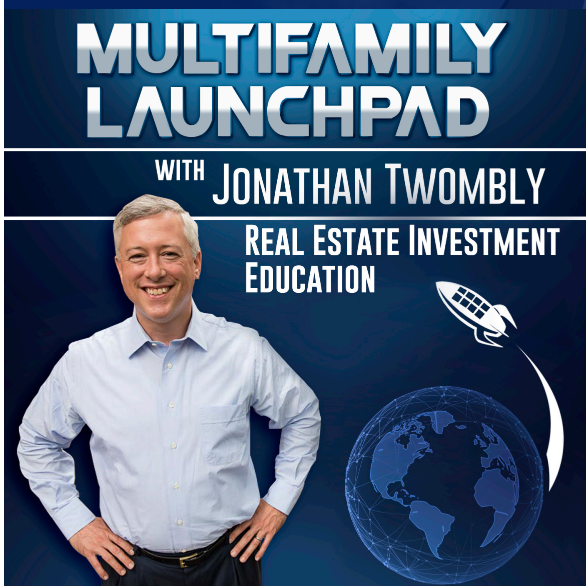

Special Tax Considerations for Syndicators

Module 9 - Video 4

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Video Overview

What's covered:

- Real Estate Professional designation and what it means for your taxes
- Carried interest taxation
- LLC taxation

Disclaimer

DISCLAIMER

- I'm NOT a CPA
- I'm a lawyer, but I'm not a tax lawyer and I'm not YOUR lawyer
- This presentation is based on my layman's working understanding of the tax laws as they affect my profession
- It's very confusing, and I cannot even guarantee I'm getting it all right
- You MAY NOT rely on anything herein as tax or legal advice
- You MUST consult your CPA and tax lawyer before making any real estate investment decisions

Real Estate Professionals

REAL ESTATE PROFESSIONAL DEFINITION

- To qualify as a ”real estate professional,” you must meet a three-part test:

1. You must materially participate in a real estate business
2. You spend more than 50% of your work time on real-estate related activities
3. You work at least 750 hours a year on real estate activities (not including time as a passive investor)

- Check with your CPA about what activities qualify and how you must document them

Real Estate Professional – Advantages

- The primary advantage of this designation is that you can deduct real estate losses against regular income
- If you do not qualify, you are considered a passive investor, and you can only deduct losses against other passive income
- This is important when you have depreciation losses that are not fully used up by the property income
- Real estate professionals can use the extra losses to offset other earned income from self and spouse

Real Estate Professional – Disadvantages

- The primary disadvantage of this designation is that your real estate income is taxed at normal earned income tax rates, which are higher than passive income rates
- If all your income is offset by depreciation, than this doesn't really harm you

Real Estate Professional – Summary

- If you are a "real estate professional"
  - ✓Your real estate income is taxed at normal rates
  - ✓But you can offset normal income from other sources (i.e. spouse) with real estate tax losses
- If you are NOT a "real estate professional"
  - ✓Your real estate income is taxed at lower passive income rates
  - ✓But you can only offset losses against other passive income
- Be sure to check with your CPA about which works better for you
- Keep good time records of your activities

Carried Interest Taxation

Carried Interest Taxation

- One of the biggest benefits for syndicators
- The piece of the deal you earn on the sale is called a “promote” or “participation”
- For tax purposes, this is considered a “carried interest”
- Even though you put up no equity for this share of profits, for tax purposes it’s treated as if you did, and the gain is treated like a capital gain
- So the tax treatment is the same as capital gains - which are taxed at a lower rate than normal income
- Theory is that you have had to wait for the entire investment to run its course, so it’s fairer to treat it like equity rather than earned income

Carried Interest Taxation

- Catch: the investment period must be at least 3 years
- Used to be just 1 year – Rehabbers who sell in 1 year no longer get this

LLC Tax Deduction

LLC Tax Deduction

- Income earned in a business that is incorporated, including LLCs, is given a 20% tax deduction off the top
- Only applies to first $157,500 of income if you are single
- Or $315,000 if you are married
- Phase-outs over that level of income
- So this can benefit you if you are operating your real estate business through an LLC
- But check with your CPA to make sure you are in compliance with all necessary factors

Q&A in The Facebook Group

Next up:

Module 10 – Video 1
Overview of Module 10 – Closing, Takeover, and Asset Management