



## Tax Implications Related to Charitable Donations of Time at Vacation Rentals

In general, IRS rules and guidelines related to donations of (and charitable use of) time at vacation rental properties are not black and white. We've done our best to gather some useful information below. *When in doubt please contact your tax advisor* as we are certainly not tax consultants.

### Information for Vacation Rental OWNERS

#### **Tax Deduction**

We'd suggest that you consult with your tax advisor, but we located an (unfortunate) IRS ruling specifically geared to target donations of time at vacation rentals. In Revenue Ruling 89-51, the IRS ruled that the right to use a vacation home for one week, donated by the owner of the home to a charitable fundraising auction and sold for fair rental value, constitutes the "**right to use property**" and is not a deductible contribution. Again, consult your tax advisor for his / her guidance. The theory is that allowing the use of an otherwise vacant property does not result in a direct, incremental cost to the owner. The case can be made that if you had rented your vacation home and collected income and then donated that to charity, you would have shown revenue (and paid tax on that revenue) and received a tax deduction, therefore it would be a "wash"

#### **Taxes on Income Received**

If you receive a portion of the rent and the other portion goes to charity, then you should pay tax on the portion you received. You can't take a charitable deduction for the amount donated to charity (since you didn't pay tax on the revenue), but you also don't have to report the charitable portion as income.

#### **14 Day Rule**

Internal Revenue Code Section 280A governs rules on the deductibility of expenses related to a second home. Section 280A dictates that if a vacation home owner occupies the home for more than the greater of a) 14 days or b) 10% of the number of days that the property is rented for fair value, then the expenses related to the home are personal in nature and non-deductible. So, if an owner rents a second home for 30 days a year, then the owner can stay in the home for 14 days and preserve deductibility, and if they rent the home for 200 days a year, then the owner can stay in the home for 20 days and preserve deductibility. If expenses are limited due to excess personal use, then expenses are prorated based on the days used personally. Mortgage interest and real estate taxes are deductible anyway, so these expenses are not affected by the proration rule.

### Information for Vacation Home RENTERS

#### **Tax Deduction**

The renter of a charitably donated vacation home rental will typically not get any sort of tax deduction. Tax rules dictate that where a person gives money to a charity and receives goods or services of value in return, a charitable deduction can be taken only to the extent that the amount paid exceeds the fair value of the good or services received. In silent auctions, for example, it is possible that the winning bidder for a vacation pays in excess of fair market value in order to help the charity. In this circumstance, the charity is responsible for reporting the amount of the tax deductible donation (over and above the fair market value as that portion is deductible) or simply providing the fair market value to the winning bidder at the silent auction.

## ***Some Examples Specific to Geronimo Vacation Rentals for Charity***

***OK, so my rented on Geronimo for say \$2,000 a week, half of the rent is donated to charity and half comes to me. How much rental income is reported on my taxes?***

\$1,000. You can't take a charitable deduction for the amount donated to charity, but you also don't have to report the charitable portion as income.

***Do I receive a tax deduction for the amount of that goes to Charity?***

No. The IRS has held that the donation of time at a vacation rental property constitutes a "right to use property" and is not a deductible contribution. The theory is that allowing the use of an otherwise vacant property does not result in a direct, incremental cost to the owner.

***My vacation rental property is managed by a property management company. On a \$2,000 rental, the management company takes a fee of \$200, \$900 comes to me and \$900 goes to charity. How do I report this on my taxes?***

You would report \$1,100 as gross rental income and a deductible expense of \$200. Note that these items are probably reported to you by the property management company that manages your vacation rental property

***Does the renter get a tax deduction for the amount that goes to charity?***

Usually not. A charitable tax deduction can be taken only to the extent that the amount paid exceeds the fair value of the good or services received. In silent auctions, it is possible that the winning bidder for a vacation pays in excess of fair market value in order to help the charity. In this circumstance, the charity is responsible for reporting the amount of the tax deductible donation. However since Geronimo vacation rentals for charity are often great deals and much less than fair market value, a tax deduction for the renter is typically not going to be available.

***How do weeks donated to Geronimo affect the 14 day rule?***

This is not entirely clear. If a property owner chooses to keep half of the rental income, then we believe that the donated week is included as "days rented at fair value" for purposes of the 10% calculation.

The IRS has held that where a property rented and 100% of the rental income goes to charity, the number of days donated count as *personal use* days for purposes of the 14day/10% calculation. We find this ruling to be odd. The rules relating to personal use of rental vacation property are complicated. We strongly suggest that you discuss any issue you may have with your tax advisor.

## FROM THE IRS DIRECTLY

**Topic 415 - Renting Residential and Vacation Property (formerly Renting Vacation Property and Renting to Relatives)** If you receive rental income from renting a dwelling unit, such as a house or an apartment, you may deduct certain expenses. These expenses, which may include mortgage interest, real estate taxes, casualty losses, maintenance, utilities, insurance, and depreciation, will reduce the amount of rental income that is taxed. You will generally report such income and expenses on [Form 1040](#) (PDF) and [Form 1040, Schedule E](#) (PDF). If you are renting to make a profit and do not use the dwelling unit as a personal residence, then your deductible rental expenses may be more than your gross rental income. Your rental losses, however, generally will be limited by the "at-risk" rules and/or the passive activity loss rules. For information on these limits, refer to [Publication 925, Passive Activities and At-Risk Rules](#).

If you rent a dwelling unit to others that you also use as a personal residence, then your deductible rental expenses may be limited. You are considered to use a dwelling unit as a personal residence if you use it for personal purposes during the tax year for more than the greater of: 14 days or 10% of the total days it is rented to others at a fair rental price. It is possible that you will use more than one dwelling unit as a personal residence during the year. For example, if you live in your main home for 11 months, your home is a dwelling unit used as a personal residence. If you live in your vacation home for the other 30 days of the year, your vacation home is also a dwelling unit used as a personal residence unless you rent your vacation home to others at a fair rental value for 300 or more days during the year.

A day of personal use of a dwelling unit is any day that it is used by:

- You or any other person who has an interest in it, unless you rent your interest to another owner as his or her main home under a shared equity financing agreement
- A member of your family or of a family of any other person who has an interest in it, unless the family member uses it as his or her main home and pays a fair rental price
- Anyone under an agreement that lets you use some other dwelling unit
- Anyone at less than fair rental price

If you use the dwelling unit for both rental and personal purposes, you generally must divide your total expenses between the rental use and the personal use based on the number of days used for each purpose. However, you will not be able to deduct your rental expense in excess of the gross rental income limitation (your gross rental income less the rental portion of mortgage interest, real estate taxes, and casualty losses, and rental expenses like realtors' fees and advertising costs). However, you may be able to carry forward some of these rental expenses to the next year, subject to the gross rental income limitation for that year. If you itemize your deductions on [Form 1040, Schedule A](#), you may still be able to deduct your personal portion of mortgage interest, property taxes, and casualty losses on that schedule.

There is a special rule if you use a dwelling unit as a personal residence and rent it for fewer than 15 days. In this case, do not report any of the rental income and do not deduct any expenses as rental expenses.

Another special rule applies if you rent part of your home to your employer and provide services for your employer in that rented space. In this case, report the rental income, but do not deduct any expenses as rental expenses.

*Any advice concerning Federal, state and local tax issues contained in this written communication has not been written nor is it intended by the author to be used, and cannot be used, for the purpose of (i) avoiding federal, state or local tax penalties that may be imposed by the Internal Revenue Service or applicable state or local tax provisions, or (ii) promoting, marketing, or recommending to another party any transaction or matter addressed herein. You should seek the council of a competent tax advisor for any specific issues relating to matters discussed herein.*