

# 59 Exceptions to Rules Regarding Home Ownership and Taxes

## Course Description

Owning a home is the American dream, but it's more than just a roof over your head. Our personal residence can also provide some great tax benefits, but be careful; there have been many changes in the tax code over the years that modify some of the benefits we have come to expect. Will my client still qualify for the gain exclusion if they move into their rental property? Does my client have to stay the full two years if their job changes? What about property transferred in a divorce? If my client has an office in the home can they use the §121 exclusion on the whole gain? What about the depreciation allowed in the past? Is interest on home equity debt still deductible if my client turns his home into a rental property? How do we calculate the interest deduction if my client has excess debt on their residence? If my client acquires a rental property in a §1031 exchange and later decides to move into that house, can it qualify for the §121 exclusion? And now we have recapture of the homebuyer credits, or do we? And then there are changes on offices in the home and how we deduct medical improvements. There is a lot to talk about, so come and get updated on this complex series of topics.

## Learning Objectives

After completion of this course the tax preparer will be able to:

- Know if the client's basis needs to be reduced for a pre-1997 deferred gain.
- Determine whether any of the client's gain on the sale of his principal residence is taxable due to "disqualified use".
- Calculate the amount of excludable gain when the taxpayer has used §121 within the last two years, but has to sell due to unforeseen circumstances.
- Identify non-deductible mortgage interest reported to the taxpayer on form 1098.
- Determine if any portion of the home mortgage fails to be deductible when a client converts his personal residence to a rental property.
- Identify whether any part of a municipal property assessment is deductible.
- Calculate the amount of refinancing points that are deductible each year.
- Explain what portion of the taxpayer's residence may be used as a home office, and when it need not be 100% business use.
- List the deductions allowed on Schedule E when an employee rents part of her personal residence to her employer as a home office.

# Table of Contents

I.	Selling Your Personal Residence.....	1
A.	Where or What is a Principal Residence .....	1
B.	Before Exclusion There was Deferral .....	1
C.	Quick Review of the §121 Rules.....	2
D.	May Only Use Exclusion Once Every Two Years.....	2
E.	Own and Occupy Two of Last Five Years .....	4
F.	Maximum Allowable Exclusion .....	8
G.	How Much Land can be Your Residence? .....	14
H.	Selling Vacant Land Adjacent to Principal Residence .....	14
I.	Selling the Land but not the Residence .....	16
J.	No Exclusion for Expatriates .....	16
K.	What if I Sell my Home at a Loss.....	17
L.	Depreciating a Former Residence Rented While for Sale? .....	17
II.	Recapture Of Homebuyers Credit.....	18
A.	Homes Purchased After 2008.....	18
B.	Home Purchased in 2008 .....	18
C.	Form 5405 .....	19
D.	Home Destroyed or Condemned.....	20
E.	No Recapture in Case of Death.....	20
III.	Home Mortgage Interest (Qualified Residence Interest).....	20
A.	Interest Deduction Requirements .....	20
B.	Qualified Residence Interest Requirements .....	20
C.	“Grandfather Debt” .....	25
D.	Mortgage Insurance Premiums.....	26
E.	Home Destroyed by Casualty.....	27
F.	Points .....	27
G.	Assessments .....	29
H.	Pre-Payment and Late Pay Penalties.....	29
IV.	Medical Home Improvements.....	30
A.	No Increase in Value of Home.....	30
B.	Value of Home Increased .....	30

C.	Operation and Maintenance Costs .....	31
D.	Whether Owned or Rented.....	31
V.	Home Office .....	31
A.	Exclusive and Regular Use .....	32
B.	Principal Place of Business Test .....	34
C.	Separate Structure .....	36
D.	Meeting with Patients, Clients, or Customers .....	36
E.	What is Deductible.....	37
F.	Depreciation of the Home Office.....	38
G.	Home Office Deductions Limited to Income .....	39
H.	Employees.....	40
I.	Renting Home Office to Employer .....	41
VI.	Converting A Rental To A Personal Residence .....	41
VII.	Converting Main Home To Rental .....	42
A.	Basis is the Issue.....	42
VIII.	Tax Free Rental Of Personal Residence .....	44
IX.	Qualified Principal Residence Indebtedness .....	44
A.	Limits .....	44
B.	Qualifying Debt .....	44
C.	Reduction of Tax Attributes .....	45
D.	Nonqualified Gain Recognized First .....	45
E.	May Elect Insolvency "Instead" .....	46
F.	Must Reduce Tax Attributes to Extent of COD Excluded.....	47