

# Tax memos

Finance



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Situation #1

## Issue

Three issues arise in this situation:

1. Whether to sell the securities in TOM, Inc.
2. Whether to sell the securities to Kathy, who is the sister of Anita
3. Whether to sell the securities to Marcia, who is the friend of Anita.

## Research

Anita spent \$1000 to buy the stocks of TOM, Inc. 5 years ago. Presently the market value of the acquired shares of Anita is \$600. Anita has decided to sell those acquired shares. Now, Anita has to take the decision on selling those stocks, either to her sister, Kathy, or to her friend, Marcia. Otherwise she also has the option to sell the securities to TOM, Inc. for \$600.

## Analysis

Since the stocks are more than 1 year old and it has declined in its value, so it will be a long term capital loss in the hands of Anita, if she sells those stocks. The long term capital loss in this case would be amounting to \$400. Under Section 1212, Anita will be entitled to carry forward this capital loss to succeeding years, provided there is a net loss including all other similar type of transactions involving capital transfer. Moreover, Anita can claim a deduction of \$600 from taxable income, since it is well within the limits amounting \$3000, under Section 1211 (Cornell University Law School, “<https://assignbuster.com/tax-memos/>

Limitation on Capital Losses”). While analyzing this situation, Anita, being a taxpayer has to refer to Section 267 of US Code of taxation, if she wants to sell the stocks to her sister, Kathy (Cornell University Law School, “ Losses, Expenses and Interest with respect to transactions between Related Tax Payers”). Under Section 267, Kathy would be considered as a related party in this type of transaction between the two, Anita and Kathy and hence the amount of deduction will not be available then. However, sale of the stocks to her friend, Marcia will not attract Section 267.

### Conclusion

Hence, it can be concluded that it is advisable for Anita to either sell the stocks to Marcia or directly to TOM, Inc. and take benefit of the available deduction of \$600.

### Situation #2

#### Issue

While preparing the agreement of divorce between Dave and Marcia, the issues that arise in this case are:

1. Tax liability involved in the transfer of the home to Marcia and the transfer of the boat to Dave.
2. Marcia has to decide whether to take the securities or the cash payments from Dave.

#### Research

Marcia and Dave, who are married to each other is planning for a divorce agreement. They have two children and will be in the custody of Marcia after their separation. In accordance with the divorce agreement Dave decides to keep the boat and give away the home to Marcia. Dave and Marcia will also have to decide upon whether Marcia will be receiving the stocks which were

acquired at \$100, 000 and having a present market value of \$150, 000 or in the form of yearly payments to Marcia for 5 years, with an included yearly interest @ 8% p. a.

### Analysis

On analyzing this situation, the first consideration would be the tax consequences as a result of the transfer and settlement of properties. The immediate tax implications will be nil because Under Section 1041, any transfer of property within 1 year of the divorce will not amount to any gain or loss. However, it can have an effect in future, after 1 year, when either the home or the boat is sold by any of them and it can attract capital gain taxes. While considering the issue about accepting the yearly cash payments, Marcia has to take note of whether those money received will be paid as alimony or not. Sec 71 explains the requirements of a sum of money being treated as alimony. Alimony will be a taxable income in the hands of Marcia and would be available as deductions from Adjusted Gross Income for Dave. Moreover, Marcia being the custodian of two children will be rewarded with child support as deduction from taxable income. The agreement should have clause regarding the end of the contract of payment to Marcia on her death or when she gets married again. If Marcia wishes to accept the securities, she can consider its sale, resulting in capital gain which can be adjusted with any other capital losses she might incur in any year.

### Conclusion

Hence, it can be concluded that while preparing the agreement of divorce, both Dave and Marcia should make the property transfers in a way so that it will attract minimum tax liability in future. It is advisable for Marcia to receive the securities and sell them when required to set off any capital

losses that she might incur in future.

#### References

“ Limitation on Capital Losses.” law. cornell. Cornell University Law School, n. d. Web. 4 Apr. 2012. .

“ Losses, Expenses and Interest with respect to transactions between Related Tax Payers.” law. cornell. Cornell University Law School, n. d. Web. 4 Apr. 2012. .