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MATERIAL PARTICIPATION BY LLC MEMBER

In a string of cases, the IRS recently lost the assertion that a member of a Limited Liability Company should be treated as a limited partner for the passive activity loss rules. In the most recent case of *Newell vs Commissioner*, the Tax Court found that married taxpayers properly deducted a husband's distributive share of losses from two businesses, and were not restricted in the use of the loss deduction rules.

The husband satisfied the material participation test because his activity with LLC business with respect to these businesses was significant for the years at issued, and his aggregate participation in all activities exceeded 500 hours in each year. This is the fourth case (the third in the last year) where a court has ruled that LLC members are not limited partners.

1st TIME HOMBUYER CREDIT DOCUMENTATION

The IRS has provided clarification on documentation required to claim the first-time homebuyer credit. Taxpayer's claiming the credit are encouraged to sign the settlement statement attached to the return. This statement should be signed even where the settlement form does not include a signature line.

Documents used in closing on a home purchase will often be the standard Form HUD-1. However, this document may differ from jurisdiction to jurisdiction. Some forms will not always include a place for the buyer and seller to sign the document.

Form 5405 instructions report a properly executed settlement statement should show the signatures of all parties, and the IRS has stated that it will accept a settlement statement if it is complete and valid according to local law. In areas where signatures are not required on the documents, buyers are encouraged to sign the settlement statement included with Form 1040.

VEHICLE DEPRECIATION LIMITS

Depreciation limits for business automobiles, trucks and vans first place in service in 2010, have been released by the IRS. The basic depreciation deduction limits for vehicles are higher than the limits for 2009.

Amounts allowable are increased by a price-inflation adjustment. The new amounts are calculated using the new car and new truck components of the 2009 Consumer Price Index.

Lease payments for vehicles used for business or investment purposes are deductible in proportion to the vehicle's business use. However, lessees must include a certain amount in income during the year the vehicle is leased to partially offset the amounts by which lease payments exceed the luxury auto limits.



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