albuquerque, NM 87102. The purpose of our study was to identify certain assets of your property that could be classified into tangible personal property and other tangible property (IRC Section 1245 Property) and land improvements. Through our analysis we were able to segregate the costs of your assets into those categories listed as follows:

5 - Year Personal Property	\$57,373.89
15 - Year Real Property	\$14,665.18
27.5 - Year Real Property	\$242,960.93
<b>Total Project Cost Reviewed</b>	<b>\$315,000.00</b>

This letter and the accompanying report are solely for the use of segregating the costs of the subject facility, and are not to be referred to or distributed for any other purpose.

Please recognize that in accordance with IRS regulations, the taxpayer is required to show the cost basis and depreciation allowance for each item. Accordingly, we recommend that sufficient records and documentation are maintained to meet the IRS requirement.

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# Straight line cost recovery

**715 Fruit NW**

units	4
sf	2,498 sf
Purchase Price	\$ 372,340
Purchase Date	4/2/2021
Allocation to improvements	85%
Improvement \$	\$ 315,000
Traditional Cost Recover period	27.5 years - w/o mid month convention
Annual Cost Recovery Available	<b>\$ 11,455</b> per year

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# Cost Segregation Study



Cost Segregation Services Incorporated

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<b>715 Fruit NW</b>				
units	4			
sf	2,498 sf			
Purchase Price	\$ 372,340			
Purchase Date	4/2/2021			
Allocation to improvements	85%	<b>Front</b>	<b>Rear</b>	<b>Check</b>
Improvement \$	\$ 315,000	\$213,891	\$101,109	\$315,000
Traditional Cost Recover period	27.5 years - w/o mid month convention			
Annual Cost Recovery Available	<b>\$ 11,455</b> per year			


Cost Segregation Cost Recovery Report	<b>Breakdown</b>	IRC 1245 Tangible Property
		Per year
5 year personal property	\$ 57,374	\$ 11,475
15 year real property	\$ 14,665	\$ 978
27.5 year real property	\$ 242,961	\$ 8,835
	<b>\$ 315,000</b>	<b>\$ 21,287</b>



86% increase in tax benefit

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## Part 5: Changes in Federal Tax Law 2018 - Tax Cuts and Jobs Act


Help | News | English | Charitable

File | Pay | Refunds | Credits & Deductions | Forms & Instructions

Home / News / Tax Reform / Tax Cuts and Jobs Act: A comparison for businesses

### Tax Cuts and Jobs Act: A comparison for businesses

Depreciation	2017 Law	What changed under TCJA
<p>Temporary 100 percent expensing for certain business assets</p>	<p>Certain business assets, such as equipment and buildings, are depreciated over time.</p> <p>Bonus depreciation for equipment, computer software, and certain improvements to nonresidential real property allows an immediate deduction of 50% for equipment placed in service in 2017, 40% in 2018, and 30% in 2019.</p> <p>Long-lived property generally is not eligible. The phase down is delayed for certain property, including property with a long production period.</p>	<p>TCJA temporarily allows <b>100% expensing</b> for business property acquired and placed in service after Sept. 27, 2017 and before Jan. 1, 2023.</p> <div style="border: 2px solid red; padding: 5px; margin: 5px 0;"> <p>The <b>100%</b> allowance generally decreases by 20% per year in taxable years beginning after 2022 and expires Jan. 1, 2027.</p> </div> <p>The law now allows expensing for certain film, television, and live theatrical productions, and used qualified property with certain restrictions.</p> <p>For more information, see <a href="#">Tax Reform: Changes to Depreciation Affect Businesses Now</a> and <a href="#">New 100-percent depreciation deduction for businesses</a>.</p>

https://www.irs.gov/newsroom/tax-cuts-and-jobs-act-a-comparison-for-businesses

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## Cost Segregation +2018 - Tax Cuts and Jobs Act

**715 Fruit NW**

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sf	2,498	sf		
Purchase Price	\$ 372,340			
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Annual Cost Recovery Available	\$ 11,455	per year		

Cost Segregation Cost Recovery Report **Breakdown** IRC 1245 Tangible Property

	Per year	Ratio of Bonus Cost Recovery	100% bonus	Ratio of Bonus Cost Recovery (2023)	80% bonus
5 year personal property	\$ 57,374	\$ 11,475	100% \$ 57,374	80%	\$ 45,899
15 year real property	\$ 14,665	\$ 978	100% \$ 14,665	80%	\$ 11,732
27.5 year real property	\$ 242,961	\$ 8,835	\$ -		\$ -
	\$ 315,000	\$ 21,287	<b>\$ 72,039</b>		<b>\$ 57,631</b>

\$ 14,408 Benefit if closed this year

86% Cost Segregation more than straight-line cost recovery

529% Cost Segregation more than straight-line cost recovery

529% increase in tax benefit

Bonus Cost recovery for 2018-2022	100%
Bonus Cost recovery for 2023	80%
Bonus Cost recovery for 2024	60%
Bonus Cost recovery for 2025	40%
Bonus Cost recovery for 2026	20%


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# Cost Segregation +2018 - Tax Cuts and Jobs Act

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27.5 year real property	\$ 242,961	\$ 8,835	\$ -		\$ -	
	\$ 315,000	\$ 21,287	\$ 72,039		\$ 57,631	
					\$ 14,408	Benefit if closed this year

	86% Cost Segregation more than straight-line cost recovery
	If closed in 2022, 529% Cost Segregation more than straight-line cost recovery
Bonus Cost recovery for 2018-2022	100%
Bonus Cost recovery for 2023	80%
Bonus Cost recovery for 2024	60%
Bonus Cost recovery for 2025	40%
Bonus Cost recovery for 2026	20%
	403% Cost Segregation more than straight-line cost recovery

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## Part 6:

Comparison of tax benefits

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# Straight line cost recovery

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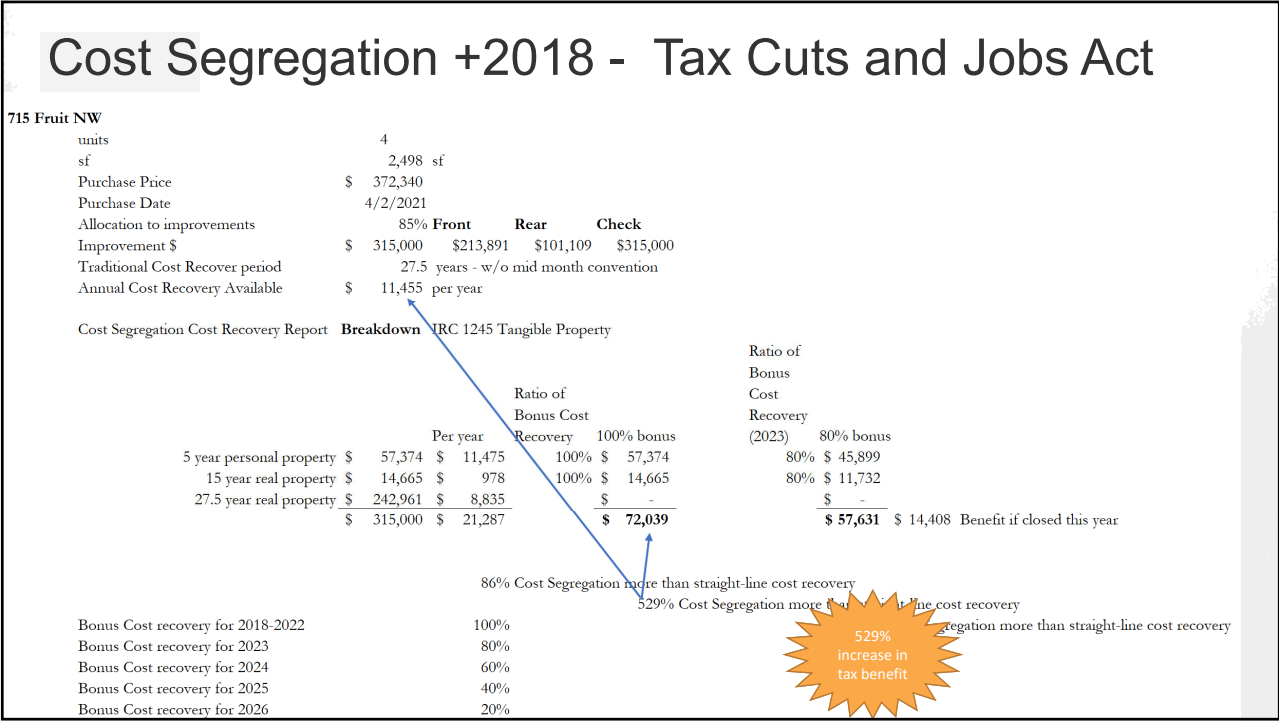
**715 Fruit NW**

units	4
sf	2,498 sf
Purchase Price	\$ 372,340
Purchase Date	4/2/2021
Allocation to improvements	85% <b>Front</b> <b>Rear</b> <b>Check</b>
Improvement \$	\$ 315,000    \$213,891    \$101,109    \$315,000
Traditional Cost Recover period	27.5 years - w/o mid month convention
Annual Cost Recovery Available	<b>\$ 11,455</b> per year

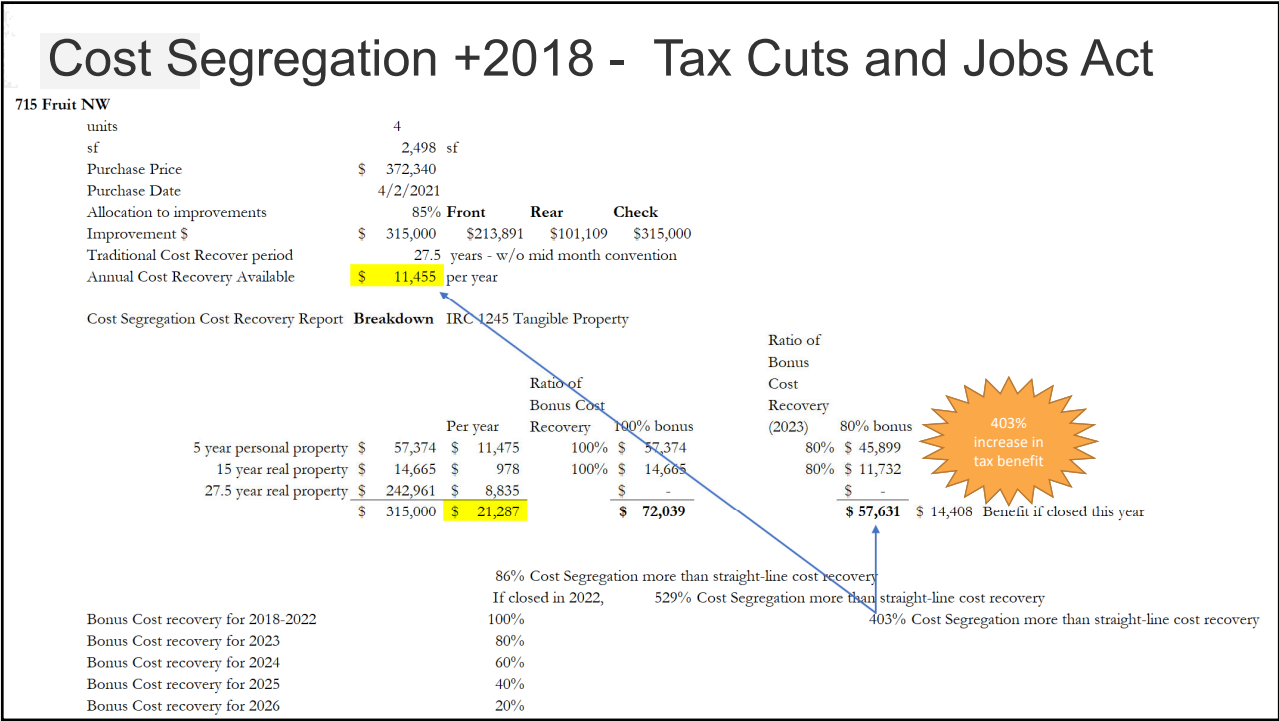
Cost Segregation Cost Recovery Report	<b>Breakdown</b>	IRC 1245 Tangible Property
		Per year
5 year personal property	\$ 57,374	\$ 11,475
15 year real property	\$ 14,665	\$ 978
27.5 year real property	\$ 242,961	\$ 8,835
	\$ 315,000	<b>\$ 21,287</b>

86%  
increase in  
tax benefit

30



31



32



# Cost Segregation +2018 - Tax Cuts and Jobs Act

715 Fruit NW

units	4			
sf	2,498	sf		
Purchase Price	\$ 372,340			
Purchase Date	4/2/2021			
Allocation to improvements	85%	Front	Rear	Check
Improvement \$	\$ 315,000	\$213,891	\$101,109	\$315,000
Traditional Cost Recover period	27.5	years - w/o mid month convention		
Annual Cost Recovery Available	\$ 11,455	per year		

Cost Segregation Cost Recovery Report Breakdown IRC 1245 Tangible Property

	Per year	Ratio of Bonus Cost Recovery		Ratio of Bonus Cost Recovery (2023)		Ratio of Bonus Cost Recovery (2024)		
		100% bonus	80% bonus	100% bonus	80% bonus	100% bonus	80% bonus	
5 year personal property	\$ 57,374	\$ 11,475	\$ 57,374	\$ 45,899	\$ 34,424			
15 year real property	\$ 14,665	\$ 978	\$ 14,665	\$ 11,732	\$ 8,799			
27.5 year real property	\$ 242,961	\$ 8,835	\$ -	\$ -	\$ -			
	\$ 315,000	\$ 21,287	\$ 72,039	\$ 57,631	\$ 43,223	\$ 14,408	\$ (28,816)	Benefit if closed this year

86% Cost Segregation more than straight-line cost recovery  
 If closed in 2022, 529% Cost Segregation more than straight-line cost recovery

Bonus Cost recovery for 2018-2022 100%  
 Bonus Cost recovery for 2023 80%  
 Bonus Cost recovery for 2024 60%  
 Bonus Cost recovery for 2025 60%

403% Cost Segregation more than straight-line cost recovery  
 277% Cost Segregation more than straight-line cost recovery

277% increase in tax benefit

33

## Part 7:

How to drive your effective tax rate to 0.0%

34

# IRR before

- Straight line cost recovery,
- No Cost Segregation
- No, bonus depreciation
- 18.0% rate

	Year	Calculated for 1st year of next owners, ownership					
		1	2	3	4	5	6
Total Potential Market Income		\$46,740	\$48,376	\$50,069	\$51,821	\$53,635	\$55,512
2 Less: Loss to market lease	10.4%	\$4,860	\$5,030	\$5,206	\$5,388	\$5,577	\$5,772
3 Total Potential Income (Max Rent)		\$41,880	\$43,346	\$44,863	\$46,433	\$48,058	\$49,740
4 Less: Loss to lease	10.0%	\$4,200	\$4,347	\$4,499	\$4,657	\$4,820	\$4,988
5 Total Income		\$37,680	\$38,999	\$40,364	\$41,776	\$43,239	\$44,752
6 Less: vacancy	5.0%	\$1,884	\$1,950	\$2,018	\$2,089	\$2,162	\$2,238
7 Effective Rental Income		\$35,796	\$37,049	\$38,346	\$39,688	\$41,077	\$42,514
8 Plus: Other Income	2.0% Increases	\$0	\$0	\$0	\$0	\$0	\$0
9 Gross Operating Income		\$35,796	\$37,049	\$38,346	\$39,688	\$41,077	\$42,514
Total Operating Expenses	1.5% Increases	\$14,485	\$14,702	\$14,922	\$15,146	\$15,373	\$15,604
Net Operating Income		\$21,311	\$22,347	\$23,423	\$24,541	\$25,703	\$26,910
Mortgage Balance		\$274,138	\$268,824	\$263,307	\$257,578	\$251,629	
ADS		\$15,557	\$15,557	\$15,557	\$15,557	\$15,557	
- Principal Reduction		\$5,117	\$5,314	\$5,517	\$5,729	\$5,949	
- Mortgage interest		\$10,440	\$10,244	\$10,040	\$9,828	\$9,609	
- cost recovery (annual)	27.5 yrs @ 90%	\$11,678	\$12,186	\$12,186	\$12,186	\$11,678 includes mid mon	
= Taxable Income		-\$807	-\$82	\$1,198	\$2,527	\$4,416	
Tax on income at ordinary income rate of	35%	\$0	\$0	\$419	\$885	\$1,546	
NOI		\$21,311	\$22,347	\$23,423	\$24,541	\$25,703	
- Annual Debt Service		\$15,557	\$15,557	\$15,557	\$15,557	\$15,557	
= Cash Flow Before Tax		\$5,754	\$6,790	\$7,866	\$8,984	\$10,146	
Less Ordinary Income Tax		\$0	\$0	\$0	\$0	\$0	
= Cash Flow After Tax		\$5,754	\$6,790	\$7,866	\$8,984	\$10,146	

Sales Worksheet	
<b>Calculation of Adjusted Basis</b>	
Basis at Acquisition	\$372,340
+ Capital Additions	
- Cost Recovery (Depreciation) Taken	\$59,914
= Adjusted Basis at Sale	\$312,426
<b>Calculation of Capital Gain</b>	
Disposition CAP Rate	5.7%
Sale Price	\$470,162
- Costs of Sale	\$37,613
- Adjusted Basis at Sale	\$312,426
= Gain or (Loss)	\$120,123
- Straight Line Cost Recovery (limited to gain)	\$59,914
= Capital Gain from Appreciation	\$60,209
<b>Calculation of Sales Proceeds after tax</b>	
Sale Price	\$470,162
- Cost of Sale	\$37,613
- Mortgage Balance(s)	\$251,629
= Sale Proceeds Before Tax	\$180,920
- Tax: Straight Line Recapture at 25.0%	\$14,978
- Tax on Capital Gains at 20.0%	\$12,042
= SALE PROCEEDS AFTER TAX:	\$153,900

IRR Before tax = 20.6%	
n	\$
0	\$(93,085)
1	\$5,754
2	\$6,790
3	\$7,866
4	\$8,984
5	\$10,146 + \$180,920

IRR After tax = 17.0%	
n	\$
0	\$(93,085)
1	\$5,754
2	\$6,790
3	\$7,447
4	\$8,100
5	\$8,600 + \$153,900

Investor's Effective Tax Rate =

35

# IRR

100% of benefit if taken in 2022

- Note loss carry forward years 2-5 and in sale
- Drops effective tax rate to 0.0%

	Year	Calculated for 1st year of next owners, ownership					
		1	2	3	4	5	6
Total Potential Market Income		\$46,740	\$48,376	\$50,069	\$51,821	\$53,635	\$55,512
2 Less: Loss to market lease	10.4%	\$4,860	\$5,030	\$5,206	\$5,388	\$5,577	\$5,772
3 Total Potential Income (Max Rent)		\$41,880	\$43,346	\$44,863	\$46,433	\$48,058	\$49,740
4 Less: Loss to lease	10.0%	\$4,200	\$4,347	\$4,499	\$4,657	\$4,820	\$4,988
5 Total Income		\$37,680	\$38,999	\$40,364	\$41,776	\$43,239	\$44,752
6 Less: vacancy	5.0%	\$1,884	\$1,950	\$2,018	\$2,089	\$2,162	\$2,238
7 Effective Rental Income		\$35,796	\$37,049	\$38,346	\$39,688	\$41,077	\$42,514
8 Plus: Other Income	2.0% Increases	\$0	\$0	\$0	\$0	\$0	\$0
9 Gross Operating Income		\$35,796	\$37,049	\$38,346	\$39,688	\$41,077	\$42,514
Total Operating Expenses	1.5% Increases	\$14,485	\$14,702	\$14,922	\$15,146	\$15,373	\$15,604
Net Operating Income		\$21,311	\$22,347	\$23,423	\$24,541	\$25,703	\$26,910
Mortgage Balance		\$274,138	\$268,824	\$263,307	\$257,578	\$251,629	
ADS		\$15,557	\$15,557	\$15,557	\$15,557	\$15,557	
- Principal Reduction		\$5,117	\$5,314	\$5,517	\$5,729	\$5,949	
- Mortgage interest		\$10,440	\$10,244	\$10,040	\$9,828	\$9,609	
- cost recovery (annual)	27.5 yrs @ 90%	\$78,297	\$8,835	\$8,835	\$8,835	\$8,835 includes mid mon	
= Taxable Income		-\$67,426	\$3,268	\$4,548	\$5,878	\$7,260	
Tax on income at ordinary income rate of	35%	\$0	\$0	\$0	\$0	\$0	
NOI		\$21,311	\$22,347	\$23,423	\$24,541	\$25,703	
- Annual Debt Service		\$15,557	\$15,557	\$15,557	\$15,557	\$15,557	
= Cash Flow Before Tax		\$5,754	\$6,790	\$7,866	\$8,984	\$10,146	
Less Ordinary Income Tax		\$0	\$0	\$0	\$0	\$0	
= Cash Flow After Tax		\$5,754	\$6,790	\$7,866	\$8,984	\$10,146	

Sales Worksheet	
<b>Calculation of Adjusted Basis</b>	
Basis at Acquisition	\$372,340
+ Capital Additions	
- Cost Recovery (Depreciation) Taken	\$113,637
= Adjusted Basis at Sale	\$258,703
<b>Calculation of Capital Gain</b>	
Disposition CAP Rate	5.7%
Sale Price	\$470,162
- Costs of Sale	\$37,613
- Adjusted Basis at Sale	\$258,703
= Gain or (Loss)	\$173,846
- (limited to gain)	\$113,637
= Capital Gain from Appreciation	\$60,209
<b>Calculation of Sales Proceeds after tax</b>	
Sale Price	\$470,162
- Cost of Sale	\$37,613
- Mortgage Balance(s)	\$251,629
= Sale Proceeds Before Tax	\$180,920
- Tax: Straight Line Recapture at 25.0%	\$28,409
- Tax on Capital Gains at 20.0%	\$12,042
less Carry forward loss	-\$46,471
Net Tax	-\$6,052 carry to next deal
= SALE PROCEEDS AFTER TAX:	\$180,920

IRR Before tax = 20.6%	
n	\$
0	\$(93,085)
1	\$5,754
2	\$6,790
3	\$7,866
4	\$8,984
5	\$10,146 + \$180,920

IRR After tax = 20.6%	
n	\$
0	\$(93,085)
1	\$5,754
2	\$6,790
3	\$7,866
4	\$8,984
5	\$10,146 + \$180,920

Investor's Effective Tax Rate =

36

# Part 8:

Why you should acquire before 1/1/2023

Depreciation	2017 Law	What changed under TCJA
Temporary 100 percent expensing for certain business assets	<p>Certain business assets, such as equipment and buildings, are depreciated over time.</p> <p>Bonus depreciation for equipment, computer software, and certain improvements to nonresidential real property allows an immediate deduction of 50% for equipment placed in service in 2017, 40% in 2018, and 30% in 2019.</p> <p>Long-lived property generally is not eligible. The phase down is delayed for certain property, including property with a long production period.</p>	<p>TCJA temporarily allows <u>100% expensing</u> for business property acquired and placed in service after Sept. 27, 2017 and before Jan. 1, 2023.</p> <p><b>The 100% allowance generally decreases by 20% per year in taxable years beginning after 2022 and expires Jan. 1, 2027.</b></p> <p>The law now allows expensing for certain film and live theatrical productions, and used qualified property, and certain restrictions.</p> <p>For more information, see <a href="#">Tax Reform: Changes to Depreciation Affect Businesses Now</a> and <a href="#">New 100-percent depreciation deduction for businesses</a>.</p>



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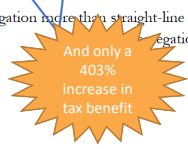
## Cost Segregation +2018 - Tax Cuts and Jobs Act for 2023

715 Fruit NW

units	4
sf	2,498 sf
Purchase Price	\$ 372,340
Purchase Date	4/2/2021
Allocation to improvements	85% Front Rear Check
Improvement \$	\$ 315,000 \$213,891 \$101,109 \$315,000
Traditional Cost Recover period	27.5 years - w/o mid month convention
Annual Cost Recovery Available	\$ 11,455 per year

Cost Segregation Cost Recovery Report Breakdown IRC 1245 Tangible Property

	Per year	Ratio of Bonus Cost Recovery	100% bonus	Ratio of Bonus Cost Recovery (2023)	80% bonus
5 year personal property	\$ 57,374	\$ 11,475	100%	\$ 57,374	80% \$ 45,899
15 year real property	\$ 14,665	\$ 978	100%	\$ 14,665	80% \$ 11,732
27.5 year real property	\$ -	\$ -	-	\$ -	\$ -
<b>Drops tax benefit to</b>			<b>72,039</b>	<b>\$ 57,631</b>	\$ 14,408 Benefit if closed this year



	86% Cost Segregation more than straight-line cost recovery	403% Cost Segregation more than straight-line cost recovery
Bonus Cost recovery for 2018-2022	100%	
Bonus Cost recovery for 2023	80%	
Bonus Cost recovery for 2024	60%	
Bonus Cost recovery for 2025	40%	
Bonus Cost recovery for 2026	20%	

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# IRR

80% of benefit if taken in 2023

- Note loss carry forward years 2-5 and in sale
- Drops effective tax rate to 5.0%

	Year	1	2	3	4	5	0	Calculated for 1st year of next owners' ownership
<b>Total Potential Market Income</b>								
1		\$46,740	\$48,376	\$50,069	\$51,821	\$53,635	\$55,512	
2	Less: loss to market lease	\$4,860	\$5,030	\$5,206	\$5,388	\$5,577	\$5,772	
3	<b>Total Potential Income (Max Rent)</b>	\$41,880	\$43,346	\$44,863	\$46,433	\$48,058	\$49,740	
4	Less: Loss to lease	\$4,200	\$4,347	\$4,499	\$4,657	\$4,820	\$4,988	
5	<b>Total Income</b>	\$37,680	\$38,999	\$40,364	\$41,776	\$43,239	\$44,752	
6	Less: vacancy	\$1,884	\$1,950	\$2,018	\$2,089	\$2,162	\$2,238	
7	<b>Effective Rental Income</b>	\$35,796	\$37,049	\$38,346	\$39,688	\$41,077	\$42,514	
8	Plus: Other Income	\$0	\$0	\$0	\$0	\$0	\$0	
9	<b>Gross Operating Income</b>	\$35,796	\$37,049	\$38,346	\$39,688	\$41,077	\$42,514	
<b>Total Operating Expenses</b>								
		\$14,485	\$14,702	\$14,922	\$15,146	\$15,373	\$15,604	
	<b>Net Operating Income</b>	\$21,311	\$22,347	\$23,423	\$24,541	\$25,703	\$26,910	
<b>Mortgage Balance</b>								
	ADS	\$274,138	\$268,824	\$263,307	\$257,578	\$251,629		
	- Principal Reduction	\$15,557	\$15,557	\$15,557	\$15,557	\$15,557		
	= Mortgage interest	\$5,117	\$5,314	\$5,517	\$5,729	\$5,949		
	- cost recovery (annual)	\$57,631	\$8,835	\$8,835	\$8,835	\$8,835	includes mid moon	
	= Taxable Income	-\$46,760	\$3,268	\$4,548	\$5,878	\$7,260		
	Tax on income at ordinary income rate of 35%	\$0						
<b>NOI</b>								
		\$21,311	\$22,347	\$23,423	\$24,541	\$25,703		
<b>- Annual Debt Service</b>								
		-\$15,557	-\$15,557	-\$15,557	-\$15,557	-\$15,557		
<b>= Cash Flow Before Tax</b>								
		\$5,754	\$6,790	\$7,866	\$8,984	\$10,146		
<b>- Less Ordinary Income Tax</b>								
		\$0	\$0	\$0	\$0	\$0		
<b>= Cash Flow After Tax</b>								
		\$5,754	\$6,790	\$7,866	\$8,984	\$10,146		
	Carry forward		-\$43,491	-\$38,943	-\$33,065	-\$25,805		

Sales Worksheet	
<b>Calculation of Adjusted Basis</b>	
Basis at Acquisition	\$372,340
+ Capital Additions	
- Cost Recovery (Depreciation) Taken	\$92,971
= Adjusted Basis at Sale	\$279,369
<b>Calculation of Capital Gain</b>	
Disposition CAP Rate	5.7%
Sale Price	\$470,162
- Costs of Sale	\$37,613
= Adjusted Basis at Sale	\$279,369
= Gain or (Loss)	\$190,793
- (limited to gain)	\$92,971
= Capital Gain from Appreciation	\$60,209
<b>Calculation of Sales Proceeds after tax</b>	
Sale Price	\$470,162
- Cost of Sale	\$37,613
= Sale Proceeds Before Tax	\$432,549
- Tax: Straight Line Recapture at 25.0%	\$25,243
- Tax on Capital Gains at 20.0%	\$12,042
less Carry forward loss	\$25,805
Net Tax	-\$9,479 carry to next deal
<b>= SALE PROCEEDS AFTER TAX:</b>	\$171,441

IRR Before tax = 20.6%	
n	\$
0	(\$93,085)
1	\$5,754
2	\$6,790
3	\$7,866
4	\$8,984
5	\$10,146 + \$180,920

IRR After tax = 19.5%	
n	\$
0	(\$93,085)
1	\$5,754
2	\$6,790
3	\$7,866
4	\$8,984
5	\$10,146 + \$171,441

Investor's Effective Tax Rate = 5%

39

## Cost Segregation +2018 - Tax Cuts and Jobs Act for 2024

715 Fruit NW

units	4
sf	2,498 sf
Purchase Price	\$ 372,340
Purchase Date	4/2/2021
Allocation to improvements	85% Front Rear Check
Improvement \$	\$ 315,000 \$213,891 \$101,109 \$315,000
Traditional Cost Recover period	27.5 years - w/o mid month convention
Annual Cost Recovery Available	\$ 11,455 per year

Cost Segregation Cost Recovery Report Breakdown IRC 1245 Tangible Property			
	Per year	Ratio of Bonus Cost Recovery	Ratio of Bonus Cost Recovery
5 year personal property	\$ 57,374 \$ 11,475	100% \$ 57,374	80% \$ 45,899
15 year real property	\$ 14,665 \$ 978	100% \$ 14,665	60% \$ 8,799
27.5 year real property	\$ 242,961 \$ 8,835	\$ -	\$ -
	\$ 315,000 \$ 21,287	\$ 72,039	\$ 43,223

And only a 277% increase in tax benefit

Drops tax benefit to \$43,223 (\$28,816) Benefit if closed this year

86% Cost Segregation more than straight-line cost recovery	If closed in 2022, 529% Cost Segregation more than straight-line cost recovery	403% Cost Segregation more than straight-line cost recovery	277% Cost Segregation more than straight-line cost recovery
Bonus Cost recovery for 2018-2022	100%		
Bonus Cost recovery for 2023	80%		
Bonus Cost recovery for 2024	60%		

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# IRR

80% of  
benefit if  
taken in  
2023

- Note loss carry forward years 2-5 and in sale
- Drops effective tax rate to 5.0%

		Year	1	2	3	4	5	6	Calculated for 1st year of next owners' ownership	Sales Worksheet
Total Potential Market Income	3.5% Increases		\$46,740	\$48,376	\$50,069	\$51,821	\$53,635	\$55,512		
2 Less: loss to market lease	10.4%		\$4,860	\$5,030	\$5,206	\$5,388	\$5,577	\$5,772		
3 Total Potential Income (Max Rent)			\$41,880	\$43,346	\$44,863	\$46,433	\$48,058	\$49,740		
4 Less: Loss to lease	10.0%		\$4,200	\$4,247	\$4,499	\$4,657	\$4,820	\$4,988		
5 Total Income			\$37,680	\$38,999	\$40,364	\$41,776	\$43,239	\$44,752		
6 Less: vacancy	5.0%		\$1,884	\$1,950	\$2,018	\$2,089	\$2,162	\$2,238		
7 Effective Rental Income			\$35,796	\$37,049	\$38,346	\$39,688	\$41,077	\$42,514		
8 Plus: Other Income	2.0% Increases		\$0	\$0	\$0	\$0	\$0	\$0		
9 Gross Operating Income			\$35,796	\$37,049	\$38,346	\$39,688	\$41,077	\$42,514		
<b>Total Operating Expenses</b>										
Net Operating Income	1.5% Increases		\$14,485	\$14,702	\$14,922	\$15,146	\$15,373	\$15,604		
<b>Mortgage Balance</b>										
ADS			\$274,138	\$268,824	\$263,307	\$257,578	\$251,629			
- Principal Reduction			\$15,557	\$15,557	\$15,557	\$15,557	\$15,557			
= Mortgage interest			\$5,117	\$5,314	\$5,517	\$5,729	\$5,949			
- cost recovery (annual)	7% @		\$57,631	\$8,835	\$8,835	\$8,835	\$8,835	includes mid moon		
= Taxable Income			-\$46,760	\$3,268	\$4,548	\$5,878	\$7,260			
Tax on income at ordinary income rate of	35%		\$0							
<b>NOI</b>										
			\$21,311	\$22,347	\$23,423	\$24,541	\$25,703			
<b>- Annual Debt Service</b>										
= Cash Flow Before Tax			\$15,557	\$15,557	\$15,557	\$15,557	\$15,557			
- Less Ordinary Income Tax			\$5,754	\$6,790	\$7,866	\$8,984	\$10,146			
= Cash Flow After Tax			\$5,754	\$6,790	\$7,866	\$8,984	\$10,146			
Carry forward				-\$43,491	-\$38,943	-\$33,065	-\$25,803			

**Calculation of Adjusted Basis**

Basis at Acquisition: \$372,340

+ Capital Additions: \$37,613

- Cost Recovery (Depreciation) Taken: \$92,971

= Adjusted Basis at Sale: \$279,369

**Calculation of Capital Gain**

Disposition CAP Rate: 5.7%

Sale Price: \$470,162

- Costs of Sale: \$37,613

- Adjusted Basis at Sale: \$279,369

= Gain or (Loss): \$153,180

- (limited to gain): \$92,971

= Capital Gain from Appreciation: \$60,209

**Calculation of Sales Proceeds after tax**

Sale Price: \$470,162

- Cost of Sale: \$37,613

= Mortgage Balance(s): \$251,629

= Sale Proceeds Before Tax: \$180,920

- Tax: Straight Line Recapture at 25.0%: \$25,245

- Tax on Capital Gains at 20.0%: \$12,042

less Carry forward loss: \$25,805

Net Tax: \$9,479 carry to next deal

= SALE PROCEEDS AFTER TAX: \$171,441

IRR Before tax = 20.6%

n	\$
0	(93,085)
1	\$5,754
2	\$6,790
3	\$7,866
4	\$8,984
5	\$10,146 + \$180,920

IRR After tax = 19.5%

n	\$
0	(93,085)
1	\$5,754
2	\$6,790
3	\$7,866
4	\$8,984
5	\$10,146 + \$171,441

Investor's Effective Tax Rate = 5%

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## Part 9:

Bonus Round of Commercial real estate  
is your business

But Wait...

THERE'S  
MORE!

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**CCIM Institute**  
Commercial Real Estate's  
Global Standard for Professional Achievement

# CCIM 104 Summary from Module 3

Module 3 – Federal Taxation

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## Module Snapshot / Objectives

### Snapshot

- Does not take into account each states (different) tax code, just Federal
- Understand:
  - Basis
  - causes of basis increase/decrease
- Covers:
  - Acquisition
  - Operation
  - Disposition

### Objectives

- Classify property assets to the Internal Revenue Code
- Forecast annual cash flows after tax
- Calculate Initial basis
- Allocation C/R
- Forecast sales proceeds after tax
- Tax Treatment for TI's

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## Module 3 – Tax Considerations at Acquisition (p3.5)

- **Asset Classification**
  - Property held for personal residence
  - Property held for sale to consumers (dealer)
  - Property held for use in trade or business (section 1231)
  - Property held as an investment (capital assets, Section 1221)

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## Module 3 – Property held for personal residence (p3.5)

- No cost recovery
- Taxable gain is recognized but loss is not.
- Tax deferred exchanges are not allowed, but gain maybe eligible to be excluded if:
  - If primary residence, Section 121, allows for \$250,000 gain exclusion for individual and \$500,000 gain exclusion for couple

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## Module 3 – Dealer Property (p3.5)

- No cost recovery
- Gains and losses on sale are ordinary business income/expense
- No Tax Deferred exchanges
- No installment sale (for tax treatment)

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## What is your business? (this is key for the IRS!)

- You are in the business of holding real estate - that is your trade (1231)
- An investor (1221) – holds for the long term with no intention of cost recovery (i.e. land)

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## Module 3 – Property held for business

(p3.6)

- Held for more than one year
- Is subject to cost recovery/depreciation
- Gains and losses on the sale of Section 1231 are separately netted from gains and losses on investments from other property types
- Long term capital gains rate
- Losses are ordinary business losses
- Eligible for 1031 deferred exchange

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## Module 3 – Property held for business

(p3.6)

- **Examples:**
  - Retail center with rental income held for long term
  - Owner occupant Office building
  - Industrial bought for intention of holding long term
  - Apartment building held as rental property

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## Differences between dealer/investor

### **Dealer**

- Builds to add value
- Builds to sell (quickly?)
- Advertises themselves as a developer (dealer)

### **Investor**

- Buys to add value and/or cash flow
- Buys to own
- Advertises themselves as a investor

What is the magic holding period? (1 year) (how do you demonstrate a year?)

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## Summary table

Classification	1231	1221	Dealer	Personal
Cost Recovery	Yes	No	No	No
Capital Gains	Yes	Yes	No	Yes**
Capital Losses	No, *	Yes, limited	No	No
Exchanges	Yes	Yes	No	No,
Installment Sale	Yes	Yes	No	Yes

\*Losses are ordinary.

\*\*May be eligible for exclusion under Section 121.

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## Allocation Basis (p.3.8) testable concept

- Allocation made at acquisition between % improved and % vacant land (and personal property)
- Vacant land receives no cost recovery
- Investors often use Assessor's ratio (ideally you would choose a 3<sup>rd</sup> party resource that is defensible)
- Benchmark valued used to determine:
  - Amount of cost recovery deductions
  - Amortization deductions
  - Gain or loss upon disposition

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## Initial Basis (p3.11)

- Basis at acquisition: (initial basis)
  - Acquisition price
  - Acquisition costs
  - Does not include prorated rents, or prorated expenses or transfer of deposits)
  - Cost of financing do not impact the basis, but are capitalized and amortized over the life of the loan

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## Adjustments to Basis (p3.12)

- Adjustments to basis
  - Allowable cost recover deductions
  - Disposition of a portion of the property
  - Capital improvements

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## Cost recovery (p.3.12)

- Types of cost recovery include:
  - Depreciation of improvements (1231)
  - Loan costs amortization – capitalized and amortized
  - Unamortized loan costs
  - Depletion (oil, gas, minerals)

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## Cost recovery (p.3.13)

- Allocation
  - Allocated between the:
    - Depreciable
    - And non depreciable portions
- Operation
  - Reduces taxable real estate income
  - Not a cash expense
  - Provides tax shelter
- Methods
  - Residential (27.5)
  - Commercial (39)
  - Mid-Month
  - Cost segregation (not discussed in book)

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## Cost recovery (p.3.14) Tables

IRS Cost-Recovery Percentages for Residential Property

	Month											
	1	2	3	4	5	6	7	8	9	10	11	12
Year acquired	3.485	3.182	2.879	2.576	2.273	1.970	1.667	1.364	1.061	0.758	0.458	0.152
Full years held (2-27.5)	3.636	3.636	3.636	3.636	3.636	3.636	3.636	3.636	3.636	3.636	3.636	3.636
Year of sale	0.152	0.458	0.758	1.061	1.364	1.667	1.970	2.273	2.576	2.879	3.182	3.485

IRS Cost-Recovery Percentages for Non-Residential Real Property

Year	Month											
	1	2	3	4	5	6	7	8	9	10	11	12
Year acquired (1)	2.461	2.247	2.033	1.819	1.606	1.391	1.177	0.963	0.749	0.535	0.321	0.107
Full years held (2-39)	2.564	2.564	2.564	2.564	2.564	2.564	2.564	2.564	2.564	2.564	2.564	2.564
Year of sale (40)	0.107	0.321	0.535	0.749	0.963	1.177	1.391	1.605	1.819	2.033	2.247	2.461

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## Impacts on Cost recovery (p.3.17)

- Capital expenditures
  - Allocated between the:
    - Depreciable
    - And non depreciable portions
- Tenant Improvements
  - Reduces taxable real estate income
  - Not a cash expense
  - Provides tax shelter

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## Passive Income and Losses (p.3.23)

- Three types of income:
  - Active
    - Salary, wages, commissions and tips
    - Income from trade or business in which tax payer was a material participant
    - Material participant = involved in operations on a regular, continuous and substantial basis
    - Test (469)
      - Is it the investors primary business?
      - Is the investor frequently on the premises?
      - Does the investor have thorough knowledge?
  - Portfolio
    - Interest, dividends royalties, gains or loss from these
  - Passive
    - Income from a trade or business that tax payer **does not** materially participate

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## Example of passive income (p.3.27)

Active Basket  
\$100,000

Portfolio Basket  
(\$3,000)

Passive Basket  
\$50,000

Active basket income	\$100,000
+ Portfolio basket loss	(3,000)
+ <u>Passive basket income</u>	<u>50,000</u>
Income to report	\$147,000

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## Section 469 (p.3.24) sets our 7 tests – must meet at least one, once a year

1. Participates more than 500 hours a year
2. Participation in the activity for the taxable year constitutes substantially all the participation (more than others)
3. Participates more than 100 hours and is not less than others (partners)
4. Significant participation for the taxable year and exceeds 500 hours
5. Materially participate in the activity for any five taxable years during the last 10
6. Activity is a personal service activity (health, law, engineering, accounting, etc.) for any three taxable years
7. Based on all the facts and circumstances, individual participates in the activity on a regular, continuous and substantial basis.

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## The Real Estate professional exception (p.3.28)

- Section 469(c)7 and material participation
  - Spend more than half your time on (AND)
  - Performs more than 750 hours of services
- Could include development, redevelopment construction, acquisition, renovation, conversion, renting, operations, management, leasing, etc.
- (750 hours would be 47 weekends of 2 days x 8 hours)

### Example of Applying the Material Participation Exception

	Active Basket	Portfolio Basket
Apartments	\$100,000	\$20,000
	+ (25,000)	
	\$75,000	

If the investor qualifies as a real estate professional, then there are no passive basket activities. The ownership of the apartment building is treated like any other active income or loss.

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## This is not tax or accounting advice...

- I am not an accountant, tax advisor, just a Commercial Realtor
- This is based on our own personal tax returns and our situation maybe different than yours
- Please consult with your CPA and your own advisors prior to making decisions

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