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Q How is the loss from my vacation rental treated?

A Generally, losses from rental real estate are subject to the Passive Loss rules (i.e. generally, losses can only be taken to the extent of passive income). However, there is an exception for real estate rented an average of seven days or less where the owner materially participates.

Generally, an owner must satisfy any one of a number of tests. As a practical matter, the taxpayer must be managing the property and arranging for all of the services normally associated with management. In addition, the owner must demonstrate that she spends a significant amount of time managing the activity (generally more than 100 hours).

If the owner fails the material participation test, then the loss from the activity remains a passive loss subject to the passive loss rules. In addition, rentals used personally may be limited under the stricter “vacation rental rules”.