

DISGUISED SALE PLANNING

The University of Texas School of Law
70th Annual Taxation Conference
November 30 - December 1, 2022

Andrea M. Whiteway
E&Y LLP
Washington, D.C.

*Copyright 2022 Andrea M. Whiteway.
All rights reserved. Based in part on earlier slides by Blake D. Rubin and Andrea M. Whiteway.*

1

Contribution/Distribution Without Anti-Abuse Rules



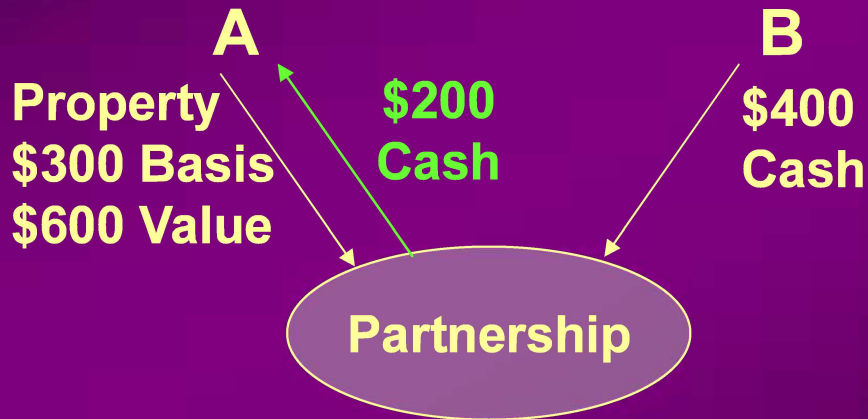
A has no gain; \$100 basis

Copyright 2022 Andrea M. Whiteway. All rights reserved. Based in part on earlier slides by Blake D. Rubin and Andrea M. Whiteway.

2

2

Contribution/Distribution With 707(a)(2)(B)



*A is deemed to sell 1/3 of property for \$200;
has \$100 gain, \$200 basis in interest*

*Copyright 2022 Andrea M. Whiteway. All rights reserved. Based in part on earlier slides by Blake D. Rubin and Andrea M. Whiteway.

3

3

Contribution/Distribution Nonsimultaneous Within 2 Years



*A is presumed to have sold 185/600 of property on
1/1/20 for \$185 plus \$15 imputed interest*

*Copyright 2022 Andrea M. Whiteway. All rights reserved. Based in part on earlier slides by Blake D. Rubin and Andrea M. Whiteway.

4

4

Contribution/Distribution Nonsimultaneous Outside 2 Years



A is presumed not to have sold the property.

*Copyright 2022 Andrea M. Whiteway. All rights reserved. Based in part on earlier slides by Blake D. Rubin and Andrea M. Whiteway.

5

5

Capital Account Distortions

As Maintained		As Adjusted	
Prop 600		Prop	
		Cont 415	
Cash 200		Purch 185	
	400 A	Cash 200	407.5 A
	400 B		392.5 B

Imputed interest expense must be specially allocated to A to avoid capital account distortion.

*Copyright 2022 Andrea M. Whiteway. All rights reserved. Based in part on earlier slides by Blake D. Rubin and Andrea M. Whiteway.

6

6

Find the full text of this and thousands of other resources from leading experts in dozens of legal practice areas in the [UT Law CLE eLibrary \(utcle.org/elibrary\)](https://utcle.org/elibrary)

Title search: Disguised Sales

Also available as part of the eCourse

[2022 Taxation eConference: Day 2 - Business Transactions](#)

First appeared as part of the conference materials for the
70th Annual Taxation Conference: Day 2 - Business Transactions session
"Disguised Sales"