

# Biz expert: Tax breaks for Realtors time consuming

Dan Henn 5:29 p.m. EST February 27, 2015



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Hey, Dan "The Tax Man": I am a part-time Realtor and someone told me that I can deduct all of the losses on my rental properties because I am involved in the real estate business. Is that correct?

This is a great question, but as usual, it has the "It depends" answer, as do most tax questions. Here are the issues. First, because you said you are a part-time Realtor, the question I would ask you is how much of your time do you spend as a Realtor. If you have another day job that you spend more than 50 percent your time there, then the answer is no. You do not qualify for the special rule for Realtors.

So now you ask, what is the special rule? Well, let's talk about the general rule first then we can come back to the special rule. In general, rental real estate (commercial and residential) is considered as a passive activity by definition for everyone unless you meet some other special rule. Also, this really only matters if you have a tax loss on the rental property.

If you have a rental property and you spend at least 100 hours on that property and spend more time than anyone else who works on the property, you can deduct a tax loss under the rule for passive losses with material participation. There is a cap of \$25,000 (in total, not per property) in rental losses if you meet the material participation rule. The cap begins to phase out with a modified adjusted gross income at \$100,000. If your MAGI exceeds \$150,000, then you lose out on this altogether. At least for the current year.

Now if you use a property manager to manage your rental and they spend more hours than you and you don't get near the 100 hours, then if it is a loss and you have no other passive income, you lose the loss (meaning you cannot deduct it on the current return). The loss becomes suspended and can be utilized in the future. It can be used in the future year when you either a) have income on a property to offset the prior losses or b) when you sell the property.

Now, for a real-estate agent, you have to be considered a "Real Estate Professional" by the tax standards. The requirements are:

- 1. You have to have 50 percent of your working hours in a real estate trade or business
- 2. You have to have a minimum of 750 hours in a real estate trade or business
- 3. You must have a greater than 5 percent ownership interest in a real estate trade or business.

Of course, real estate trade or business professions are Realtors (commercial and residential), real property managers, home builders, construction contractors and redevelopment entities. If you are a greater than 5 percent owner in an S corporation or file as a sole proprietor on Schedule C, then you will meet the requirement of No. 3. If you meet *all* of these rules, then you can deduct 100 percent of the losses with no cap or limit.

Keep in mind, however, that you still have to meet the 100-hour rule (per property) each year. There is a way to make a grouping election of all of your rental properties that can give you current benefits and reduce the hour limit per property, but there are pitfalls with this method that you should consult a tax professional.

Feel free to contact my office should you have any further questions.

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