MORTGAGE CORNER

Does American 'co-borrower' have to pay tax on Canadian property?

By Ilyce Glink and Samuel J. Tamkin, Tribune Content Agency, Real Estate Matters

Q: I helped my cousin buy a home in Canada, and she used it as her principal residence. I did not help her financially to purchase the house or pay any mortgage or taxes. I only went with her to the bank, and because our credit and finances were stronger than hers, the bank asked us to be the co-borrower and co-owner for her to get the mortgage. She is now selling her house. Will I have to report the sale to the IRS even though I will not be making any gains? I have contacted the Canadian Revenue Agency; they said I do not have to do anything since I did not pay anything to begin with.

A: Good question. We think that the IRS will treat you the same way as its Canadian counterpart. While you were technically an owner of the property, your cousin used the home and gained from the sale of the home. Interestingly, you mentioned that the home was your cousin's primary residence. For IRS purposes, it may not matter if the home was located in the United States or abroad as long as the taxpayer is a U.S. citizen.

If you buy a home and live in it for two out of the last five years as your primary residence, current IRS rules allow you to exclude up to $250,000 from federal income taxes profits if the homeowner is single (or up to $500,000 if the homeowner is married). If you buy a home and it is not your primary residence, but is a second home that you visit or a family member uses, profits realized upon sale may be subject to capital gains tax.

If your cousin is a U.S. citizen (or is someone who is, for whatever reason, required to file a U.S. federal income tax return) and owned and use the home as her primary residence for at least two out of the last five years, she may have no tax to pay the IRS on any profit on the sale even if the property is located abroad. If she has no tax to pay, you certainly will have no tax to pay.

However, her taxes may be complicated. If she is required to pay tax in Canada relating to the profits generated in the sale, she may find that she is allowed to take a credit for those on her IRS tax return. That would be helpful; but to be sure, she will need someone knowledgeable in this area to assist her in preparing her income tax return in the United States to make sure she does it right.

If she isn't the issue (because she is not required to file in the U.S.) then you should make sure you are in touch with someone familiar with U.S. and Canadian tax law who can help construct a case that since you put no money in, paid nothing toward the mortgage and upkeep, and received none of the profits, you owe nothing to the IRS.

(Ilyce Glink is the creator of an 18-part webinar+ebook series called "The Intentional Investor: How to be wildly successful in real estate," as well as the author of many books on real estate. She also hosts the "Real Estate Minute," on her YouTube channel. Samuel J. Tamkin is a Chicago-based real estate attorney. Contact Ilyce and Sam through her website, ThinkGlink.com.)Image: studiogstock/iStock/Thinkstock