

**Helvering v. Bruun
309 U.S. 461 (1940)**

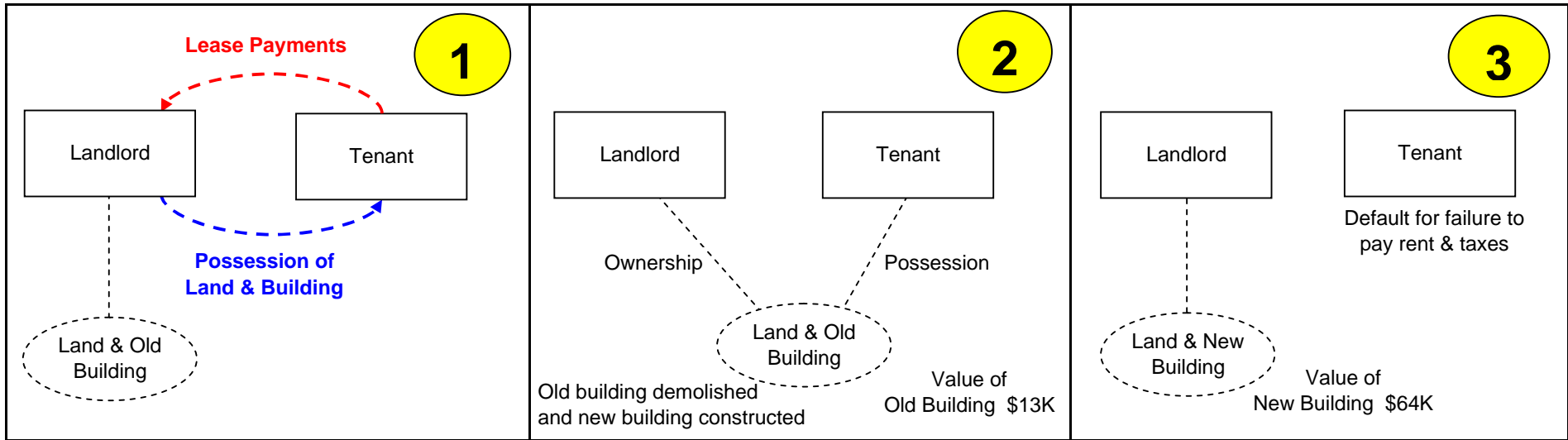
**Landlord Taxation of
Leasehold Improvements**

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Lease for 99 Years (1915)

Demolition & Reconstruction (1929)

**Termination of Lease
for Default (1933)**



The controversy had its origin in the IRS's assertion that the Landlord realized taxable gain from the forfeiture of a leasehold, the tenant having erected a new building upon the premises. On July 1, 1915, the Landlord, leased a lot of land and the building thereon for a term of ninety-nine years. In 1929, the tenant demolished and removed the existing building and constructed a new one which had a useful life of not more than fifty years. On July 1, 1933, the lease was cancelled for default in payment of rent and taxes and the Landlord regained possession of the land and building.

The parties had stipulated that on July 1, 1933, the new building had a fair market value of \$64,245 and that the value of the old building, was \$12,811, thus leaving a net fair market value as at July 1, 1933, of \$51,434, for the new building.

On the basis of these facts, the IRS determined that in 1933 the Landlord realized a net gain of \$51,434.25. In this case, the Supreme Court held that the Landlord was taxed for the increased value of repossessed land in which the tenant had put a building. Section 109 now provides that leasehold improvements are not taxable to the lessor.