

**Revenue Ruling 73-157,
Situation 2**

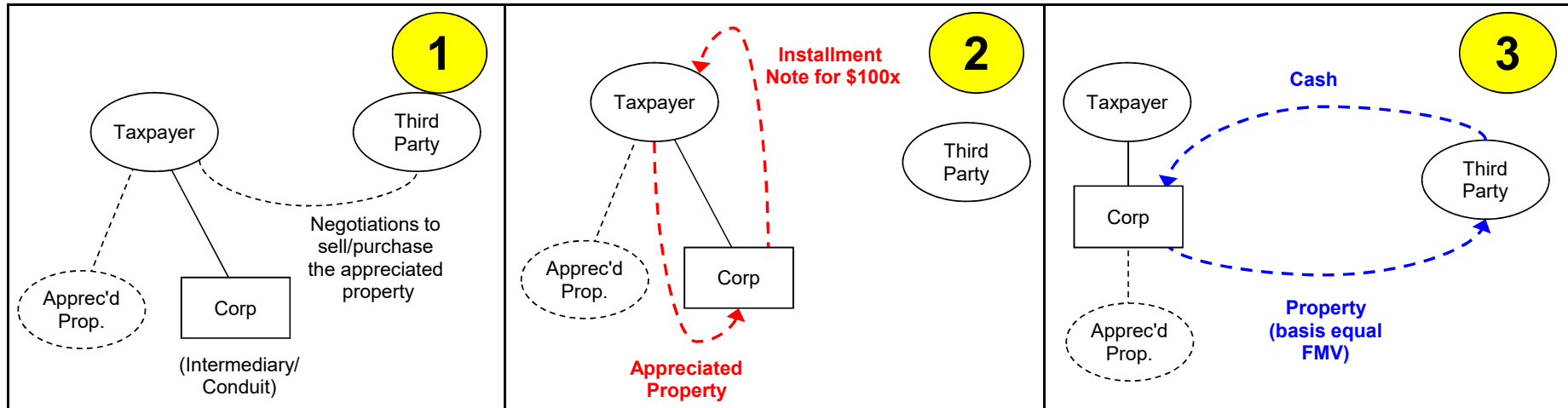
**Installment Sale Method Not Available
When Sold Thru Corp As Conduit**

Copyright © 2017 Andrew Mitchel LLC
International Tax Attorneys
www.andrewmitchel.com

Initial Structure

Installment Sale

Second Sale



The taxpayer owned appreciated property which he sold to his controlled corporation for 100x dollars. The contract of sale provided for the payment of 20x dollars in the year of sale and 20x dollars in each of the next four years with interest at the rate of four percent per annum. The taxpayer elected to report the gain from this sale on the installment method of accounting. Prior to the sale, the taxpayer had arranged for his controlled corporation to resell the property to a third party. Pursuant to the arrangement, the controlled corporation resold the property to the third party for 100x dollars, and received full payment for the property in the year of sale.

The question presented is whether there has been a bona fide installment sale for purposes of section 453. A transaction purporting to be a sale on the installment basis that lacks reality will be no more effective in avoiding taxes than any other type of sale. It is well settled that a sale by one person cannot be transformed for tax purposes into a sale by another by using the latter as a conduit through which to pass title.

In the situation described above, the true nature of the transaction was that a sale was negotiated between the taxpayer and a third party, but, in order to avail himself of the installment provisions, the taxpayer arranged an intermediary installment sale whereby his controlled corporation would consummate the prearranged transaction, receive the full payment from the purchaser, and dispense the proceeds from the sale to him in installments. Thus, the controlled corporation merely is acting on behalf of the seller to receive and hold the proceeds of the sale. Accordingly, it is held that the gain realized by the taxpayer does not qualify for the installment method of reporting under section 453(b). Thus, the entire amount of such gain must be included in the taxpayer's gross income for the taxable year of the sale to the third party.