

## **RENTAL OF RESIDENCES** IN THE MODERN WORLD

Claudia Hill, EA, MBA - Tax Mam, Inc. Annette Nellen, CPA, CGMA, Esq. - Professor, SJSU

Reporting income from rental of a dwelling unit is not a one-tax-rule-fits-all

- IRC 183
- Activities Not Engage in for Profit • IRC 280A Rental of Vacation Homes

• •

#### IRC 183 Activities Not Engaged in for Profit

- How often does this situation occur?
- How about rental to family members at less than fair market value?
- If you don't rent your property to make a profit, you can't deduct rental expenses in excess of the amount of your rental income.
   No losses allowed
  - No carryforwards

#### IRC 280(A) – Disallowance of certain expenses in connection with business use of home, rental of vacation homes, etc.

- ...no deduction otherwise allowable under this chapter shall be allowed with respect to the use of a dwelling unit which is used by the taxpayer during the taxable year as a residence...
- There are three categories of usage that frame the general vacation home rental rules...

#### IRC 280(A) – Disallowance of certain expenses in connection with business use of home, rental of vacation homes, etc.

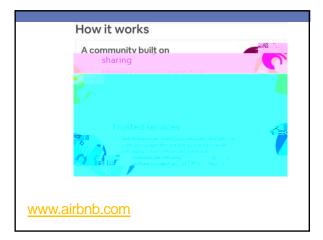
- What if the rental is less than 15 days a year?
- What if the owner restricts their usage to under 15 days a year?
- How do you figure rental expenses when the rental is only a portion of the personal residence or vacation home?
- What is personal use
   v. business use?

### IRS advises that you limit your SALT...

- How do the SALT limitations rules affect the computation of vacation home rental and home office deductions?
- PMTA 2019-01 Interplay between the \$10,000 limitation of \$164(b)(6) and \$280A(b)





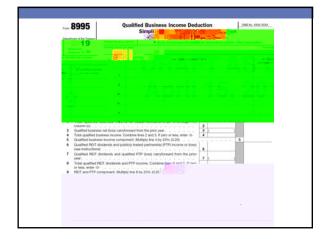


# When would a vacation home rental be presented on a Schedule C rather than a Schedule E?

• What constitutes "substantial services?"
• When would a rental property owner be subject to SE tax?

#### Rental real estate enterprise safe harbor

 Solely for the purposes of 199A, a safe harbor is available to individuals and owners of passthrough entities. Under the safe harbor a rental real estate enterprise will be treated as a trade or business for purposes of the QBI deduction. For more information on the safe harbor see Notice 2019-07. My client owns multiple rentals, but they





## TOO MANY RULES SWIRLING INTO A VORTEX OF GO/NO-GO CONFUSION...

What planning can be considered for residential rentals to position them to take advantage of the 199A benefits?

Using bonus depreciation? Section 179 expensing? De minimis safe harbor elections? Or Not?

## Doing the Due Diligence...

• What questions should you be asking clients to know which category of rental activity they are conducting?



## THE FOLLOWING FLOWCHARTS ARE COURTESY OF

CFS Tax Tools 2019



© 2019 CFS Tax Software Inc. Customer Service: 800-343-1157

<u>cation nome kulles: Is the laws</u>	aver subject to these rules /	· <b>^</b> <u>₩8</u> :		
those who paid by rules	. The taxpaver may be subject to passive	by family members-other than		
ess.than_a.fair_	estate-rules may apply.	anyone.who.uses.the.unit.at.h rental price)?		
Did.the.taypaser.vent.out_the				
		texposice Stornizor		
$\frac{1}{(ays-the-unit,was-rented to others at a fair}$				
	rental price?			
allocate expenses ental days. Rental	Yes expenses intexce	The taxpayer MUST betw <u>een personal</u> and r ess of rental income may be		
		, , , III IIIIIIIIIIIIIIIIIIIIIIIIIII , , , ,		



	Vecai or Lone 3	<u>er 2 Ny Streblet / RS Meloki</u>	
		11. S M	15.11
c(s):		Le voit Marca ann	Næm Deces
uning frances and superson and supers	. جماعهاد التي الحالي المعالمي المعالمي . W	1 A NOR - MARCHAR	
<b>a</b>	I. November 1995 and 1995 and the second states of the second	L. 2	han a little of the little of the little of the
-	A A A A A A A A A A A A A A A A A A A		
vear?		Was the dwelling unit use	
17		TREESLING BARD ING LINL REPLICES TO BRID	
unitra de la compositione de la com	xxpxxxxxxxxxxxxxxxxxxxxxxxxxxxxxxxxxxx		ente:
<u>a Etxoenses Belween Ren</u> i	al and Personal Use		Dijvjidijir
A) Number of days	of rental use		·
	D. Number of damatestation states and the		
	C) Number of days in tax year		
	A 11		
	Allocation Content 778 Basela 1978 Provide Allocation	inser Romit – Jag positin kässes	
ava. avava. ava. ava. ava. av e ve ve ve ve			10511

#### **IRS Method**

 Gross Rents Received	Operating Expenses