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Business Use of Home Including the Shared Economy



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Objectives

At the end of this learning experience, you will be able to:

- Define personal use and rooms for let
- Make an allocation of deductible vs. nondeductible expenses
- Explain the limitations involved
- Explain the tax impact when a property is disposed



Schedule E / Form 8825

1a Physical address of each property (street, city, state, ZIP code)					
A					
B					
C					
1b	Type of Property (from list below)	2 For each rental real estate property listed above, report the number of fair rental and personal use days. Check the QJV box only if you meet the requirements to file as a qualified joint venture. See instructions.	Fair Rental Days	Personal Use Days	QJV
A			A		<input type="checkbox"/>
B			B		<input type="checkbox"/>
C			C		<input type="checkbox"/>
Type of Property:					
1 Single Family Residence		3 Vacation/Short-Term Rental		5 Land	
2 Multi-Family Residence		4 Commercial		6 Royalties	
				7 Self-Rental	
				8 Other (describe)	



Dwelling Unit Defined

Property providing basic living accommodations

- Sleeping space
- Toilet
- Cooking facilities
- Prop. Reg 1.280A-1(c)



Example 1

FRV/Personal Days	365/0		
Income	20,000		
Management Fee	2,000		
Mortgage Interest	10,000		
Real Estate Tax	1,000		
Depreciation	12,000		
Rental Expenses	25,000		
Personal Expenses	n/a		
Excess 280A Expenses	n/a		



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Personal Use Defined

- Occupancy by any owner
- Occupancy by family
- Occupancy by others that enables the taxpayer to use some other dwelling unit
- Occupancy by others at $< FRV$
- IRC 280A(d)(2)



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Room for Let

- Example: “Airbnb”
- Exclusive Use
- Allocable Space
- Employer Rental
 - IRC 280A(c)(6)



Allocation – Step 1

- Begins with the 1st day of deemed personal use
- Personal expenses:
 - Otherwise Allowable – Schedule A
 - Non-deductible
- IRC 280A(e)



Example 2

FRV/Personal Days	365/0	150/10	
Income	20,000	20,000	
Management Fee	2,000	2,000	
Mortgage Interest	10,000	9,375	
Real Estate Tax	1,000	938	
Depreciation	12,000	11,250	
Rental Expenses	25,000	23,563	
Personal Expenses	n/a	1,473	
Excess 280A Expenses	n/a	n/a	



Limitation – Step 2

- Use as a Residence
 - Greater of 14 days or 10% FRV days
- Rental expenses limited to income
- Excess rental expenses carried forward
- IRC 280A(c)(5)



Example 3

FRV/Personal Days	365/0	150/10	150/20
Income	20,000	20,000	20,000
Management Fee	2,000	2,000	2,000
Mortgage Interest	10,000	9,375	8,824
Real Estate Tax	1,000	938	882
Depreciation	12,000	11,250	10,588
Rental Expenses	25,000	23,563	22,294
Personal Expenses	n/a	1,473	2,706
Excess 280A Expenses	n/a	n/a	2,294



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Dispositions

- Excess rental expenses from prior years
- Loss on Disposition
- Like-Kind Exchange



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Other Implications

- Residence rented for less than 15 days
- Passive Activity Loss consideration
- Primary Residence Exclusion for Family



Case Law

- Akers, T.C. Memo 2010-8
- Van Malssen, T.C. Memo 2014-236
- Jackson, T.C. Memo 1999-226
- Jackson, T.C. Memo 2014-160
- Anderson, T.C. Memo 2006-33



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Resources

- www.irs.gov
- Pub 527, Residential Rental Property
- Pub 544, Sales and Dispositions of Assets
- Pub 547, Casualties, Disasters, and Thefts
- Pub 925, Passive Activity and At-Risk Rules



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Hot Topics on IRS.gov	Search Word(s)
IRS Future State	future state
IRS Audits	audits
Tax Scams – How to Report Them	tax scams
Identity Theft	ID theft
Voluntary Certification Program for Professional Employer Organizations (CPEOs)	CPEO
Sharing Economy	Sharing Economy
Offer in Compromise	Offer in compromise
E-Services – Online Tax Tools	eservices
Private Debt Collection	private debt collection