

2024 Real Estate Tax Strategies Your CPA May Have Missed, Didn't Tell You About or **SIMPLY DOESN'T K NOW!** 



## About Us

The Real Estate Tax Strategy Institute is among the select few firms in the country dedicated to teaching both simple and advanced real estate taxation strategies for clients who own commercial and income properties. Their comprehensive curriculum covers topics such as basic depreciation and expensing, Tangible Property Regulations, partial asset dispositions, cost segregation, Real Estate Professional Status, short-term rentals, land valuations, and strategies for more profitable property flips.



Kevin Jerry, MST

Kevin Jerry is a nationally recognized expert in Tax Method Changes. He specializes in Cost Segregation, Tangible Property Regulations, and revenue recognition changes. Kevin graduated with honors from the University of Cincinnati with a Master of Science Degree in Real Estate Taxation. Over the last ten years, he has worked with some of the largest property owners in the country. He is also a sought-after speaker on the Tangible Property Regulations, the Real Estate Professional certification, and the nuances and complexities of Cost Segregation. Kevin has spoken at such venues as the American Institute of Certified Public Accountants, the Kentucky CPA Association, the Florida CPA Association, the Hong Kong Trade Association, and the California CPA Association.



#### Michelle Goheen CPA

Michelle is a CPA with extensive experience, specializing in creating and maximizing enterprise value. Her career includes a decade with top consulting firms like EY and PwC, where she led billions of dollars in M&A transactions and initial public offerings,, building a reputation for driving success with precision and insight. Michelle attended Baylor University and majored in Accounting and Finance.

Currently, Michelle leverages her extensive CPA expertise and deep passion for real estate tax strategies to equip real estate investors with the knowledge and tools needed to implement IRS-proven strategies, optimize tax efficiency, and avoid overpaying taxes. As a sponsor and general partner in real estate syndications, she creates investment opportunities in high-demand student housing markets such as Ole Miss in Oxford, Mississippi,.

Who Uses These Strategies?

Blackstone



**Brookfield** 

cerberus







# Objectives of RETSI

- 1. Learn what Regulations will save you taxes.
- 2. Get your real estate tax questions answered.
- 3. Understand the basic concepts of Real Estate Taxation including depreciation and expensing.
- 4. Learn what Cost Segregation is and how it works.
- 5. Learn how to value your land.
- 6. Understand the basic concepts of the Tangible Property Regulations under §263a.
- 7. Learn easy to understand 'Safe Harbors'.
- 8. Understand how to expense the garbage thrown out during a renovation.
- 9. Understand how to expense dumpsters and the costs of removing the garbage.
- 10. Learn why short-term rentals are more beneficial from a tax standpoint.
- 11. Learn how to become a Real Estate Professional.
- 12. Learn when to question your CPA.



## Todays Objective

- 1. Learn the difference between accounting, taxes & strategy
- 2. Understand depreciation and expensing.
- 3. Learn what Cost Segregation is and how it works.
- 4. Learn what the Tangible Property Regulations are.
- 5. Understand how to expense the garbage thrown out during a renovation.
- 6. Learn how to become a Real Estate Professional.
- 7. Learn why short-term rentals are more beneficial from a tax standpoint.
- 8. Learn how to engage a qualified tax professional to implement your tax strategy and why you should not DIY.
- 9. Learn when to question your CPA or tax preparer.



# Why your CPA may not have mentioned these.

#### Tax Accounting/"Doing Your Taxes":

Generally, is focused on ensuring compliance with tax regulations set by the IRS. It focuses on calculating taxable income and determining tax liabilities for individuals or businesses, applying various tax laws, deductions, and credits. They generally work with what you give them as your records for the tax year.

#### **Tax Strategy:**

Tax strategy involves proactive planning to legally minimize tax liabilities by utilizing available deductions, credits, and timing of income and expenses, ensuring compliance with IRS regulations.

#### **Real Estate Tax Strategy:**

Real estate tax strategies are highly specific and well-regulated, often surpassing the training of standard CPAs/tax preparer. Unless a tax preparer or strategist specializes in real estate tax strategy, they would not understand the intricacies and every changing regulations involved, such as cost segregation, bonus depreciation, passive activity losses, and tangible property rules.



Expensing is always better than depreciating.
Why?



# What is the difference between expensing and depreciating?

#### \$100,000 roof replacement

#### Depreciated:

- \$100,000/39 = \$2,564 per year of income reduction from depreciation.
- At a 35% tax rate, that reduces taxes paid by \$897 in the current year.
- Depreciation recapture upon sale after ten years is \$25,640. The long term capital gains tax will be as high as \$5,128.

#### Expensed:

- \$100,000 income reduction in the current year.
- At a 35% tax rate, that reduces taxes paid by \$35,000 in the current year.
- Depreciation recapture is \$0.



Depreciation is a "noncash" expense.
What does that mean?



## Depreciation

- Depreciation is MANDATORY!
- Depreciation considers the wear and tear of an asset and reduces its value through basic accounting
- Depreciation reduces your taxable income.
- A reduction in taxable income reduces your taxes.
   Straight line depreciation is the easiest method to create the expense.



## Depreciation Class Lives

- All assets have "class lives" which is how long the IRS allows an asset
- to become fully worthless. These have no basis in reality.
- Cars have a class life of five years.
- Office furniture has a class life of seven years.
- Bathrooms, flooring, window coverings, and kitchens have a class life of five years.
- Flooring has a class life of five years.
- Landscaping has a class life of fifteen years.
- Long term rental homes or apartment have a class life of twentyseven years.
- Commercial buildings and short-term rentals have a class life of thirty-nine years.



## Straight Line Depreciation Example

- Cost of a short-term rental (minus land) is \$500,000.
- The class life of short-term rentals is 39 years.
- \$500,000/39 years creates a depreciation expense
   of: \$12,820 per year
- If you are in the 30% combined federal and state tax bracket, the actual tax savings per year is:

\$3,846 per year

HOWEVER.....if you were to break down the components of the building.....



How does

Cost Segregation

work?







### Buildings are separated into:

- The structure
- Tangible personal
   property be (i.e. things that can removed from a building).





The "tangible personal property" items in this photo -- such as the flooring, accent lighting, and window coverings can be moved from a 39-year class life (for short term rentals) to a 5-year class life.

## Cost Segregation Example

- Cost of a short-term rental (minus land) is \$500,000.
- The value of the structural components is \$380,000
- \$380,000/39 years creates a depreciation expense of: \$9,743
- The value of the interior "segregated" components is \$100,000.
- \$100,000/5 years creates a depreciation expense of: **+ \$20,000**
- The value of the "segregated" land improvements is \$20,000.
- \$20,000/15 years creates a depreciation expense of: **+ \$1,333**



## Cost Segregation Versus Straight Line

- Cost of a short-term rental (minus land) is \$500,000.
- Straight line depreciation expense is:

\$7,692

 At a 30% combined federal and state tax bracket, the actual tax deduction is:

\$3,846

• Cost segregation depreciation expense is:

 At a 30% combined federal and state tax bracket, the actual tax deduction using cost segregation (with 2024 bonus depreciation, but before Section 179 is applied) is:

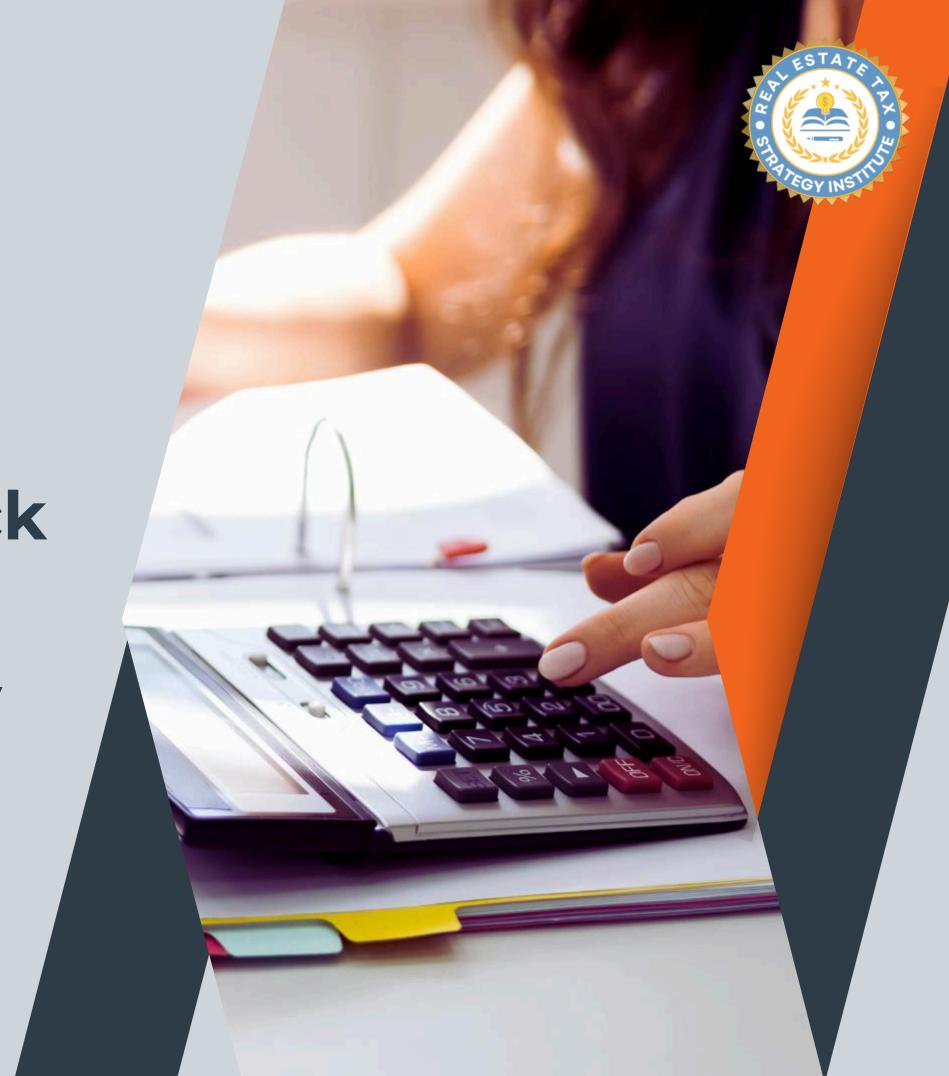
\$21,322 + Section 179 deductions



Haven't Done a Cost Segregation on Your Property?

§481a allows us to **go back** in time and apply cost

segregation retroactively .....By changing your depreciation method



#### Form 3115

#### **Application for Change in Accounting Method**

OMB No. 1545-2070

(Rev. December 202)

Go to www.irs.gov/Form3115 for instructions and the latest information.

Attachment Sequence No. 315

Name of filer (name of parent corporation if a consolid	lated group) (see instructions)	Identifica	ation number (see instructions)			
		Principal	business activity code number (se	ee instructions	)	
lumber, street, and room or suite no. If a P.O. box, se	ee the instructions.	Tax year	of change begins (MM/DD/YYYY)	)		
			of change ends (MM/DD/YYYY)			
City or town, state, and ZIP code		Name of	contact person (see instructions)			
lame of applicant(s) (if different than filer) and identific	cation number(s) (see instructions)		Contact person	n's telephone r	umber	
Does the filer want to receive a copy of the	e change in method of accounting	g letter ruling	or other correspondence	е		
elated to this Form 3115 by fax or encryp						No
f the applicant is a member of a consolida						
Form 2848, Power of Attorney and Decl						
Check the box to indicate the type of a			e appropriate box to indi			
_ Individual	Cooperative (Sec. 1381)		nting method change bei	ing request	ed.	
Corporation	Partnership	See instru				
Controlled foreign corporation (Sec. 957)			ciation or Amortization			
10/50 corporation (Sec. 904(d)(2)(E))	Insurance co. (Sec. 816(a))	_	ial Products and/or Financ	cial Activitie	s of	
Qualified personal service	Insurance co. (Sec. 831)	_	cial Institutions			
corporation (Sec. 448(d)(2))	Other (specify):	. U Other	(specify):			
Exempt organization. Enter Code section:						
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You cannot change your depreciation method without a Form 3115.

You must calculate the tax adjustment using the new method from the date of occupancy to the current year and take the difference as the depreciation deduction in the current period.

#### Returns are not to be amended.

The cost segregation specialist should prepare this form to be filed with your return.

### **Without Cost Segregation:**

#### 2015 DEPRECIATION AND AMORTIZATION REPORT

COMPANY, LLC SCHEDULE E- 2

COMPA	VI, LLC					CHEDULE						
Asset No.	Description	Date Acquired	Method	Life	Line No.	Unadjusted Cost Or Basis	Bus % Excl	Section 179 Expense	Reduction In Basis	Basis For Depreciation	Accumulated Depreciation	Current Year Deduction
301	BUILDING (90%)	11/29/07	SL	39.00	17	2,462,833				2,462,833	820,944	63,149
302	LAND (90%)	11/29/07	L			250,000				250,000		0.
	*TOTAL RENTAL DEPRECIATION					2,712,833				2,712,833	820,944	
- A		* 777							1 00			

<sup>(</sup>D) - Asset disposed

<sup>\*</sup> ITC, Salvage, Bonus, Commercial Revitalization Deduction, GO Zone

### With Cost Segregation:

Building Components	- 1245
Cabinets / Millwork	\$ 10,148.70
Moldings	\$3,511.65
Wall Coverings	\$9,456.43
Interior Half Walls	\$802.86
Accent Lighting	\$3,278.88
Security System	\$1,260.39
Fabricated Steel - Ladders	\$1,490.86
Specialty Electrical	\$10,650.78
Communication/Data	\$7,668.14
Specialty Plumbing	\$26,259.77
Security/Exterior Lighting	\$13,109.91
FRP Wall Panels	\$4,301.41
Canopies/Awnings	\$3,075.79
Interior Windows	\$1,030.72
Drive-up Window	\$2,998.69
Exhaust Hoods	\$21,311.83
Walk-in Coolers	\$34,140.30

Site Work/Improvements - 1245				
Parking Lot	\$113,132.80			
Exterior Signage	\$44,618.15			
Parking Lot Striping/Barriers	\$1,417.75			
Sidewalks/Curbs	\$21,098.75			
Landscaping	\$9,224.97			
Security Lighting Poles	\$16,034.98			
Dumpster Enclosure	\$5,586.96			

Building Structure - 1250		PATEGY INST
Roofing System		\$28,812.46
Foundations		\$35,412.21
HVAC		\$81,185.44
Electrical		\$105,130.55
Plumbing		\$104,141.72
Exterior Facade/Building Skin		\$30,914.59
Doors and Frames		\$14,658.12
Windows		\$17,135.71
Ceiling Systems		\$5,300.99
Interior Framing/Partitions		\$35,539.66
Painting		\$10,061.46
Emergency Lighting		\$1,562.88
Structural Framing		\$33,389.07
Site Utilities		\$4,803.98
Flooring - Sealed Concrete		\$2,556.95
Toilet Partitions and Accessories		\$3,911.20
Ceramic Tile Flooring		\$22,035.52

The Tangible Property Regulations (TPRs) are among the most misunderstood and misapplied tax provisions.

The TPRs were an Internal Revenue Service imposed method change in 2013.

IRS imposed method changes are mandatory

The TPRs determine whether expenditures on buildings must be depreciated or expensed.





"Beginning on January 1, 2014, all taxpayers are required to comply with the final regulations and are expected to change their accounting methods to implement the final regulations."

IRS .gov

The Tangible Property Regulations were passed in 2013 by the IRS after ten years of work.

#### They are mandatory

- They will save you taxes
- They will reduce depreciation recapture.
- They are under IRS §263(a) (1-3).
- They determine whether expenditures on any asset already placed in service must be expensed or depreciated.
- They can be applied retroactively.



## Improvement Standards:

Put the Expenditure through the RABI Test



**Restoration** - Puts unit of property or building system into its original operating condition from a NON-working condition. If it was in a state of disrepair at the time of purchase, the expenditure MUST be capitalized. The two-year rule applies.

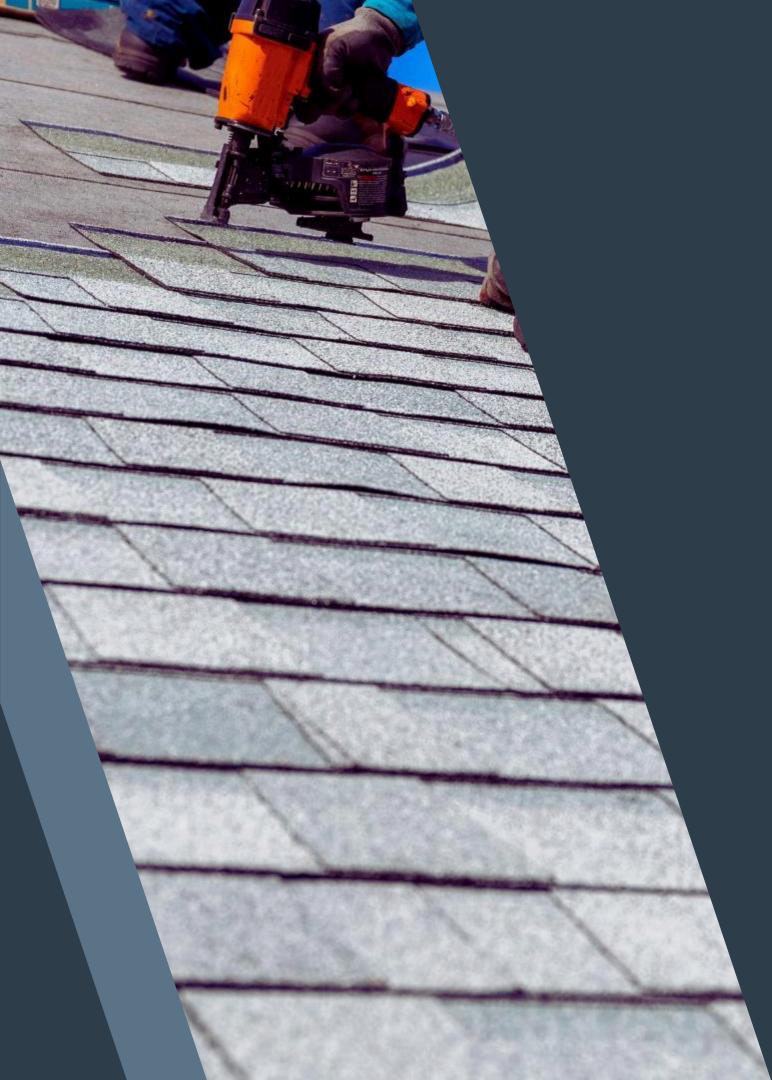
**Adaptation** - If the expenditure adapts the unit of property to a new or different use, it MUST be capitalized .

B

**Betterment** - Measurably improves the building, building structure, or building system. If it measurably efficiency, increases capacity, size, productivity, quality, or output, it MUST be capitalized.

**Major Improvement or Expenditure** - If the expenditure is more than 33-40% of the CURRENT Replacement cost (or quantity) of the building system component, it MUST be capitalized.





#### **Betterment**

Component removed during repair or maintenance



Y owns a building where it conducts its retail business. **The roof over Y's building is covered with shingles**. Over time, the shingles begin to wear, and Y begins to experience leaks into its retail premises.

However, the building still functions in Y's business. To eliminate the problems, a contractor recommends that Y remove the original shingles and replace them with new shingles. Accordingly, Y pays the contractor to replace the old shingles with new but comparable shingles.

The new shingles **are comparable to the original shingles** but correct the leakage problems.

Under paragraph (g)(2)(i) of this section, the amounts paid to remove the shingles are **not required to be capitalized** because they directly benefit and are incurred by reason of repair or maintenance to the building structure.



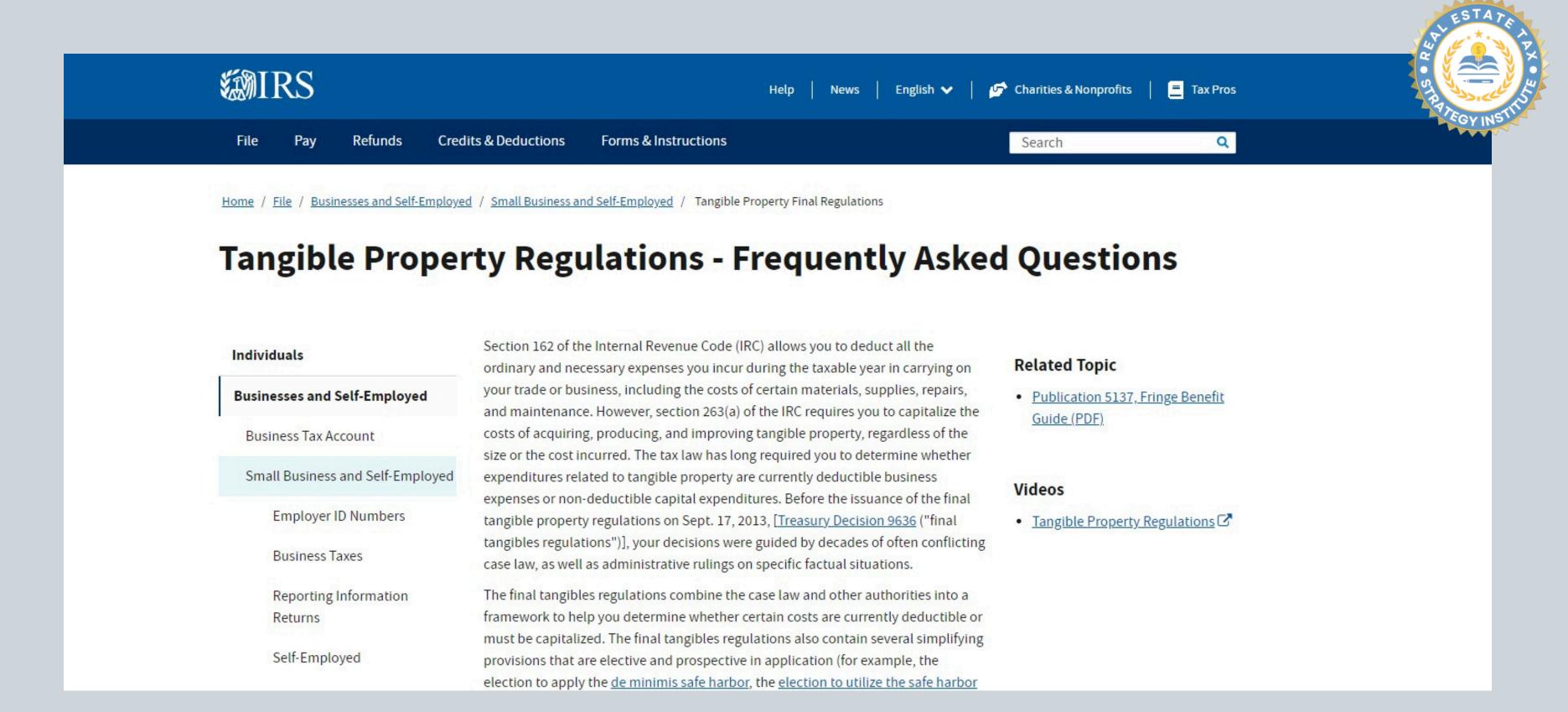
#### **Betterment**

Not a betterment new roof membrane



M owns a building that it uses for its retail business. Over time, the waterproof membrane (top layer) on the roof of M's building begins to wear, and M began to experience water seepage and leaks throughout its retail premises. To eliminate the problems, a contractor recommends that M put a new rubber membrane on the worn membrane. Accordingly, M pays the contractor to add the new membrane. The new membrane is comparable to the worn membrane when it was originally placed in service by the taxpayer.

The new membrane is not reasonably expected to materially increase the productivity, efficiency, strength, quality, or output of the building structure under paragraph (j)(l)(iii) of this section as compared to the condition of the building structure when it was placed in service. Therefore, M is not required to treat the amount paid to add the new membrane as a betterment to the building under paragraph (d)(l) or (j) of this section.



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Why Are CPAs Not Following These?

In our experience, the TPRs take between 800-1000 hours to learn and apply appropriately.

It is much easier and faster to depreciate is everything. Depreciating all repairs considered "conservative." by tax preparers.

The TPRs are not taught in undergrad or graduate school nor are they on the CPA exam.

It is not a CPA's responsibility to reduce taxes.

Even the IRS's guide for examiners on how to audit TPRs is 202 pages.

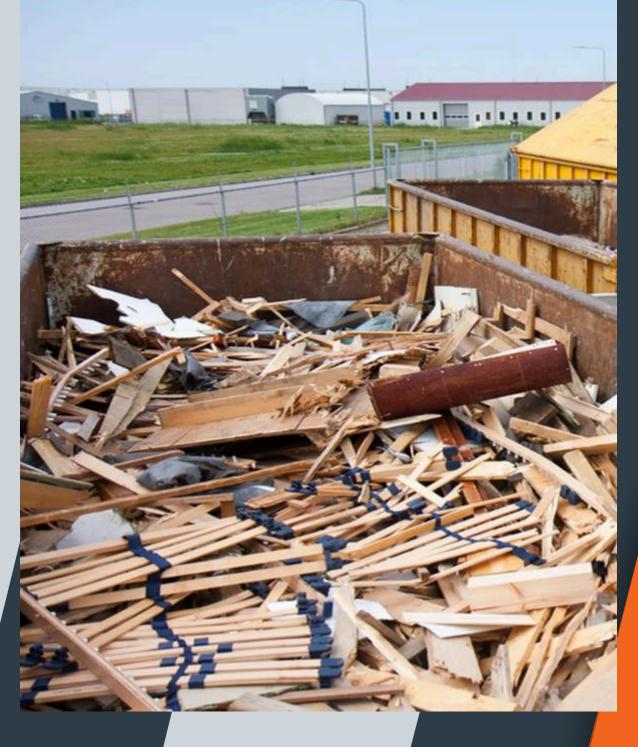


## Partial Asset Dispositions

If you have to remove the old depreciated components of a building and depreciate the new expenditure, you can expense everything that went into the dumpster minus any depreciation that was previously taken.

The expense must be taken in the year the components were disposed.





### **Ghost Assets**

Ghost assets are fixed assets that remain on a company's books despite being lost, stolen, destroyed, or otherwise unusable.

If you discover ghost assets, the best option is to:

#### Filing Form 3115 for a Change in Accounting Method:

For errors extending beyond the past three years, filing Form 3115 allows you to make a Section 481(a) adjustment, correcting cumulative depreciation errors in the current tax year. This method is particularly useful for long-standing errors and helps prevent potential penalties associated with incorrect depreciation.



### Removal Costs

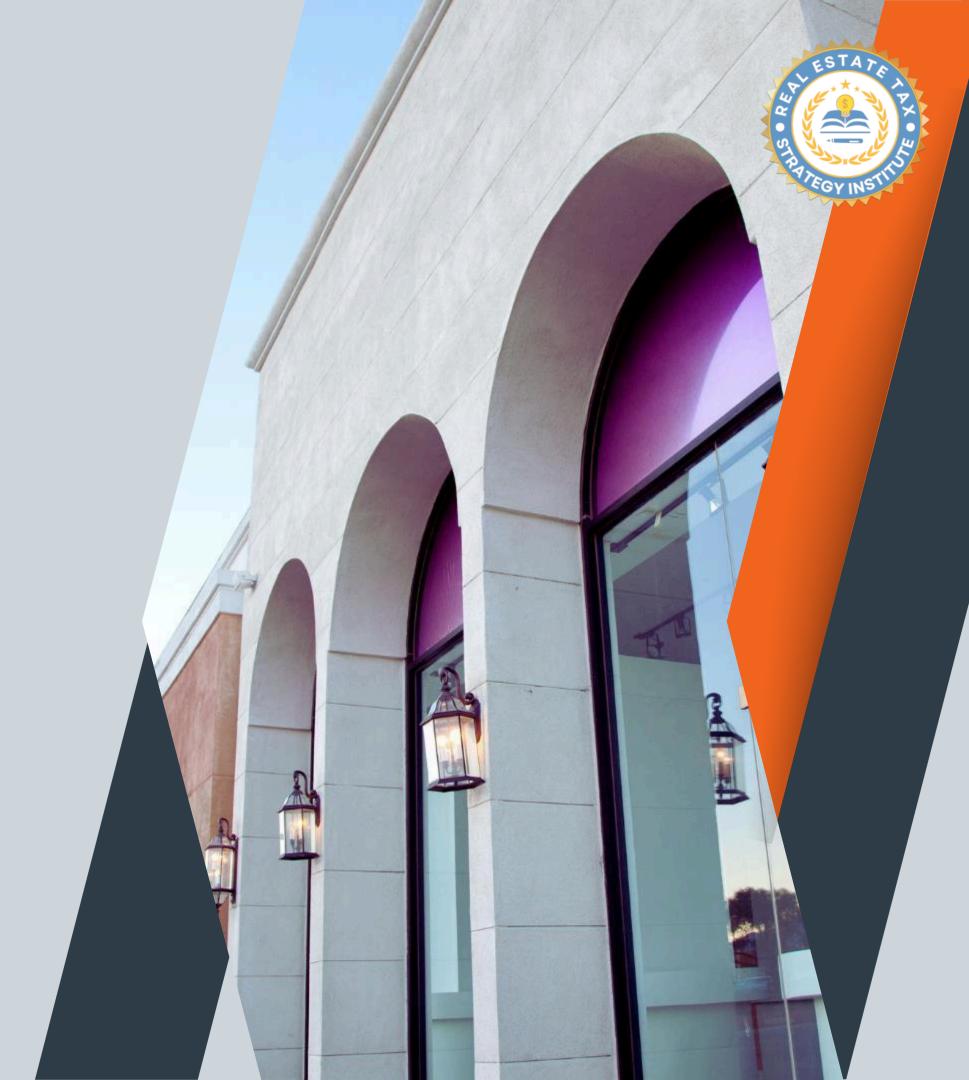
If you have to remove the old depreciated components of a building and depreciate the new expenditure, you can expense the ENTIRE COST OF REMOVAL.





### **Other Scenarios:**

Flipping Houses Real Estate
Professional Status Short Term
Rental Tax Benefits
Documenting "Material
Participation" Safe Harbor
Rules



## Flipping Houses

 Consider holding the property for 12 months.

 Document all expenses related to flips, including marketing, tools, and transportation.

• Use partial asset dispositions.

• Expense removal costs.

 If scrapping old components, identify and document the undepreciated value for deductions.



# The Real Estate Professional Status

Allows active real estate owners and investors to offset household W-2 or 1099 income with real estate losses.

#### The rules:

>750 hours per year.

<50% personal service time.

Materially participating in EACH PROPERTY.

OR Aggregation election.

How a short term rental circumvents this.



# Tax Benefits for Existing STR Owners

STR owners (average stay of less than 7 days (IRS rule)) have the ability to offset losses from STR's against W-2 or 1099 income. Requires: Meeting ONE of the IRS's 7 tests for "Material Participation" (the most common ones are):

- Worked >500 hours on the activity for the year
- >100 hours and no else works more than you during the year.
- Married couples are treated as a single taxpayer for material participation purposes.



# Documenting Material Participation

For both REPS and STR:

- Activities that qualify
- Contemporaneous record keeping – paper calendar, supporting emails/receipts.
- How to be a credible "witness"
- Without sufficient record keeping, the IRS wins



Safe harbors are rules implemented by the IRS to allow those with smaller incomes\*, to simplify their tax filings.

#### But still save taxes

\* The Safe Harbor for Small Taxpayers (SHST) allows eligible taxpayers to deduct expenses related to repairs, maintenance, and improvements on qualifying properties without capitalizing them. To qualify, a taxpayer must have average annual gross receipts of \$10 million or less and own or lease property with an unadjusted basis of less than \$1 million. Additionally, the total amount paid during the taxable year for such expenses must not exceed the lesser of 2% of the unadjusted basis of the property or \$10,000.





#### **Routine Maintenance Safe Harbor**

If it Applies – Expense it



Deductible if you reasonably expect (at the time is placed in service) to perform the maintenance more than once during the 10-year period from when the building system was placed in service.

Does not apply to capital improvements that enhance the property's value or extend its useful life. Consider:

**Frequency:** Is the activity expected to recur more than once within a 10-year period?

**Industry Practice**: Is the activity standard practice in your industry?

**Replacement History**: How often has this maintenance been performed in the past?

Manufacturer's Recommendations: What maintenance does the manufacturer suggest?

**Business Needs**: Is the maintenance necessary for your business operations?





#### **Routine Maintenance Safe Harbor**

If it Applies – Expense it



**Purpose:** Allows immediate expensing of tangible property costs, simplifying tax reporting. Threshold: Items costing up to \$2,500 per item or invoice qualify.

#### **Example:**

Purchasing 10 chairs at \$300 each (total \$3,000) qualifies for immediate deduction, as each item is under \$2,500.

Conversely, buying 10 chairs billed together at \$3,000 does not qualify, as the total invoice exceeds \$2,500.

#### Requirements:

Establish and consistently apply an accounting policy to expense items below the threshold.

Annually elect the safe harbor by attaching a statement to your timely filed tax return.

**Limitations:** Does not apply to inventory, land, or certain spare parts

# Real Estate Specific Things to do before 12/31

**Review Year-to-Date Profit and Loss (P&L) Statement:** Assess your financial performance up to the current date to evaluate profitability and inform strategic decisions, such as determining the benefits of additional expenditures and the timing of Real Estate Professional Status (REPS) elections or cost segregation studies.

Accelerate Deductible Expenses: Prepay expenses such as property taxes, mortgage interest, insurance premiums, and repairs before December 31. The IRS Safe Harbor rules allow prepayment of certain expenses up to 12 months in advance, enabling deductions in the current tax year.

**Timing of Repairs:** Completing repairs before December 31 allows you to deduct those expenses in the current tax year, reducing your taxable income. Delaying repairs until the new year defers the deduction to the following tax year.

**Place Assets in Service by Year-End**: To claim depreciation deductions for the current year, ensure that any new assets or improvements are placed in service (i.e., ready and available for use) by December 31.

**Section 179 and Bonus Depreciation**: Evaluate the benefits of electing Section 179 elections/purchases or bonus depreciation for qualifying property to maximize immediate deductions.



Real Estate Specific Things to do before 12/31

Accumulate Material Participation Time: Compile a summary of your participation hours to date. If you are close to meeting the required thresholds for REPS (e.g., 750 hours per year and more than half of your total working time), or STR (100 hours and more than anyone else), consider dedicating additional time before December 31 to ensure compliance.

**Review Depreciation Records for Ghost Assets:** By identifying such assets before December 31 allows you to adjust your current tax filings accordingly and develop a strategy to address assets that were not disposed of in prior years.

**Implement Safe Harbor:** Implementing this policy requires having written accounting procedures in place at the beginning of the tax year and consistently applying them for both book and tax purposes.

File your BOI Report for Existing Entities: Under the Corporate Transparency Act (CTA), most corporations, limited liability companies (LLCs), and similar entities are required to file a Beneficial Ownership Information (BOI) Report with the Financial Crimes Enforcement Network (FinCEN). This report discloses information about individuals who own or control the company, aiming to combat illicit activities such as money laundering and tax evasion.

- Existing Entities (formed before January 1, 2024): Must file their initial BOI Report by January 1, 2025.
- New Entities (formed on or after January 1, 2024): Required to file a BOI Report within **90 days** of formation



## Things to do soon

**Engage a Cost Segregation Analysis:** While beneficial to initiate early, a cost segregation study can be conducted after year-end. However, it needs to be completed in time for your tax return to be prepared.

**Before Consider Selling:** If you're planning to sell an investment property in the upcoming year, consider the benefits of a **1031 exchange**, which allows you to defer capital gains taxes by reinvesting the proceeds into a like-kind property. Initiate discussions with your tax strategist and engage a qualified intermediary to ensure compliance with IRS regulations and to optimize the advantages of this tax-deferral strategy. With proper planning and the right team, navigating a 1031 exchange can be straightforward.

**Multi-State Investments:** If you own properties in different states, be aware of varying tax laws and filing requirements.



## How Can We Help

Introducing the Real Estate Tax Strategy Institute's Mastermind, a premier program designed to provide personalized tax planning, education, and exclusive access to our network of top-tier tax strategists and preparers.

#### **Membership Benefits:**

**Email Support**: Submit your tax-related questions via email and receive detailed responses from our team of CPAs and strategists within two business days.

Monthly One-on-One Sessions: Engage in a personalized session each month with a dedicated tax strategist to discuss your unique circumstances and develop effective strategies.

**Educational Library Access**: Gain unlimited access to our comprehensive collection of educational resources, including articles, checklists, and guides, to enhance your understanding of real estate tax strategies.

**Exclusive Referral Network**: As a member, you'll have access to our Referral Only Network of esteemed tax strategists and preparers, ensuring you receive the highest quality advice and services.

**Additional Strategy Sessions**: For more in-depth support, you may purchase extra one-on-one sessions at discounted rates: two sessions or five sessions. This program is meticulously crafted to empower real estate investors with the tools and expertise necessary to navigate complex tax landscapes, maximize deductions, and achieve financial success.

**Get Your Questions Answered Live:** Weekly "office hours," where Kevin and Michelle go live to answer your burning questions in real time. Whether you need expert advice, personalized guidance, or help solving specific challenges, this is your opportunity to connect directly with industry professionals.

For more information or to become a member, please visit our Membership Page.



# Contact Us



Kevin Jerry, MST Michelle Goheen, CPA

Info@realestatetaxstrategyinstitute.com

https://realestatetaxstrategyinstitute.com https://retsi.us

