

## When and How to Use a Self-Canceling Installment Note (SCIN)

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A self-canceling installment note (SCIN) is a note that includes a clause that cancels the remaining balance upon the death of the original holder. There are advantages for both the seller and the buyer of a SCIN. The seller is able to freeze the value of the sold property at the face value of the note and may be able to avoid the inclusion of the note in his gross estate. The seller can also spread the payment of taxes on gain on appreciated property over the life of the note.

Normally, the buyer would have income because of the cancellation of indebtedness. However, because of the nature of a SCIN, a buyer may be able to escape inclusion in her gross income as well as receive a stepped up basis in the purchased property at the death of the seller. Additionally, the buyer may enjoy tax deductions for the interest paid.

Generally, the cancelation of notes will not be excluded from the holder's gross estate. However, a SCIN may provide an exception if it were made as part of the arm's length deal. The following requirements need to be met to create a SCIN note:

1. the note must contain self-canceling clause;
2. the note must represent a bona fide sale of the property with an additional premium in exchange for the inclusion of the self-canceling clause;
3. the buyer must make consistent timely payments on the note;
4. seller must relinquish control over or life interest in the property; and
5. the note must not be made knowing that the seller is not expected to live beyond the life of the note.

These requirements are especially important when the seller and buyer are related. Courts generally view transactions between family members with a higher level of scrutiny. Additionally, it should be noted that the use of SCIN notes to exclude the value of the note from the decedent's estate is not without risks.

SCINs are not appropriate for every situation. The use of this type of note may be limited to situations where the property sold is expected to appreciate and where the seller will probably not live much longer than the note itself. This is due in part to the premium required to be given in exchange for the inclusion of the "self-canceling" feature. Over the life of the note, the seller may actually accumulate more money in her estate than if she had just sold the property under the standard installment agreement. Additionally, the buyer may end up paying a price higher than the fair market value of the property if the seller outlives the note and the value of the property fails to appreciate. It should also be noted that if the transaction is between family members, the buyer will be prevented from disposing of the property for two years. It should be noted that effectiveness self-canceling installment notes have been called into question in the Eight Circuit. If the client is under this jurisdiction, the use of SCIN notes would not be advisable. Due to the shadow of doubt cast by this case, clients should be consulted to determine their tolerance for risk before entering into such a transaction.

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