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How to Deduct Your Business Motor Home

A variety of new developments favor the business use of your motor home. If you are a business taxpayer who uses a motor home instead of hotels, or if the idea of the motor home appeals to you, you'll like this article.

The law classifies your motor home as either

- a business transportation vehicle, or
- a take-it-with-you business lodging facility.

Both the courts and the IRS have had trouble trying to figure out when the motor home is a business vehicle and when it is a business lodging facility. In one recent case, both the IRS and the court mistakenly made the motor home a non-business, nondeductible personal residence.

This article explains what you need to deduct your motor home, why you need it, and how to obtain it. When you get this set up as we explain, your motor home deductions are both proper and secure.

Lodging or Transportation?

If you drive the motor home to a place where you then sleep in it, what is it? In *Shirley*,¹ the court wrestled with this question, trying to decide whether the motor home was primarily for lodging or transportation.

The court noted that deciding primary use requires finding a common denominator and then measuring the result. For example:

- When you measure the primary use of a vehicle, you track mileage and tally the results. Thus, with 20,000 miles for business and 5,000 personal miles, you have 80 percent business use.
- When you track primary use of a lodging facility, you track number of business nights and personal nights.

Your Solutions

(a) Track *both* mileage and nights! (b) Don't claim Section 179 expensing. (c) Claim MACRS depreciation.

Whoa, No Section 179

Yes, that's right. Section 179 expensing of a motor home can put you in the crosshairs of the

IRS, and that's not where you want to be.

In *Shirley*, the taxpayer won his Section 179 expensing of the motor home because the court ruled that he (a) rented out his motor homes on a (b) transient basis (average rental of less than 30 days).

A court might rule that your use of your motor home is on a transient basis, but you will likely first have to fight with the IRS. Here's what the IRS has to say about transient use:²

It has been suggested that a taxpayer's use of a motor home as lodging while away from home is analogous to taking a room in a hotel or motel and that the use by transients exception to the lodging exception contained in section 1.48-1(h)(2)³ should apply. We [the IRS] cannot agree. A taxpayer who uses a motor home as lodging while away from home retains ownership of the motor home and is in no way a transient with respect to that motor home.

In *Evans*,⁴ the court granted the Section 179 deduction for a motor home that the taxpayers used to transport the taxpayers' son and his motorcycles to motocross competitions where the taxpayers advertised their residential home and commercial construction business.

In this case, the court ruled that the motor home was "primarily" a transportation vehicle and not a lodging facility. Thus, it was eligible for the Section 179 deduction. But we doubt that your motor home would pass muster as a "motocross" transport with a rear wall that folds down into a ramp so you can roll motorcycles into and out of the motor home.

Since your motor home could be a vehicle eligible for Section 179 expensing or a lodging facility not eligible for Section 179 expensing, what should you do? Take the easy road: forget Section 179 expensing and go for depreciation only.

What's the Difference?

Say you bought a \$250,000 motor home today, May 1, 2016, and used it 100 percent for business. With Section 179 expensing, you could deduct the entire \$250,000 in year 1.

With MACRS depreciation, you depreciate the motor home using the tax law five-year depreciation table as follows:

- Year 1: \$50,000 (20 percent of \$250,000)
- Year 2: \$80,000 (32 percent of \$250,000)
- Year 3: \$48,000 (19.2 percent of \$250,000)
- Year 4: \$28,800 (11.52 percent of \$250,000)
- Year 5: \$28,800 (11.52 percent of \$250,000)
- Year 6: \$14,400 (5.76 percent of \$250,000)

Think of depreciation as a form of audit insurance compared to the likely hassles you face with Section 179 expensing. And note that the deductions come early and in good amounts, giving you 71.2 percent of the total write-off in the first three years.

Beat This Assertion

In *Jackson*,⁵ the court ruled (incorrectly, as we'll explain) that Dellward and Judith Jackson's \$248,457 Winnebago motor home (called an RV in this case) was a personal residence under

the vacation home rules and thus qualified for zero Section 179 and zero depreciation deductions.

The Jacksons attended RV rallies to identify prospects and sell RV-specific insurance policies to them. The court ruled that the Jacksons used their motor home 2/3 for business and 1/3 for personal purposes.

But then (and this is the part that's wrong) because the Jacksons had more than 14 days of personal use, the court denied the business use as nondeductible use of a personal residence under the vacation home rules. That's wrong. IRC Section 280(f)(4) is the reason the court's decision is wrong. It reads as follows:

280A(f)(4) Coordination With Section 162(a)(2)
Nothing in this section shall be construed to disallow any deduction allowable under section 162(a)(2) (or any deduction which meets the tests of section 162(a)(2) but is allowable under another provision of this title) by reason of the taxpayer's being away from home in the pursuit of a trade or business (other than the trade or business of renting dwelling units).

Under this section, the Jacksons' motor home should have been treated as 2/3 business and 1/3 personal residence. Technically, the 14-day rental expenses disallowance rule does not apply to the motor home because there was no rental of the motor home.

But the 14 days of personal use does help the Jacksons because now they have a 1/3 personal residence on which they should have been able to deduct interest and taxes.

We were curious about this result, so we investigated the court docket at the Tax Court's website and noted that this case is in the process of appeal to the U.S. Court of Appeals for the Ninth Circuit.

What this means for you: keep IRC Section 280(f)(4) top of mind. Why? Because this section says that your use of the motor home for overnight business lodging produces business deductions for business travel and that such travel is not subject to the vacation home rules. We should note that the Jacksons never brought this code section to the court's attention, so that's likely why the court did not consider it.

The court in *Jackson* cites two cases supporting its residence decision, but the two cited cases are not on point as follows.

1. The *Haberkorn* case properly classified a mini-motor home as a personal residence under the vacation home "rental rules" because Ronald and Sandra Haberkorn used the vacation home more than the greater of 14 days or 10 percent of the number of days they rented it to third parties.⁶ In this case, the Haberkorns had no business use, only rental and personal use, and as we noted above, it's that rental use that triggers the vacation home disallowance rules. And as we stated: the *Jackson* case involved no rentals and should not have triggered the vacation home rules.
2. The *Dunford* case properly classified the Dunfords' \$283,494 motor home as a residence because (a) the Dunfords had no records of business use and (b) they used the motor home as lodging while visiting their children and traveling for personal purposes.⁷ Unlike *Jackson* where the court found valid business use, the

Dunfords made no real business use claim that the court recognized.

Again, keep this top of mind: IRC Section 280A(f)(4) gives you the travel deduction and makes business travel exempt from the vacation home personal residence disallowance rules.⁸

Build a Mileage Log

Don't take a chance on how the IRS is going to classify your motor home. Keep a mileage log for each trip. In that log, record your mileage according to the law's required components:⁹

- investment use
- business use
- personal use
- commuting use

Of these four categories, "business use" is the only desirable one. Make sure to note clearly the business reason for each business day. Also, keep this general rule in mind: no log of business use, no deductions.

Build a Nights-Sleeping Log

You should also keep a log that classifies each lodging night as investment, business, or personal use. Again, as you would expect, the desirable night is a business night.

Never Use the Motor Home as an Entertainment Facility

If you are looking for a way to complicate your motor home deductions, use the motor home for entertainment, either directly or indirectly. Direct use would involve having people over to the motor home for a party. Indirect use would involve driving the motor home to your hunting area.

Tax law gives **no deduction** for any facility used in connection with entertainment.¹⁰ The IRS defines "entertainment facility" as any property you own, rent, or use for entertainment.¹¹ Examples include a yacht, hunting lodge, fishing camp, swimming pool, tennis court, bowling alley, car, airplane, apartment, hotel suite, or home in a vacation resort.¹²

Lawmakers carved a transportation facility exception into this no-deduction rule. If you use your motor home primarily (more than 50 percent) for business transportation, you may

- deduct the business part,¹³ and
- treat the entertainment part as personal.¹⁴

But if you use your motor home for entertainment, you are treading on shaky ground. In *Shirley*, the court refused to decide whether the motor home is a vehicle or lodging because, ultimately, it did not matter for that case.

But if you have deductible business entertainment in a motor home that is classified as a lodging facility, you now face the draconian entertainment facility disallowance rules that could simply do away with your motor home deductions.¹⁵

Planning tip. Protect your motor home from the entertainment facility attack. Use the motor home for travel and travel meals.

Dr. Hoye's Motor Home

Dr. Hoye's medical practice required his postsurgical availability at the hospital for some of his cases. He was the expert. Other physicians, respiratory staff, and nurses were not familiar with or trained in a certain thoracic and oncological surgery. Thus, in these cases, Dr. Hoye had to be immediately available 24 hours a day for up to five days after the surgery.

Where was Dr. Hoye going to stay for these five days? He considered renting an apartment in a nearby town, but the town was too far away. He considered the local motel, but sometimes it had no vacancy. His solution: a \$192,215 motor home.

To make sure he was available when he was needed, Dr. Hoye rented a pad (a place to park the motor home) three blocks from the hospital and had a telephone and other utilities installed.

When it was necessary for Dr. Hoye to be nearby after surgery, he drove the motor home to the hospital. In the first year, Dr. Hoye performed 16 major surgeries, three of which required his postsurgery on-call presence. The next year, he performed nine major surgeries and had to stay near the hospital five times.

Dr. Hoye also used the motor home to attend medical meetings and seminars, for investment meetings, and for personal and recreational purposes. In one year, his use of the motor home fell into these categories:

- 12,000 miles to medical conventions
- 2,000 miles to an investment seminar
- 800 miles to and from the hospital for surgery
- 4,000 miles for personal pleasure

On the basis of this mileage, Dr. Hoye claimed 78% business use. The court disallowed the investment seminar (which today would not qualify in any circumstance, as investment seminars are no longer tax-deductible).

The court cited *International Artists* and *Schwartz* where the use of an asset for both business and personal use qualified for depreciation deductions to the extent of its business use.¹⁶ And the court granted Dr. Hoye the deductions for the business use of his motor home.¹⁷

The Court Rules That the Motor Home Is Not Lavish and Extravagant

In *Hoye*, the IRS asserted that the motor home was not "ordinary and necessary" to Dr. Hoye's business, that it was extravagant, and that it should be disallowed under the "lavish and extravagant" rule. But the court stated that the lavish and extravagant rule does not apply to depreciation.

The court later applied the reasoning from the *Hoye* case to the *Noyce* case.¹⁸ Noyce, an officer of Intel Corporation, used his personal airplane for his job.

The IRS asserted to the court that the airplane was too expensive and not ordinary and necessary to Noyce's job as an Intel employee. The court cited *Hoye* as precedent and noted that there is no extravagant rule against deducting depreciation; therefore, the court granted Noyce his airplane depreciation deductions.

Keep Business Use over 50 Percent

When you use Section 179 expensing on a motor home classified as a means of transportation, keep your business use for each of the years before year 6 at more than 50 percent. If you fail the “more than 50 percent” test during this period, you have to report and pay taxes at ordinary income rates on the recapture of some of your prior depreciation deductions.¹⁹

You won't like that! (So keep the business use over 50 percent.)

Takeaways

Keep good records to protect your motor home deductions:

- Keep a mileage log for every personal and business use of your motor home. Make sure you have more than 50 percent business miles.
- Keep a record of every night you use the motor home for personal or business lodging. Make sure you have more than 50 percent business nights.

Don't claim Section 179 expensing on the motor home. Instead, stay with depreciation to avoid extra IRS audit attention and the possible loss of the Section 179 deduction under the lodging rules.

And remember, with depreciation, you get 71.2 percent of the deductions in the first three years.

Keep IRC Section 280(f)(4) top of mind. Why? Because this section says that your use of the motor home for

overnight business lodging produces business deductions for business travel and that business travel is not subject to the vacation home rules.

And finally, avoid using your motor home as an entertainment facility.

Notes:

1. Robert D. Shirley v Commr., TC Memo 2004-188.
2. GCM 39443.
3. Reg. Section 1.48-1(h)(2)
4. William D. Evans v Commr., TC Memo 2014-237.
5. Dellward R. Jackson v Commr., T.C. Memo 2014-160.
6. Haberkorn v Commr., 75 TC 259; IRC 280A(d)(1).
7. Keith Dunford v Commr., TC Memo 2013-189.
8. IRC Section 280A(f)(4).
9. IRC Section 274(d)(4).
10. IRC Section 274(a).
11. IRS Pub. 463, Travel, Entertainment, Gift, and Car Expenses (2005), p. 9.
12. Ibid.
13. S. Rep. No. 1263, 95th Cong., 2d Sess. (1978), 1978-3 C.B. (Vol. 1) 473-474. The IRS captures part of this legislative history in its regulations Reg. Section 1.274-2(b)(1)(iii)(c).

14. Reg. Section 1.274-7.
15. Ireland v Commr., 89 TC 978.
16. International Artists, Ltd. v Commr, 55 T.C. 94, 105 (1970). Henry Schwartz Corp. v Commr., 60 TC 728, 744 (1973).
17. Robert C. Hoye v Commr., TC Memo 1990-57.
18. Robert N. Noyce v Commr., 97 TC 670 (1991).
19. IRC Sections 280F(b)(2); 179(d)(10); Reg. Section 1.179-1(e).