

# Tax Year 2019: Rental Property Requirements

2019 implements a new set of rules relating to rental properties that we must start following in order to try to qualify for the favorable "20% Qualified Income Deduction" (QBI). In the past, the rental of property rules has been fairly simple, but now rental property owners must step up their game.

The 20% QBI deduction is only allowed for qualified trade or business income. The question that arises is "when is a rental activity a trade or business". IRS has come up with a safe harbor method. This can be difficult for a one or two rental unit to meet.

## Safe Harbor

To use the safe harbor the taxpayer is required to:

1. Maintain separate books and records for each rental activity (or the combined enterprise if aggregated together),
2. Demonstrate that 250 hours or more of "**rental services**" per year for the activity (or combined enterprise) were performed by the owners, employees or independent contractors with respect to the enterprise, and
3. Maintain contemporaneous records, including time reports or similar documents, regarding (1) hours of all services performed, (2) description of all services performed, (3) dates on which such services are performed, and (4) who performed the services.
4. For these purposes, rental services include advertising to rent, negotiating and executing leases, verifying tenant applications, collection of rent, daily operation and maintenance, management of the real estate, purchase of materials, and supervision of employees and independent contractors.
5. Rental services do not include financial or investment management, arranging financing, procuring property, studying and reviewing financial statements or reports on operations, or planning, managing or constructing long-term capital improvements.
6. Property leased under a triple net lease is not eligible for the safe harbor.
7. You cannot use the safe harbor for the rental of any residence that you also use as a residence, personal use of more than the > of 14 days or 10% of rental days.

## Aggregation

The taxpayer may choose to aggregate commonly owned rentals into one enterprise, perhaps making it easier to meet the 250-hour test (or the UBIA limit for high income individuals). However, the regulations do not allow commercial rentals and residential rentals to be aggregated.

## Statement Attached

There are requirements that if the rental meets the safe harbor a statement must be attached to the return on which it claims the § 199A deduction or passes through § 199A information that the requirements have been satisfied.

## Form 1099

In the past we have not been required to file 1099's on rental activities. The regulations require that if you treat the rental activity as a trade or business, the taxpayer must file required Forms 1099.

## Summary

Under the new regulations records must be kept for each rental activity along with time spent in dealing with the activity. You can combine rental activities, if you own more than one rental to try to meet the safe harbor rules. If you report you are eligible for the 20% deduction for your rental activity, then all rental activities must comply with 1099 form filing requirements. If you do not qualify for safe harbor all is not lost. The rental property may still be qualified as a trade or business, depending on your facts and circumstances.

## Contact Us

Many events can affect your tax situation. With proper planning, you can avoid negative tax effects. Please contact us in advance if you experience the following:

- Pension or IRA distributions.
- Sale or purchase of a residence or other real estate.
- Significant change in income or deductions.
- Retirement.
- Job change.
- Notice from IRS or other revenue department.
- Marriage.
- Divorce or separation.
- Attainment of age 59 ½ or 70 ½.
- Self-employment.
- Sale or purchase of a business.
- Charitable contributions of property in excess of \$5,000