

Would You Suggest a Strategic Bankruptcy? <http://www.jdsupra.com/post/documentViewer.aspx?fid=3383c800-1687-40a4-986a-2c2e0ab201a5>

Would you advise your client to file a [Strategic Bankruptcy](#)? I read [Michael Doan](#)'s recent blog article about the subject and would like to add there are tax advantages to home ownership that were not considered in the equation. A homeowner receives the tax advantage of writing off the mortgage interest paid on their loans and property tax payments, while renters receive no such tax advantage. When a homeowner stops paying on their mortgage, they no longer receive these tax advantages. The tax advantage would serve to reduce the overall savings by the amount in reduction of income tax, even if nominal, it still must be a consideration.

Further, the insurance requirements of **home ownership** can be expensive, depending upon the home. However, the usual homeowner policy also covers the owners personal property both on premises and off, and personal liability. A renters policy serves a similar purpose and will cost sometimes less or about the same as a homeowners policy. I would never suggest that an owner stop paying on the insurance policy while they are still legally on title and responsible for the property, especially in our fire ridden state of California. If there is a loss on the property, while the owner is still on title, and no insurance in force, then the owner would be personally liable.

Here's an idea: A **Shortsale** with a lease back option is something I've personally considered for my own home. As an example, my home is currently upside down by approximately \$209,000. I could eliminate that debt by having a family member buy my home for fair market value in a short sale and then I could rent it from them. That way, I eliminate the debt and later, I buy back the house from them without the additional burden.

In conclusion, make sure you get all the facts and numbers on the table. Each situation is more unique and we cannot possibly say that anyone with negative equity should strategically foreclose or file bankruptcy. **An attorney will discuss all your options** and then you decide your best course of action.