EPISODE 1031

[INTRODUCTION]

[00:00:00] ANNOUNCER: Welcome to The Real Estate Syndication Show. Whether you are a seasoned investor or building a new real estate business, this is the show for you. Whitney Sewell talks to top experts in the business. Our goal is to help you master real estate syndication.

And now your host, Whitney Sewell.

[INTERVIEW]

[0:00:24] WS: This is your daily Real Estate Syndication Show. I'm your host, Whitney Sewell. Today our guest is Steve Moskowitz. Steve is a wealth of information. He was a CPA, then became an attorney, he's a much more schooling that I would prefer to have, but he's a professional now he knows the tax code, he knows the law around real estate investing, he goes in deep about a passive cash flow with the tax loss and how to do that, he talks about becoming a real estate professional, the importance of cost segregation and Delaware Detroit trust, and even we talk even more in depth about some tax changes with this new administration, he talks about ways that potentially you should be setting up your portfolio right now, for these new changes that are coming soon, I'd ask them about just the likelihood of some of these things, and he believes you to expect them to happen, but he goes in to different things that you need to at least be aware of better options and so you really need to have someone like him on your team that has those expertise to look at your personal portfolio and investments and strategy, so you know you're making the best tax decision, but help you learn a lot from the show and at least have some things to do some research on to, you know, some different avenues that will help you the best.

[0:01:39.4] WS: Steve, welcome to the show. You have some skills that anyone that's listening right now, I know needs to know about, and it's gonna be an interesting discussion today, I know just from your expertise and background, but give the listeners a little about your background and what your focus is today as your day-in day-out job and people you're helping...

[0:01:57.9] SM: I'm a tax attorney, and the head of our law from... Before I was a tax attorney, I was a CPA. So in addition to understanding the tax law, I actually understand how they operate, the number-crunching and even the forms they go on.

[0:02:11.5] WS: It's interesting to... If you have an attorney that's also have been in CPA, there's so much combined skills there that no doubt you can help with, and especially that now you're a tax attorney. Well, I'd love to just jump right in now, 'cause I know you and I had a great conversation or you're just sharing so much with me before we even got started, just about the new administration and some tax changes, things that potentially could be happening sooner than later, and things that the listeners I know need to know about... And maybe some things they could be putting in place now, so maybe we're paying less taxes right here trying to have that positive cash flow and less taxes, so let's dive in there a little bit, could you just get us started on some of the tax changes that the new administration is looking to make... And some things we should be thinking about as real estate professionals.

[0:02:55.5] SM: Absolutely, first President Biden and wants to make massive changes to our laws, and a lot of them are gonna affect real estate taxes... One of the things he wanted to do in the estate tax area, he wants to drop the current exemption down from $11.5 million to $1 million. What that means is an awful lot of people would then have a taxable estate is an awful lot of people that have less than $11.5 million, but more than one mil. President Biden also wants the estate tax rate to be about half, so think about it, instead of giving your hard-earned property, real estate property to your loved ones, you’re gonna give it to the IRS. And you say, Well, wait a minute. Real Property. Is it liquid? Do I chop off the top floor of the house and give it to you is now, a lot of times people would be stuck selling the house... Because they didn't have the cash to pay the taxes. You don't want that. There's a lot of things you can do. Right now, what we can do is set up an estate plan where you give the property away to your kids, so think about this.

[0:04:03.0] SM: Suppose you say, Well, you know what, I have a property and it's fully depreciated, and what I'd like to do is pass it on to my kids, but... You don't wanna get hit with the tax. So let's assume you gave it to them now, while you have the $11.5 Million exemption, there's no gift tax, there's no estate tax. And then you say, oh is wonderful. I'm not have to give that half to the IRS, but then when somebody gives you something nice, some people instead of saying, Thank you, they say, I want more. And there's more here. So for example, if you are using this property in business, you say, Well, you know what, now I'm gonna turn around and I'm gonna lease it back from my kids, then you get a tax deduction for using that property for business. The bottom line is essentially you get to rate that property off twice, and your kids, grandkids, they're probably in a lower tax bracket, so with going ahead and using this property, everybody is benefiting because that same money is getting taxed less in the family. A lot of other things that we want to happen. There's something called the step up in basis, President Biden wants to do away with that too.

[0:05:20.9] SM: And here's what that is, suppose grandpa bought a property when he was a young man for 10000, and today their property is worth a mill. What happens is, if grandpa would give you that property today while he's alive, and then what happens is you say, Well, alright, I'm gonna sell the next day and I have the capital gain of 990 and pay tax on that, but if grandpa gave that to you through as a State, he died in, I gave it to you. You have a step up in basis. So instead of your basis being grandpa's basis, it's the fair market value at date a bath or turn evaluation data. Just say, God of death. So in my example, you sell the property the next day, the fair market value is a million, you say, Okay, my step-up in basis is a million, a million minus a million equals zero. I have no taxes to pay... That's wonderful. President Biden wants to do away with that. So if he gets his way, it would be as if you give it to him during a lifetime. In here, what you have is a 990 capital gain.

[0:06:24.7] SM: Oops, wait a minute. President Biden wants to do away with the preferential capital gains tax rate. So what happens here is you say, Well, oh my God, I have to pay it on their income rates, that's tremendous taxes, that we wanna avoid a lot of other things to stops. We have this situation, so we have a couple and says, You know, they don't have any kids or they don't have anything in a... Leave the property to, or some people, and even some very wealthy people believe, but if you give anything to your loved ones, it'll ruin up, so you say, We don't wanna ruin him. So I'm gonna give it to charity. That's nice, but it doesn't get you an income tax benefits, so instead you can do something called a Charitable remainder trust, CRT. And what happens with the CRT? You say, Okay, husband, wife will live in that house for the rest of their lives, however long that is, 30 years, 50 years, 100 years, but when the second one passes the chart, I'll get the property. So physically, everything is the same in both examples, the couple lives there until the second one passes in, the charity gets the property, but the second way, when you set up the CRT Charitable trust, an actuary comes in and does evaluation cost is a theoretical separation of the property into what your cap called the life estate, and what you gave away called the remainder interest.

[0:07:45.7] SM: Suppose the actuary determines that the amount you gave away the remainder interest is worth 700,000, you get a $700,000 income tax deduction today, today. And you say, That's wonderful, Steve, but I don't have $700,000 worth of income. What's gonna happen to me? You can carry it forward for five years, tremendous benefits here, but suppose your kid comes up and says, You know dad, I don't feel like getting the property would ruin me, and dad says, Well, you know, son, but I really like to get the income tax deduction is there some way we could satisfy both of them, yes, we could set up something called a ILIT, irrevocable life insurance trust, and what happens with that is you give the property away and there's important reasons for that, and what happens is, remember, under President Biden’s proposals, our exemption would drop down from 11.5 million to 1 million. A lot of people don't know that face valuable life insurance policy is an asset of your state, most people wouldn't want half of their insurance policy going to the IRS instead of their loved ones, so instead, to give it away now while there is as an exemption, so no gift taxes, no state taxes, and then what happens is your kid gets the value of the property, so he's happy, dad’s happy because you got the big tax deduction, the kid is happy because he got the value of the house.

[0:09:17.5] SM: The only one here that's unhappy is the IRS, and that's okay with everybody, but it's legal, and we can do that, there's other benefits too. Another benefit is when you give insurance, the beneficiary, do whatever they want with the money. With an ILIT, the insurance company isn't paying your beneficiary, they're paying the trust and your trustee is building the money out based on the trust instrument, you get to control things even if you blend to your reward and... This works out well, 'cause a lot of people will come to me and say, Steve, they love their kids. They trust their kids who live, their kids are wonderful, but God knows what their kids might marry, and dad says, Look, if my kid marries some no good Nick, I don't want the no good nick getting their claws into my money. So you said something up like this to keep it for your kids and out of the hands of the in-laws that might misuse it or a minus use your kid if you have a divorce and things go bad. There's so much that can be done here. Another thing I'd like to talk about is, to me, the most beautiful words in the English language, or a positive cash flow with the tax laws.

[0:10:27.5] SM: Now, I mean, what could be better than that? So you say, Well, that's wonderful, because physically, at the end of the year, I've made a cash profit from my real property, but through different things like cost segregation, which I know you've talked about in other shows, and what cost segregation does for those lists that I haven't heard them yet, it can greatly accelerate your depreciation, time value of money, you'd much rather have the benefit now than many years from now. And another thing that happens is we say, Well, okay, now I have a loss and Oh, my account... And said, I can't use that loss. That's a passive loss. And with the passive losses, I can't write them off against the ordinary income, but there's an exception to that, and the exception to that, if you're a real estate professional... So what happens here is if you're married, only one of the spouses have to qualify, so suppose we have this situation, we have a brain surgeon that's married to a house husband, and she says to her husband, honey, you're gonna start managing our properties. Now, if one of them qualifies, then what's gonna happen is they can go ahead, it's an exception to the passive activity loss rules in article section 469.

[0:11:44.4] SM: And what happens is that you now get to take what would have been that passive law, so you couldn't write it off, and you can write it off against your ordinary income. What's ordinary income? Profits from a business, dividends, interest, wages, it's tremendous. So what happens is, when you have these benefits, what you wanna do is partly them, tie them together, and there's a way to do that. So much of US real estate is an area that's very favored by Congress, except President Biden wants to make an awful lot of changes that would really, really hurt the real estate investors. So the bottom line is, if you own real estate right now, you wanna talk with your tax person and say, Hey, wait a minute, if President Biden gets his way, that's gonna really hurt me as a real estate investor, what can I still do now to protect myself but also there's a lot of benefits and most people don't know about one of the most common things that people will say to me when I take a new client, is Steve, wow, this is tremendous as it's all brand new. 'cause I never heard of this, and a lot of times, it's not...

[0:12:51.9] SM: A lot of times what happens is when we'll get their taxes done, they go to somebody just fills out the boxes, and here you go and heads up. And actually, personally, that's why I became a tax attorney, because the day I set foot in law school as a student on day one, I already had a bachelor's and master's degree in accounting. I was already a CPA and I was doing taxes, but I went to law school because I knew I could do a lot more for a client as a tax attorney than I got as a CPA, and also I wanted to be the guy... Would be creative and say, Look, you can do this, this and this. Not the guys... All of all, you can't do that, you can't do that. There's so much you can do. Another thing I'd like to talk about is a Delaware statutory trust. Sometimes a client will come to me and say this, You know, Steve, I'm tired of being a landlord, I don't wanna go over there and fix this, sing can get a call through o clock in the morning, I can't find my keys and somebody have the rent, I'm tired of that.

[0:13:47.8] SM: So I wanna get out of that property, I just don't wanna pay taxes. And I say, Well, this is your lucky day. You can get into a Delaware statutory trust, and when the other words, statutory Trust is essentially, you go to a financial institution of your choice, and essentially it's like a mutual fund for real estate, but it qualifies for 1031. So what happens is, you can get out of that property, not pay the taxes, 'cause you've done a 1031 exchange, and then you still have another benefit. A lot of times people will say, Well, you know, I'm gonna retire and I don't wanna be by with me, I just want it to be on that step, I can't really do that as a landlord, 'cause you gotta watch the property or bad things happen to it, so instead you say, Well, wait a minute, if I do the 10-31, when I need some money, I'm gonna have to cash out and I'm paying a big tax, I can put the money in the bank... Or invest it in the stock market, if I wanna take the risk. But you know, the real wealth and major wealth in this country in the world is a real property, not stock, it's a real property.

[0:14:48.5] SM: And you say, But I don't wanna pay the taxes and have all that other money sitting in the bank from the property, Delaware statutory trust is perfect because you have shares, so you only sell what you need, you only pay tax on that a little bit, and the rest sits there and earns money, and you have these benefits, so there's just so much you can do in the real estate area. That's why we even in our law firm, we even have a real estate department that handles all this, so we handle the real estate, we handle the taxes, and then all this stuff comes together, same with the estate plan and go to State Planning Department in the firm. And you say, Well, wait a minute, here's a way that we go ahead and put all this together and benefit... So what we wanna do is, first of all, we wanna make you happy, I'm really serious about that. Where I'm different from most financial guys, most financial guys figure up some financial plan, they say this will save you the most taxes or whatever else, but they don't consider the person's lifestyle about what they want, and I can't begin to...

[0:15:48.0] SM: To tell, so many people will come to me, they went to somebody else. Somebody else did something. I hate this. Can you get me out of it? And the answer sometimes is yes, and sometimes is now, but what happens is you say, Well, okay, how do I put all this stuff to benefit me, and I could be representing twins and what they want could be very, very different. So the first thing I ask people is, what do you want? What do your wishes, your desires, your hopes, your dreams, and then once I know that and I say, Okay, if you wanna do that, and here's the way we do it, and here's the way we take the maximum tax advantage, and what people miss in the tax system. Is that everybody thinks the tax system is extracting money from you, and that's one of the two purposes of the tax system extracting money, but the other purpose is in a democracy, the government may want you to do things like viability, but they can't order you to buy a building. So how does the government get you to do something they want you to do, but they don't have any power to order you to do, they give you a tax instead instead, Well, we'd like you to buy the building, can't make you...

[0:16:54.8] SM: We like it is, so he he... You buy the building and here's all the taxes, you'll say No, you say, Wow, that's gotten very attractive for me. So what happens is, that is why you look at Fortune 500 companies that make profits with billions in B, not paying any taxes. If you think about it, think about your little corner grocery store, mom and Paul, you know what, mom and pop... Or paying more taxes than Apple. Can you imagine that mom and pop are right in a check to the IRS and Apple is not, so you have so much you can take advantage of in the tax law, and the real estate area is especially rich in this area. They're so very, very much. And that's why I like to talk about real estate professional, to write off those losses cost the time value of money, Delaware statutory Trust, and then it's so very important to tie it with the person's lifestyle, not to mention your wishes, you tie the income taxes. And you tie the estate planning all together and you get a big, wonderful package. So again, to me, the most important thing is just letting people know this exists, because we don't know exist, you walk along and say, It's so unfair, I have to pay so many monitors, I wanna make the check payable pillage.

[0:18:19.9] SM: And these are things that I've dedicated my professional career too, and saying, Hey, you know what, the big boys take advantage of this, the non-billionaires, the non-corporations can take advantage of them too.

[0:18:33.9] WS: It just shows Steve, why we need somebody like yourself on our team and often it's a real estate attorney and CPA two separate entities or two separate team members, but it's interesting that you and your office can have that in one place, but no doubt as the real estate investor, there's no way we can also be a tax professional, we have to understand a lot about, or at least like you said, be aware of these things, so we can come to somebody like yourself to say, Hey, this is what I'm trying to do, will this work, or what do you suggest it... But I wanted to back up a little bit though, and when we were talking about the changes about the new administration, how likely do you see those things happening, you mentioned numerous things, the 11.5 to 1.5 this up in basis doing away with that and all those different things, how likely do you see those happening and what would be that timeline if they do happen?

[0:19:22.8] SM: I'm not claiming to be clairvoyant, I'm very, very concerned it will happen, and here's why, When President Biden came to the office, we already had a big deficit, he is giving the money away by the trillion with a T. Trillions of dollars, where is the money coming from the foreign countries will only lend it so much at some point, the credit card companies, there's no more credit for you. President Biden was talking about borrowing a significant amount of money, I won't get into the political aspects, and we're having some differences of opinions with some country we used to borrow a lot from. Besides that is, how do you pay for all this? Raise the taxes. In the current administration, their current philosophy is transfers, tax and spend... I think it's very likely. And what happens is that I think real estate investors can suffer some real discrimination here, because in the whole country, when we talk about the American dream, that's having real property, most people don't, and you have somebody that's just getting by, and you have somebody else that owns multiple real properties. Like I said, Well, that's not fair. That guy has all that and I don't tax him, you know the old tax, the rich, eat the rich, all that.

[0:20:44.4] SM: What is rich in somebody's mind, this is very, very different than somebody else's mind, and maybe Rich as somebody that has something more than you, your next door neighbor could be rich if he's making more money, in your opinion. So I'm concerned with the present administration and the people in the Congress that they're gonna go ahead and say, Well, you know what, that's just such an unfair tax break step up in the basis that's avoiding taxes over the generations. And again, you see in this country, there's a big movement saying, Hey, it's unfair for the families to keep the money... The only thing it's fair is, give it away. Give to the government. That's fair. So I'm concerned about all of these things, and politically, when somebody says, Oh, there's currently... I suppose you're a guy that's just getting the buy and making your monthly payment to the credit card, you don't really have much of anything, and you hear some other guys got a 11 and a half million dollar exemption, so doesn't pay taxes them to keep the money in the family... How politically you guys say, Yeah, I'll go for the guy that takes that away from him, it gives me a little some...

[0:21:47.9] SM: So I'm very concerned about this.

[0:21:50.2] WS: Sure. What about when would you see these things taken in effect, would it be this calendar year, like 2021, or would you see certain things even being grandfathered, that it might take some time before they would be in effect, how much time would you see investors having to make some of these changes.

[0:22:06.1] SM: I always say, Get ready now because there's so many government programs on the other hand, I'm talking about these programs where, for example, there's something called the ERC employee retention credit. With the employee retention credit, the government will give you up to $33,000 per employee if you otherwise qualify to cover 20 and 21, so for example, if you have a company with 10 employees, the government writes you a check for 330000 and that... Nice, it's free money. It's a gift, the government is not taxing you, it's not alone if they're given the money, what... With the pandemic, the government is giving away the money... Right before I came on with you, I was on the radio talking about this, and my client had come to me and saying, Steve, there you go, and we're preparing these for clients and getting them six figures and... Where is all this money coming from? And one the things I'm cautious, so right now it says, Great, we have the stimulus programs, and that's great, and we have this program and this program in this program, and that's wonderful, but where's all the money coming from? And the current administration basically kinda sets the classes against each other and says, Oh well, you know, you have something that's not fair, let's give it to somebody else.

[0:23:34.7] SM: Well, that's communism. And we've seen how communism works out well in other parts of the world, so obviously, anybody in business like we are... Is it very much against communism, but a lot of people like it because they say, Oh well, terrific, I get something from somebody that they're, Jono, you should at least be aware of this, because these are not things you're gonna do overnight, and if nothing else, it's kind of like having an emergency bag prepared where if your house catches on fire, you grab the bag and around the door and you have your important papers and your medicines, and You're replaceable photographs of grandma, and you have it ready if nothing else, have it ready and then when you start to see these things move, you can quickly do it, because if you say, Oh my God, they're gonna change it to be tomorrow, it's Punnett.

[0:24:21.9] WS: No doubt. Well, right advice, Steve, just... You've listed out so many things, I hope the listeners paying attention because I don't have any doubt that many of these things are gonna happen, and we do need to be preparing now, and the only way most of us can prepare for stuff like that, that is by talking to a professional like Steve, to really think through exactly what Steve said earlier, like, What can I still do and what should I do... This is the outcome I'm looking for, What should I be putting in place now to make those things happen? See if we're gonna jump to just a couple of final questions because unfortunately we're out of time, but man, just some great value for the listeners, especially as real estate investors, as each of the listeners are investing most likely passively or actively one way or the other in the large real estate, what's the number one thing to you that's contributed to your success,

[0:25:06.5] SM: Caring about people and caring about the individual... I have a very heavy tax background, and most guys like me who have this kind of background board for the big firms that clients are Fortune 500. That's how I started out too. And it done, you know what? I could be the best guy or the worst guy, I'm not gonna make a difference to a Fortune 500, but to a small business person or an individual, I can make a tremendous difference. I can make the difference between them retiring, wealthy and then retiring with a pile of canceled checks to the IRS, and when I went out and I started my own practice, I got a tremendous thrill out of helping people like that into this very day. I still have a thrill every time I save somebody money and put him in a wonderful position because they legally didn't have to pay those taxes...

[0:25:52.6] WS: That makes so much sense. I appreciate that I can have my questions, how do you like to give back... Maybe you can answer that, but it sounds like you just did.

[0:25:59.1] SM: Well, I think it back in a lot of ways, I certainly have charitable pursuits, you may know I'm also a television and radio commentator, so able to spread the word to a lot of people through TV and radio, and I do wanna help people. I started out very humbly. Before, I tell you before, I was... Hey, I live here in California now, but before I was a tax journey, I was a CPA. Before I was a CPA, I was in New York City taxicab driver. So I had a very humble background, I went to school at night for years and years and years, so I have our appreciation of what it means to come up from nothing and do something, and I wanna help so many others do that and have some to do it, if they want to, what you have to do and say, You know what, I wanna do this and you can...

[0:26:44.2] WS: It is a decision that has to be made. No doubt about it, Steve, congratulations your success and even sharing that a little bit out there, I think that's just motivational to listeners to you, they think, You know what... There's no way that I could be where Steve is or where whites are, are all those things. But you can't... And you do have to start somewhere and take some action, no doubt about it, just like saved of going to school at night and whatnot as a taxi cab driver, and now look at you, see, grateful to have met you and have you on the show. Just amazing information today that the listeners need to know about, no doubt about... Yes, definitely raise awareness around numerous topics that they need to contact you or somebody and get some information on. And on that note, how can they get in touch with you to learn more about you?

They can call A 888-taxdeal, that's 888-taxdeal. MaskowitzLLP.com.

[0:27:55.7] ANNOUNCER: Thank you for listening to The Real Estate Syndication Show, brought to you by Lifebridge Capital. Lifebridge Capital works with investors nationwide to invest in real estate while also donating 50% of its profits to assist parents who are committing to adoption.

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