

# UK Income Tax Seminar

Louisville Day

## Rental Activities Presentation

October 28, 2024





#ericshadowenslovesrealestate

Eric Shadowens, CPA  
(502) 387-6211

[eshadowens@summit-cpa.com](mailto:eshadowens@summit-cpa.com)

(Real Estate Investor)



[linkedin.com/in/ericshadowens](https://www.linkedin.com/in/ericshadowens)



[biggerpockets.com/users/EricShadCPA](https://www.biggerpockets.com/users/EricShadCPA)



# Who is Eric Shadowens?

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- I've been at Summit for less than a year
- Public accounting for over 25 years while working at regional and small firms
- Began specializing in real estate tax about 8 years ago
- Over 90% of my clients are real estate investors
- Love working in public accounting and real estate

# Tips of the Day

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- Website:
  - BiggerPockets.com (real estate investment website on steroids)
- Real Estate Tax Experts:
  - Brandon Hall, CPA - Hall CPA
  - Amanda Han, CPA - Tax Strategies for the Savvy Real Estate Investor
  - Michael Plaks, EA - See him on BiggerPockets
- Reading:
  - Every Landlord's Tax Deduction Guide - Stephen Fishman
- Software:
  - Stessa.com - Great software alternative to QuickBooks and FREE!
- Don't let your client hear about real estate tax strategies from anyone but you!
  - Well, I was reading about this 1031 thing...
  - My friend was telling me about a cost segregation...

# What's on the Menu for Today

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- ▶ **Passive Activity** (page 345)
- ▶ **Real Estate Professional Exception** (page 345)
- ▶ **SE Tax on Rental Income** (page 339)
- ▶ **Tangible Property Regulations** (page 330)
- ▶ **At-Risk Rules** (page 341)

# Passive Activity (page 345)

- ▶ Losses from rental activities used to be easy to offset with ordinary income
- ▶ The Tax Reform Act of 1986 changed the way rental losses could be used and introduced “Passive Activity”
- ▶ Passive rental losses cannot offset ordinary income
- ▶ All rental activities are now considered “per se” passive unless an investor can meet one of 2 exceptions
  - ▶ Small Landlord Exception
  - ▶ Real Estate Professional Exception (REPS)

# Small Landlord Exception

- ▶ Rental losses of a passive investor:
  - Passive income reduces passive rental losses
    - Remaining losses are suspended and carried forward to future years
    - Interest, dividends, annuities and royalties are considered portfolio income and are not netted with rental losses
  - Losses are limited to \$25,000 when:
    - Modified AGI needs to be less than \$100,000
  - No losses are deductible if:
    - Modified AGI is greater than \$150,000

# Passive Rental w/\$25,000 Deductible Loss

Passive \$25k Loss				
W2 Taxpayer			\$25,000 Loss w/W2	
W2 Wages	90,000		W2 Wages	90,000
			Schedule E (2 SFR)	(25,000)
Standard Deduction	(12,950)		Standard Deduction	(12,950)
Taxable Income	77,050		Taxable Income	52,050
<b>Total Tax</b>	<b>12,569</b>		<b>Total Tax</b>	<b>7,069</b>
<i>Unable to itemize and no side gig</i>			<i>Entire \$25,000 loss is deductible</i>	
		<b>5,500</b>		
<i>***This example is based on a single individual with no dependents. Taxpayer does not itemize deductions.</i>				



# Passive Rental w/\$25,000 Suspended Loss

Passive \$25k Loss				
W2 Taxpayer			\$25,000 Loss w/W2	
W2 Wages	160,000		W2 Wages	160,000
			Schedule E (2 SFR)	0
Standard Deduction	(12,950)		Standard Deduction	(12,950)
Taxable Income	147,050		Taxable Income	147,050
<b>Total Tax</b>	<b>29,128</b>		<b>Total Tax</b>	<b>29,128</b>
<i>Unable to itemize and no side gig</i>			<del>Entire \$25,000 loss is deductible</del>	
		<b>0</b>		
<b>Total Tax Difference</b>				

\*\*\*This example is based on a single individual with no dependents. Taxpayer does not itemize deductions.

# Form Schedule E - page 1

**SCHEDULE E**  
**(Form 1040)**

Department of the Treasury  
Internal Revenue Service

**Supplemental Income and Loss**

(From rental real estate, royalties, partnerships, S corporations, estates, trusts, REMICs, etc.)

Attach to Form 1040, 1040-SR, 1040-NR, or 1041.  
Go to [www.irs.gov/ScheduleE](http://www.irs.gov/ScheduleE) for instructions and the latest information.

OMB No. 1545-0074

**2023**  
Attachment  
Sequence No. **13**

Income:		Properties:		
		A	B	C
<b>3</b>	Rents received . . . . .	<b>3</b>	12,600	
<b>4</b>	Royalties received . . . . .	<b>4</b>		
<b>Expenses:</b>				
<b>5</b>	Advertising . . . . .	<b>5</b>	31	
<b>6</b>	Auto and travel (see instructions) . . . . .	<b>6</b>		
<b>7</b>	Cleaning and maintenance . . . . .	<b>7</b>	698	
<b>8</b>	Commissions . . . . .	<b>8</b>		
<b>9</b>	Insurance . . . . .	<b>9</b>	738	
<b>10</b>	Legal and other professional fees . . . . .	<b>10</b>	250	
<b>11</b>	Management fees . . . . .	<b>11</b>		
<b>12</b>	Mortgage interest paid to banks, etc. (see instructions) . . . . .	<b>12</b>	7,743	
<b>13</b>	Other interest . . . . .	<b>13</b>		
<b>14</b>	Repairs . . . . .	<b>14</b>		
<b>15</b>	Supplies . . . . .	<b>15</b>		
<b>16</b>	Taxes . . . . .	<b>16</b>	1,198	
<b>17</b>	Utilities . . . . .	<b>17</b>		
<b>18</b>	Depreciation expense or depletion . . . . .	<b>18</b>	4,191	
<b>19</b>	Other (list) _____	<b>19</b>		
<b>20</b>	Total expenses. Add lines 5 through 19 . . . . .	<b>20</b>	14,849	
<b>21</b>	Subtract line 20 from line 3 (rents) and/or 4 (royalties). If result is a (loss), see instructions to find out if you must file <b>Form 6198</b> . . . . .	<b>21</b>	(2,249)	
<b>22</b>	Deductible rental real estate loss after limitation, if any, on <b>Form 8582</b> (see instructions) . . . . .	<b>22</b>	( 0 )	( )
<b>23a</b>	Total of all amounts reported on line 3 for all rental properties . . . . .	<b>23a</b>	12,600	
<b>b</b>	Total of all amounts reported on line 4 for all royalty properties . . . . .	<b>23b</b>		
<b>c</b>	Total of all amounts reported on line 12 for all properties . . . . .	<b>23c</b>	7,743	
<b>d</b>	Total of all amounts reported on line 18 for all properties . . . . .	<b>23d</b>	4,191	
<b>e</b>	Total of all amounts reported on line 20 for all properties . . . . .	<b>23e</b>	14,849	
<b>24</b>	<b>Income.</b> Add positive amounts shown on line 21. <b>Do not</b> include any losses . . . . .	<b>24</b>		
<b>25</b>	<b>Losses.</b> Add royalty losses from line 21 and rental real estate losses from line 22. Enter total losses here . . . . .	<b>25</b>	( 0 )	
<b>26</b>	<b>Total rental real estate and royalty income or (loss).</b> Combine lines 24 and 25. Enter the result here. If Parts II, III, and IV, and line 40 on page 2 do not apply to you, also enter this amount on Schedule 1 (Form 1040), line 5. Otherwise, include this amount in the total on line 41 on page 2 . . . . .	<b>26</b>		0

# Form 8582 Passive Activity Loss Limitations

Form **8582**

Department of the Treasury  
Internal Revenue Service

## Passive Activity Loss Limitations

See separate instructions.

Attach to Form 1040, 1040-SR, or 1041.

Go to [www.irs.gov/Form8582](http://www.irs.gov/Form8582) for instructions and the latest information.

OMB No. 1545-1008

**2023**

Attachment  
Sequence No. **858**

### Part I 2023 Passive Activity Loss

Caution: Complete Parts IV and V before completing Part I.

**Rental Real Estate Activities With Active Participation** (For the definition of active participation, see **Special Allowance for Rental Real Estate Activities** in the instructions.)

1a	Activities with net income (enter the amount from Part IV, column (a))	9,577	
1b	Activities with net loss (enter the amount from Part IV, column (b))	( )	
1c	Prior years' unallowed losses (enter the amount from Part IV, column (c))	( 36,317 )	
1d	Combine lines 1a, 1b, and 1c		-26,740.

### Part II Special Allowance for Rental Real Estate Activities With Active Participation

Note: Enter all numbers in Part II as positive amounts. See instructions for an example.

4	Enter the <b>smaller</b> of the loss on line 1d or the loss on line 3		26,740.
5	Enter \$150,000. If married filing separately, see instructions	150,000.	
6	Enter modified adjusted gross income, but not less than zero. See instructions Note: If line 6 is greater than or equal to line 5, skip lines 7 and 8 and enter -0- on line 9. Otherwise, go to line 7.	945,671.	<a href="#">Statement</a>
7	Subtract line 6 from line 5		
8	Multiply line 7 by 50% (0.50). Do not enter more than \$25,000. If married filing separately, see instructions		
9	Enter the <b>smaller</b> of line 4 or line 8. If line 3 includes any CRD, see instructions		0.

### Part III Total Losses Allowed

10	Add the income, if any, on lines 1a and 2a and enter the total		9,704.
11	Total losses allowed from all passive activities for 2023. Add lines 9 and 10. See instructions to find out how to report the losses on your tax return	<a href="#">See Statement</a>	9,704.

# Passive Activity

ACTIVE RENTAL OF REAL ESTATE - PART IV

STATEMENT 1

CURRENT YEAR		PRIOR YEAR UNALLOWED LOSS	OVERALL GAIN OR LOSS	
NET INCOME	NET LOSS		GAIN	LOSS
9,577.	0.	-36,317.		-26,740.
9,577.	0.	-36,317.		-26,740.

- ▶ **REMINDER** – Look for the prior year unallowed loss
  - ▶ Some clients move between tax advisors often and this carryforward often fails to get included on the next year return and is forgotten
  - ▶ New client who had prior year unallowed losses of about \$40k that didn't get carried forward. They were in the 24% tax bracket so finding this carryforward helped save them close to \$10k in federal taxes when they sold the property

# Real Estate Professional Exception

(page 346)

- ▶ General Requirements to Qualify:
  - More than 50% of time spent is spent on **real estate** activities and materially participate;
  - The total amount of time spent is at least 750 hours per year in a **real estate** activity and materially participate; and
  - You materially participate in the **rental** activities
  - Very difficult for W-2 earner to qualify
  - Property managers could make it hard to qualify

# Material Participation (page 348)

- ▶ General Requirements to Qualify:
  - 7 material participation tests and just need to pass one
  - Participation is > 500 hours in tax year
  - Substantial participation (includes non-owner participation)
  - > 100 hours and more than anyone else (includes non-owner participation)
  - 4 others
    - President Trump may have met the 5 of last 10-year test during his time in office when questions were raised on his leaked tax returns

# Material Participation - Continued

- ▶ General Requirements to Qualify:
  - Customary work performed by owner of activity
  - Married filing joint filers can combine their time to meet material participation (cannot combine time to count REPS)
  - Grouping election

# Reconciling REPS

Part V Summary * ENTIRE DISPOSITION OF NONPASSIVE ACTIVITY			
40	Net farm rental income or (loss) from Form 4835. Also, complete line 42 below .....	40	
41	Total income or (loss). Combine lines 28, 32, 37, 39, and 40. Enter the result here and on Schedule 1 (Form 1040), line 5 .....	41	1,032,019.
42	Reconciliation of farming and fishing income. Enter your gross farming and fishing income reported on Form 4835, line 7; Schedule K-1 (Form 1065), box 14, code B; Schedule K-1 (Form 1120-S), box 17, code AN; and Schedule K-1 (Form 1041), box 14, code F. See instructions.	42	
43	Reconciliation for real estate professionals. If you were a real estate professional (see instructions), enter the net income or (loss) you reported anywhere on Form 1040, Form 1040-SR, or Form 1040-NR from all rental real estate activities in which you materially participated under the passive activity loss rules .....	43	STATEMENT 66 649,485.

- ▶ Schedule E page 2
- ▶ **REMINDER** - It's important to designate the rental real estate activities that meet the exception on this line. However, this does not guarantee REPS



# Grouping Rental Activities

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Election to Combine Rental Real Estate Interests Into One  
Activity Pursuant to IRC Sec. 469(c)(7)(A)

Mr. Taxpayer  
PO Box 1234  
Louisville, KY 40202

Taxpayer Identification Number: 123-45-6789

For the Year Ending December 31, 2023

Mr. Taxpayer hereby elects, pursuant to IRC Sec. 469(c)(7)(A), to combine all rental real estate interests into one activity. For the tax year ending December 31, 2023, Mr. Taxpayer was a qualifying taxpayer as defined by IRC Sec. 469(c)(7)(B).

- ▶ This election is made to group all the taxpayers' rental activities together for the material participation test

# Examples of Recent Client Situations

- ▶ Do the following scenarios meet REPS?
  - ▶ Full-time W2 employee with a \$55k loss from an investment in a real estate syndication
  - ▶ Full-time college professor who also has monthly National Guard duty with a real estate broker business and less than 10 SFR rentals
  - ▶ Full-time W2 employee with a STR which he does his own maintenance and property management
    - ▶ Cost Segregation 😊

# Real Estate Professional With W-2 Activity

Real Estate Pro \$30,000 loss				
W2 Taxpayer			\$30,000 Loss w/W2	
W2 Wages	160,000		W2 Wages	160,000
			Schedule E (2 SFR)	(30,000)
Standard Deduction	(25,900)		Standard Deduction	(25,900)
Taxable Income	134,100		Taxable Income	104,100
<b>Total Tax</b>	<b>20,736</b>		<b>Total Tax</b>	<b>14,136</b>
<i>Unable to itemize and no side gig</i>			<i>Entire \$30,000 loss is deductible</i>	
		<b>Total Tax Difference</b>	<b>6,600</b>	
***This example is based on a married filing joint couple with no dependents, one spouse with a full-time W2 and other spouse qualifying as a real estate professional. Taxpayer does not itemize deductions.				

# Examples of REPS Activities

- ▶ Showing the property for rental, taking tenant applications, screening tenants, cleaning and preparing units for rent, doing improvements, purchasing supplies and materials, inspecting the property, collecting rents, responding to tenant complaints
- ▶ Have a property manager? It's much more difficult to meet the exception because PM's do most all the work. Also, investing activities do not count if using a PM
- ▶ No property manager? Investing activities count, **but** not good to have a significant amount of investing activities helping to qualify for REPS
- ▶ Investing activities would include reading financial reports, organizing records, paying bills, reading real estate manuals or time spent riding around looking for new rental properties
- ▶ Where is the list of activities provided by IRS to help the taxpayer? There isn't necessarily a list, but you can compile examples of activities through court cases

# Tax Court Cases - Fascinating

Respondent maintains that petitioner's **rental** activities were passive activities under the per se rule of **section 469(c)(2)**, because she failed to establish that she was a real estate professional in 2011. Petitioner bears the burden of proving that in 2011 she met the criteria under **section 469(c)(7)(B)**.

Generally, a taxpayer may establish the extent of his or her participation in an activity by "any reasonable means". **Sec. 1.469-5T(f)(4)**, Temporary Income Tax Regs., **53 Fed. Reg. 5727** (Feb. 25, 1988). Contemporaneous records are not necessarily required, and reasonable means may include identifying services performed over a period of time and the approximate number of hours spent performing such services by using appointment books, calendars, or other narrative summaries. Id. This Court has previously noted that while the regulations are somewhat ambiguous concerning the records to be maintained by taxpayers, we are not required to accept a postevent "ballpark guesstimate" or taxpayers' unverified, undocumented testimony. See Moss v. Commissioner, **135 T.C. 365**, **369** (2010); Hoskins v. Commissioner, **T.C. Memo 2013-36**.

- ▶ Probably not good to report time collecting rent for a property that was not rented during the period of audit (Antonyshyn, TC Memo 2018-169)
- ▶ Logging 93+ hours of snow removal is not allowable because nothing in the terms of the lease indicated the landlord was responsible for snow removal (Hairston, TC Memo 2019-104)
- ▶ Is it possible to work a full-time W2 job, gamble excessively and work an additional 7-11 hours every day of the year in a rental activity (Ostrom, TC Memo 2017-118)
- ▶ Taxpayer failed to establish how many hours he spent in non-real estate activities to prove the more 50% requirement of time spent (Merino, TC Memo 2013-167)
- ▶ A teacher lost their battle on REPS because hours reported were not reasonable including the taxpayer recording time spent on a rental activity exceeding 24 hours in a day (Escalante, TC Summary Opinion 2015-47)

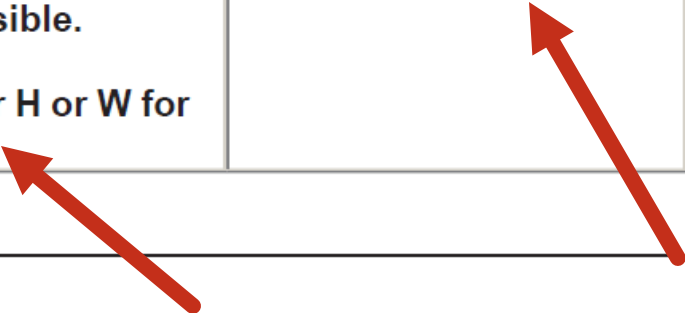
# Documenting REPS Hours

## Exhibit 4.4: Activity Log

Business/Property: \_\_\_\_\_ Year: \_\_\_\_\_

Complete the following by day:

Date	Hours Spent	Description of Service Performed.	If requested, how could activity be verified?
		<p>Be as specific as possible.</p> <p>By each service, enter H or W for husband or wife.</p>	



- ▶ **REMINDER** - The taxpayer should document which spouse performed the duty because as part of material participation both spouses time counts to qualify
- ▶ Substantiating participation – Reasonable means – identifying service, time spent based on contemporaneous appointment books, calendars, or narrative summaries
- ▶ Clients will ask how to document their time – this chart comes from the IRS Passive Activity Audit Technique Guide page 4-16



# SE Tax on Rental Income (page 339)



- ▶ Generally, rent payments for living spaces are not subject to SE tax even if it's a trade or business
  - ▶ Common error is to have taxpayer make S-election thinking it will help reduce SE tax on rental income
- ▶ Real estate dealers are subject to SE tax (investors who buy distressed homes and “flip” them would be an example)
- ▶ Landlord provides substantial service for the convenience of the occupant of the property
  - ▶ Maid service, transportation to and from events, provide meals, mail delivery, etc

# Mid-term Rentals (page 346)



- ▶ **REMINDER** - Average period customer use = 30 days or less **AND** owner provides significant personal services is not considered a rental activity and is subject to SE tax



# Short-term Rentals (page 346)



# Interesting Tax Facts Regarding STRs

- ▶ If average guest stay is less than 7 days, only material participation must be met to offset any losses with ordinary income
- ▶ STRs offering substantial services would be reported on Schedule C of personal return (if single-member or sole proprietor) and subject to SE tax
- ▶ **REMINDER** - Building is depreciated over 39 years
- ▶ Personal use should be less than 14 days or 10% of total rented days
- ▶ Working days on your STR do not count as personal

# Tangible Property Regulations

(page 330)

<b>Profit and Loss</b>	
<b>January - December 2023</b>	
	<b>Rental 1, LLC</b>
<b>Income</b>	
<b>Rent INCOME</b>	41,513.20
<b>Expenses</b>	
<b>Capitalized</b>	16,170.00
Txfr to Asset	
<b>Total Capitalized</b>	<b>\$ 16,170.00</b>
<b>Cleaning &amp; Maintenance</b>	865.00
<b>Insurance</b>	767.42
<b>Labor</b>	310.67
<b>Mortgage</b>	9,995.76
<b>Repairs</b>	786.70
<b>Property</b>	2,859.44
<b>Tenant Turnover</b>	3,157.86
<b>Utilities</b>	1,507.93
<b>Total Expenses</b>	<b>\$ 36,420.78</b>
<b>Net Income</b>	<b>\$ 5,092.42</b>

- ▶ Wouldn't life be easier if our client knew what to capitalize?

# Tangible Property Regulations

(page 330)

6500 - Repair expenses		
Date	Contact	Gross
02 Jan 2024	Home Depot	151.46
09 Jan 2024	Jeff Enterprises	355.00
09 Jan 2024	Jeff Enterprises	349.00
10 Jan 2024	Home Depot	275.16
11 Jan 2024	Home Depot	187.40
11 Jan 2024	Solutions Electric	225.00
16 Jan 2024	Home Depot	294.77
17 Jan 2024	Jeff Enterprises	2,095.00
18 Jan 2024	Home Depot	150.44
22 Jan 2024	Home Depot	313.28
24 Jan 2024	Home Depot	174.39
25 Jan 2024	Home Depot	108.82
29 Jan 2024	Home Depot	399.98
29 Jan 2024	Oscar's Germantown Hardware	40.78
29 Jan 2024	Jeff Enterprises	3,929.65
29 Jan 2024	Oscar's Germantown Hardware	35.49
31 Jan 2024	Vessels Plumbing	3,400.00
01 Feb 2024	Solutions Electric	110.00
02 Feb 2024	Amazon	14.91
05 Feb 2024	Home Depot	64.21
06 Feb 2024	Vessels Plumbing	100.00
08 Feb 2024	Solutions Electric	150.00
09 Feb 2024	Jeff Enterprises	2,060.00
09 Feb 2024	Jeff Enterprises	260.00
09 Feb 2024	Jeff Enterprises	513.64
09 Feb 2024	Lowes	194.70
12 Feb 2024	Home Depot	259.68
15 Feb 2024	Home Depot	72.83
20 Feb 2024	Solutions Electric	120.00
20 Feb 2024	Keith HVAC LLC	3,000.00
23 Feb 2024	Mueller Roofing	5,763.00

- ▶ But instead, you get something like this?



# Tangible Property Regulations

(page 330)

Income:	Properties			Properties		
	A	B	C	A	B	C
3 Rents received .....		19,471.	13,750.	15,093.	12,752.	363,820.
4 Royalties received .....						
Expenses:						
5 Advertising .....						
6 Auto and travel (see instructions) .....			18,285.			
7 Cleaning and maintenance .....		3,330.				5,124.
8 Commissions .....						4,140.
9 Insurance .....	2,700.	985.	23,970.			8,761.
10 Legal and other professional fees .....	6,604.	1,705.	3,745.			5,850.
11 Management fees .....		4,047.	31,507.			
12 Mortgage interest paid to banks, etc. (see instructions) .....	30,713.	34,333.				122,809.
13 Other interest .....			5,940.			
14 Repairs .....		1,403.	3,156.	366.	7,212.	24,247.
15 Supplies .....		15,462.				
16 Taxes .....	13,723.	3,445.	6,717.	2,222.	1,546.	46,152.
17 Utilities .....		1,313.	676.		531.	673.
18 Depreciation expense or depletion .....	233,399.	16,893.	56,172.	3,464.	2,549.	84,913.
19 Other (list) STMT 63 STMT 64 STMT 65 .....	118.	9,368.	101,368.			110.
20 Total expenses. Add lines 5 through 19 .....	287,257.	92,284.	251,536.	6,052.	11,838.	302,779.
21 Subtract line 20 from line 3 (rents) and/or 4 (royalties). If result is a (loss), see instructions to find out if you must file Form 6198 .....	-287,257.	-72,813.	-237,786.	9,041.	914.	61,041.
22 Deductible rental real estate loss after limitation, if any, on Form 8582 (see instructions) .....	287,257.		237,786.			

- ▶ Safe harbors
- ▶ BAR – betterment, adaptation and restoration
- ▶ Unit of Property – plumbing, electrical, HVAC, escalator, elevator, fire protection and alarm, Gas distribution and security

# Routine Maintenance Safe Harbor

(page 334)

Date:					
Name of Tenant:					
Property Address:					
Maintenance Plan					
Description of Component	Task	3 months	6 months	9 months	12 months
Cooling lubrication system					
Air filter					
Turret heads					
Radiager					
Wheel bearing					
Fittings cover					
Hydraulics					
Oil					
Pneumatics					

- ▶ Maintenance on a building or building system **expected** to be performed at least once over a 10-year period
  - ▶ **Actual** performance not required
  - ▶ **Can't be a pre-existing defect fix**
- ▶ **REMINDER** – have a routine maintenance written plan

# De Minimis Safe Harbor (page 330)

Section 1.263(a)-1(f) De Minimis Safe Harbor Election

Mr. Taxpayer  
PO Box 1234  
Louisville, KY 40202

Taxpayer Identification Number: 123-45-6789

For the Year Ending December 31, 2023

Mr. Taxpayer is making the de minimis safe harbor election under Reg. Sec. 1.263(a)-1(f).

- ▶ **Annual election** and **Per invoice or item** expense
- ▶ Allows deductions of \$2,500 (\$5,000 with applicable financial statement)
- ▶ Anti-abuse rule – can't split invoices to stay within dollar limits

# Safe Harbor for Small Taxpayers

(page 335)



- ▶ **Annual election** to expense cost – of building improvements – total cost of repairs – not exceeding 2% of building unadjusted basis or \$10,000 whichever is less if:
  - ▶ 3 preceding years – average annual gross receipts < \$10,000,000
  - ▶ Buildings unadjusted basis = to or < \$1,000,000
  - ▶ Not a change in accounting method
- ▶ **REMINDER** – Repairs, maintenance costs under de minimis safe harbor and routine maintenance are included in total cost of repairs



# At-risk Rules (page 341)



# At-risk Rules (page 341)

## Schedule K-1 (Form 1065)

Department of the Treasury  
Internal Revenue Service

# 2023

For calendar year 2023, or tax year

beginning  /  / 2023 ending  /  /

## Partner's Share of Income, Deductions, Credits, etc.

See separate instructions.

### Part I Information About the Partnership

**A** Partnership's employer identification number

98-7654321

**B** Partnership's name, address, city, state, and ZIP code

REALLY REALTY, LLC  
PO BOX 123 LOUISVILLE, KY 40202

**C** IRS center where partnership filed return:

Check if this is a publicly traded partnership (PTP)

### Part II Information About the Partner

**E** Partner's SSN or TIN (Do not use TIN of a disregarded entity. See instructions.)

123-45-6789

**F** Name, address, city, state, and ZIP code for partner entered in E. See instructions.

JOE TAXPAYER  
PO BOX 321 LOUISVILLE, KY 40202

### Part III Partner's Share of Current Year Income, Deductions, Credits, and Other Items

<b>1</b>	Ordinary business income (loss)	<b>14</b>	Self-employment earnings (loss)
<b>2</b>	Net rental real estate income (loss) -43,854		
<b>3</b>	Other net rental income (loss)	<b>15</b>	Credits
<b>4a</b>	Guaranteed payments for services		
<b>4b</b>	Guaranteed payments for capital	<b>16</b>	Schedule K-3 is attached if checked <input type="checkbox"/>
<b>4c</b>	Total guaranteed payments	<b>17</b>	Alternative minimum tax (AMT) items
<b>5</b>	Interest income		
<b>6a</b>	Ordinary dividends		
<b>6b</b>	Qualified dividends	<b>18</b>	Tax-exempt income and nondeductible expenses
<b>6c</b>	Dividend equivalents		
<b>7</b>	Royalties		

- ▶ Can the taxpayer deduct this loss on his personal return?
- ▶ Would a distribution from this partnership be taxable?
  - ▶ Beyond today's scope of presentation

# Buckets of Activity



- ▶ Tax Basis 704(d) -
  - ▶ Basis can never go negative
  - ▶ Any losses in excess of basis are disallowed and carried forward
- ▶ At-risk Basis (465) -
  - ▶ Must apply At risk rule before passive activity loss limits
  - ▶ Decreases can cause a negative balance, but losses are suspended and carried forward
- ▶ Passive Activity (469)

# Tax and At-Risk Comparison

<i>Increases:</i>		704(d) basis limitation	At-Risk limitation of Sec 465
1 Adjusted basis at the end of the prior year (not less than zero)	1	10,114,402	10,114,402
2 Money and your adjusted basis in property contributed to the partnership less the associated liabilities (not less than zero)	2	0	0
3 Partner's share of partnership liabilities (current year Item K, Schedule K-1 and increased share)	3	19,707,505	19,559,877
a. Less: Liabilities included in line 1 above (prior year Item K)	3a	(9,452,714)	(9,452,714)
4 Items of income or gain this year including tax-exempt income			
a. Ordinary business income	a	0	
b. Net rental real estate income	b	0	
c. Other net rental income	c		
j. Other income	j		
k. Tax-exempt income	k		
5 Gain (if any) recognized this year on contribution of property to partnership (other than gain from transfer of liabilities)	5		
6 Depletion (other than oil and gas) in excess of basis	6		
<b>Total Increases (Add lines 2 through 6)</b>		<b>10,254,791</b>	<b>10,107,163</b>
<i>Decreases:</i>			
7 Withdrawals and distributions during the year	7	(7,185,000)	(7,185,000)
8 Partner's share of partnership liabilities (current year Item K, Sch K-1 and decreased share)	8		
a. Less: Liabilities included in line 1 above (prior year Item K)	8a		
9 Nondeductible expenses	9	0	0
10 Partnership losses and deductions:			
a. Ordinary business (loss)	a	(198,062)	(198,062)
b. Net rental real estate (loss)	b	(57,034)	(57,034)
g. Other deductions	g		
l. Disallowed prior year's losses and deductions	l		
<b>Total decreases (Add 10(a) through 10(k) and line 11)</b>		<b>(255,096)</b>	<b>(255,096)</b>
<b>Adjusted Basis of partnership interest (If less than zero, enter zero)</b>		<b>12,929,097</b>	<b>12,781,469</b>

# Partnership K1 - Sections K and L

## K1 Partner's share of liabilities:

		Beginning		Ending
Nonrecourse	\$	251,412.	\$	269,812.
Qualified nonrecourse financing	\$	0.	\$	0.
Recourse	\$	320,382.	\$	2,352,764.

## L Partner's Capital Account Analysis

Beginning capital account	\$	127,379.
Capital contributed during the year	\$	600.
Current year net income (loss)	\$	-6,875.
Other increase (decrease) (attach explanation)	\$	-8,141.
Withdrawals and distributions	\$(	
Ending capital account	\$	112,963.

- ▶ Beginning tax basis equals  $\$251,412 + \$320,382 + \$127,379 = \$699,173$
- ▶ Beginning at risk basis equals  $\$320,382 + \$127,379 = \$447,761$
- ▶ K-1 – nonrecourse is not at risk, qualified nonrecourse could be at risk, recourse is generally at risk



# Form 6198 – At-Risk Limitations

Form **6198**

(Rev. December 2020)

Department of the Treasury  
Internal Revenue Service

## At-Risk Limitations

▶ Attach to your tax return.

▶ Go to [www.irs.gov/Form6198](http://www.irs.gov/Form6198) for instructions and the latest information.

OMB No. 1545-0712

Attachment  
Sequence No. **31**

### Part I Current Year Profit (Loss) From the Activity, Including Prior Year Nondeductible Amounts. See instructions.

1	Ordinary income (loss) from the activity (see instructions) .....	1	-9,554.
2	Gain (loss) from the sale or other disposition of assets used in the activity (or of your interest in the activity) that you are reporting on: .....		
a	Schedule D .....	2a	
b	Form 4797 .....	2b	
c	Other form or schedule .....	2c	
3	Other income and gains from the activity, from Schedule K-1 (Form 1065) or Schedule K-1 (Form 1120-S), that were not included on lines 1 through 2c .....	3	1,475.
4	Other deductions and losses from the activity, including investment interest expense allowed from Form 4952, that were not included on lines 1 through 2c .....	4	( 5.
5	Current year profit (loss) from the activity. Combine lines 1 through 4. See the instructions before completing the rest of this form .....	5	-8,084.

### Part II Simplified Computation of Amount at Risk. See the instructions before completing this part.

6	Adjusted basis (as defined in section 1011) in the activity (or in your interest in the activity) on the first day of the tax year. Do not enter less than zero .....	6	239,281.
7	Increases for the tax year (see instructions) <u>See Statement</u> .....	7	12,140.
8	Add lines 6 and 7 .....	8	251,421.
9	Decreases for the tax year (see instructions) <u>See Statement</u> .....	9	32,996.
10 a	Subtract line 9 from line 8 ▶ 10a 218,425.		
b	If line 10a is more than zero, enter that amount here and go to line 20 (or complete Part III). Otherwise, enter -0- and see Pub. 925 for information on the recapture rules .....	10b	218,425.

### Part IV Deductible Loss

20	Amount at risk. Enter the larger of line 10b or line 19b .....	20	218,425.
21	Deductible loss. Enter the smaller of the line 5 loss (treated as a positive number) or line 20. See the instructions to find out how to report any deductible loss and any carryover <u>LOSS(ES) FULLY DEDUCTIBLE</u> .....	21	( 8,084.

**Note:** If the loss is from a passive activity, see the Instructions for Form 8582, Passive Activity Loss Limitations, or the Instructions for Form 8810, Corporate Passive Activity Loss and Credit Limitations, to find out if the loss is allowed under the passive activity rules. If only part of the loss is subject to the passive activity loss rules, report only that part on Form 8582 or Form 8810, whichever applies.



# Wrapping It Up

Eric Shadowens, CPA  
502-387-6211  
eshadowens@summit-cpa.com  
[www.linkedin.com/in/ericshadowens](http://www.linkedin.com/in/ericshadowens)

As Seen Online


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