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26 CFR 601.105: Examination of returns and claims for refund, credit, or abatement; determination of correct tax liability.
(Also Part 1, § 280A.)

Rev. Proc. 2013-13

SECTION 1. PURPOSE

This revenue procedure provides an optional safe harbor method that individual taxpayers may use to determine the amount of deductible expenses attributable to certain business use of a residence during the taxable year. This safe harbor method is an alternative to the calculation, allocation, and substantiation of actual expenses for purposes of satisfying the requirements of § 280A of the Internal Revenue Code. This revenue procedure is effective for taxable years beginning on or after January 1, 2013.

SECTION 2. BACKGROUND

.01 Section 280A(a) generally disallows any deduction for expenses related to a dwelling unit that is used as a residence by the taxpayer during the taxable year. However, § 280A(c)(1) through (4) allow a deduction for expenses related to certain business or rental use of a dwelling unit, subject to the deduction limitation in § 280A(c)(5).

.02 Section 280A(c)(1) permits a taxpayer to deduct expenses that are allocable to a portion of the dwelling unit that is exclusively used on a regular basis (A) as the taxpayer's principal place of business for any trade or business, (B) as a place to meet with the taxpayer's patients, clients, or customers in the normal course of the taxpayer's trade or business, or (C) in the case of a separate structure that is not attached to the dwelling unit, in connection with the taxpayer's trade or business.

.03 Section 280A(c)(2) permits a taxpayer to deduct expenses that are allocable to space within the dwelling unit used on a regular basis for the storage of inventory or product samples held for use in the taxpayer's trade or business of selling products at retail or wholesale, if the dwelling unit is the sole fixed location of the trade or business.

.04 Section 280A(c)(3) permits a taxpayer to deduct expenses that are attributable to the rental of the dwelling unit or a portion of the dwelling unit.

.05 Section 280A(c)(4) permits a taxpayer to deduct expenses that are allocable to the portion of the dwelling unit used on a regular basis in the taxpayer's trade or business of providing day care for children, for individuals who have attained age 65, or for individuals who are physically or mentally incapable of caring for themselves.

.06 Section 280A(c)(5) limits the deductibility of expenses that relate to a use of a dwelling unit described in § 280A(c)(1) through (4) to the gross income derived from that use for the taxable year reduced by (1) the deductions allocable to the use that are allowable for the taxable year whether or not the unit is used as described in § 280A(c)(1) through (4) (for example, deductions for qualified residence interest, property taxes, and casualty losses); and (2) the allowable trade or business expenses

that are not allocable to the use of the dwelling unit for the taxable year (for example, advertising, wages, and supplies).

.07 The Internal Revenue Service (Service) and the Treasury Department recognize that the calculation, allocation, and substantiation of allowable deductions attributable to the use of a portion of the taxpayer's residence for business purposes can be complex and burdensome for small business owners. Accordingly, the Service and the Treasury Department are providing this optional safe harbor method to reduce the administrative, recordkeeping, and compliance burdens of determining the allowable deduction for certain business use of a residence under § 280A. Under this safe harbor method, taxpayers determine their allowable deduction for business use of a residence by multiplying a prescribed rate by the square footage of the portion of the taxpayer's residence that is used for business purposes.

SECTION 3. SCOPE AND DEFINITIONS

.01 *In general.* This revenue procedure applies to a taxpayer who is an individual and who elects the safe harbor method provided by this revenue procedure to determine the deduction allowable under § 280A for the taxpayer's qualified business use of a home for the taxable year.

.02 *Qualified business use.* For purposes of this revenue procedure, "qualified business use" means (1) business use that satisfies the requirements of § 280A(c)(1), (2) business storage use that satisfies the requirements of § 280A(c)(2), or (3) day care services use that satisfies the requirements of § 280A(c)(4).

.03 *Home*. For purposes of this revenue procedure, “home” means a dwelling unit used by the taxpayer during the taxable year as a residence, as defined in §§ 280A(d) and (f)(1), including a dwelling unit leased by a taxpayer. However, only a dwelling unit that is § 1250 property (generally depreciable real property) and MACRS property (generally defined in § 1.168(b)-1(a)(2) as tangible, depreciable property subject to § 168 that is placed in service after December 31, 1986) qualifies as a home for purposes of this revenue procedure.

SECTION 4. APPLICATION

.01 *Computation of the safe harbor amount*.

(1) A taxpayer determines the amount of deductible expenses for a qualified business use of the home for the taxable year under the safe harbor method by multiplying the allowable square footage by the prescribed rate.

(2) The allowable square footage is the portion of a home used in a qualified business use of the home, but not to exceed 300 square feet.

(3) The prescribed rate is \$5.00. The Service and the Treasury Department may update this rate from time to time as warranted.

(4) This safe harbor method is an alternative to the calculation and allocation of actual expenses otherwise required by § 280A. Accordingly, except as provided in section 4.04 of this revenue procedure, a taxpayer electing the safe harbor method for a taxable year cannot deduct any actual expenses related to the qualified business use of that home for that taxable year.

.02 Reimbursement or other expense allowance arrangement. The safe harbor method provided by this revenue procedure does not apply to an employee with a home office if the employee receives advances, allowances, or reimbursements for expenses related to the qualified business use of the employee's home under a reimbursement or other expense allowance arrangement (as defined in § 1.62-2) with his or her employer.

.03 Year-by-year determination. A taxpayer may elect from taxable year to taxable year whether to use the safe harbor method or to calculate and substantiate actual expenses for purposes of § 280A. A taxpayer elects the safe harbor method by using the method to compute the deduction for the qualified business use of a home on his or her timely filed, original federal income tax return for the taxable year. An election for any taxable year, once made, is irrevocable. A change from using the safe harbor method in one year to actual expenses in a succeeding taxable year, or vice-versa, is not a change in method of accounting and does not require the consent of the Commissioner.

.04 Otherwise allowable deductions related to the home. A taxpayer who itemizes deductions and uses the safe harbor method for a taxable year may deduct, to the extent allowed by the Code and regulations, any expense related to the home that is deductible without regard to whether there is a qualified business use of the home for that taxable year (for example, deductions for qualified residence interest, property taxes, and casualty losses). Taxpayers using the safe harbor method deduct these expenses as itemized deductions on Form 1040, Schedule A, and cannot deduct any portion of these expenses from the gross income derived from the qualified business

use of the home, either for purposes of determining the net income derived from the business or for purposes of determining the gross income limitation provided in section 4.08(2) of this revenue procedure. However, taxpayers with a qualified business use of a home who also have a rental use of the same home under § 280A(c)(3) must allocate a portion of the expenses described in this section 4.04 to the rental use to the extent required under § 280A and any regulations thereunder.

.05 Business deductions unrelated to qualified business use of a home. A taxpayer using the safe harbor method for a taxable year may deduct, to the extent allowed by the Code and regulations, any trade or business expenses unrelated to the qualified business use of the home for that taxable year (for example, expenses for advertising, wages, and supplies).

.06 Depreciation for a taxable year in which the safe harbor method is used. A taxpayer using the safe harbor method for a taxable year cannot deduct any depreciation (including any additional first-year depreciation) or § 179 expense for the portion of the home that is used in a qualified business use of the home for that taxable year. The depreciation deduction allowable for that portion of the home for that taxable year is deemed to be zero.

.07 Depreciation for a subsequent taxable year in which actual expenses are used.

(1) Use of optional depreciation table. If a taxpayer uses the safe harbor method for a taxable year and calculates and substantiates actual expenses for purposes of § 280A for any subsequent taxable year, the taxpayer must calculate the depreciation deduction allowable in the subsequent year for the portion of the home that is used in a

qualified business use of the home by using the appropriate optional depreciation table applicable for the property, regardless of whether the taxpayer used an optional depreciation table for the property in its placed-in-service year. The optional depreciation tables for MACRS property are provided in the annual IRS Publication 946, How To Depreciate Property. For purposes of this section 4.07, the appropriate optional depreciation table is based on the depreciation system, depreciation method, recovery period, and convention applicable to the § 1250 property in its placed-in-service year.

(2) *Computation of the depreciation deduction allowable.* A taxpayer described in section 4.07(1) of this revenue procedure computes the allowable depreciation deduction for a subsequent year by multiplying the remaining adjusted depreciable basis (as determined under § 1.168(k)-1(d)(2)(i)) allocable to the portion of the home used in a qualified business use by the annual depreciation rate for the applicable year specified in the appropriate optional depreciation table. Furthermore, the applicable year is the year that corresponds with the current taxable year based on the placed-in-service year of the property.

.08 Limitations.

(1) Taxpayers using this safe harbor method to compute their deduction must continue to satisfy all requirements of § 280A for determining their eligibility to claim a deduction. For example, a taxpayer may claim a deduction for a business use described in § 280A(c)(1) for a portion of a residence only if that portion is exclusively used on a regular basis for business purposes. As a further example, a taxpayer who is

an employee may deduct expenses attributable to a business use of a residence described in § 280A(c)(1) only if that use is for the convenience of the taxpayer's employer.

(2) The amount of the deduction computed using the safe harbor method provided by this revenue procedure cannot exceed the gross income derived from the qualified business use of the home for the taxable year reduced by the business deductions described in section 4.05 of this revenue procedure (deductions unrelated to the qualified business use of a home). Any amount in excess of this gross income limitation is disallowed and may not be carried over and claimed as a deduction in any other taxable year.

(3) A taxpayer who uses the safe harbor method provided by this revenue procedure for a taxable year may not deduct in that taxable year any disallowed amount carried over from a prior taxable year during which the taxpayer calculated and substantiated actual expenses for purposes of § 280A. A taxpayer who calculated and substantiated actual expenses for purposes of § 280A in a prior taxable year and whose deduction was limited by the gross income limitation in § 280A(c)(5) may deduct the disallowed amount, subject to all other applicable restrictions, in the next succeeding taxable year in which the taxpayer calculates and substantiates actual expenses for purposes of § 280A.

(4) For purposes of determining the allowable square footage under section 4.01(2) of this revenue procedure, a taxpayer with a qualified business use of a home for a portion of the taxable year (for example, a seasonal business or a business that

begins during the taxable year), or a taxpayer who changes the square footage for a qualified business use of a home during the taxable year (for example, an increase or decrease in the square footage), must determine the average of the monthly allowable square footage for the taxable year. In determining the average monthly allowable square footage, no more than 300 square feet may be taken into account for any one month, and a taxpayer shall only be treated as having a qualified business use of a home in a month in which the taxpayer had 15 or more days of a qualified business use of the home. For example, a taxpayer who files federal income tax returns on a calendar year basis, begins using 400 square feet of his or her home for a qualified business use on July 20, and continues that use until the end of the taxable year, has an average monthly allowable square footage of 125 square feet (300 square feet for each month August through December divided by the number of months in the taxable year $((300 + 300 + 300 + 300 + 300)/12)$).

(5) Taxpayers sharing a home (for example, roommates or spouses, regardless of filing status), if otherwise eligible, may each use the safe harbor method provided by this revenue procedure, but not for a qualified business use of the same portion of the home. For example, a husband and wife, if otherwise eligible and regardless of filing status, may each use the safe harbor method for a qualified business use of the same home for up to 300 square feet of different portions of the home.

(6) A taxpayer who has more than one qualified business use of the same home for a taxable year and who elects the safe harbor method must use the safe harbor method for each qualified business use of the home. However, a taxpayer who has a

qualified business use of a home and a rental use for purposes of § 280A(c)(3) of the same home cannot use the safe harbor method for the rental use. A taxpayer who has more than one qualified business use of the same home for a taxable year is limited to a maximum of 300 square feet. If a taxpayer who has more than one qualified business use of the same home for the taxable year uses more than 300 square feet, then the taxpayer must allocate the square footage among the qualified business uses of the home. The taxpayer may allocate the square footage in any reasonable manner, but the taxpayer may not allocate more square footage to a qualified business use of a home than is actually used in that qualified business use of the home.

(7) A taxpayer with qualified business uses of more than one home for a taxable year may use the safe harbor method for only one home for that taxable year. However, the taxpayer, if otherwise eligible, may calculate and substantiate actual expenses for purposes of § 280A for the business use of any other homes for that taxable year.

.09 *Examples.* The following examples illustrate the application of sections 4.01 through 4.08 of this revenue procedure.

Example 1. A, a barber, is a sole proprietor who uses a room in his residence regularly and exclusively to meet with customers in the normal course of his trade or business throughout 2013. A determines that the room is 350 square feet and has a cost basis of \$10,000. A placed the room in service in January 2013. A depreciates the room under § 168 as nonresidential real property using the optional depreciation table that corresponds with the general depreciation system, the straight-line method of depreciation, a 39-year recovery period, and the mid-month convention. During 2013, A earns \$9,000 of gross income from the business and pays the following business expenses:

Supplies	\$1,500
Advertising	800
Professional fees	300
Magazines/Subscriptions	700
Postage	<u>100</u>
Total	\$3,400

A also pays the following expenses related to his home in 2013:

Mortgage interest	\$10,000
Real property taxes	3,000
Homeowners' insurance	1,500
Utilities	2,400
Repairs	<u>900</u>
Total	\$17,800

For 2013, A elects the safe harbor method provided by this revenue procedure. As provided in section 4.01 of this revenue procedure, A determines the amount of his deduction for the qualified business use of his home is \$1,500 (300 sq. ft. X \$5.00). As provided in section 4.04 of this revenue procedure, A deducts his mortgage interest (\$10,000), and real property taxes (\$3,000) as itemized deductions on his federal income tax return (Schedule A of Form 1040). As provided in section 4.05 of this revenue procedure, A deducts his ordinary and necessary business expenses that are unrelated to the qualified business use of his home (\$3,400) as trade or business expenses (Schedule C of Form 1040) to the extent otherwise allowed by the Code and regulations.

As provided in section 4.01(4) of this revenue procedure, A may not deduct any portion of the actual expenses related to the qualified business use of his home for 2013 (homeowners' insurance, utilities, and repairs). As provided in section 4.06 of this revenue procedure, A may not deduct any depreciation for the room on his federal income tax return for 2013, and the depreciation deduction allowable for the room for 2013 is deemed to be zero. Accordingly, A's adjusted depreciable basis in the room as of December 31, 2013, is \$10,000. The gross income limitation in section 4.08(2) of this revenue procedure does not limit A's deduction for the qualified business use of the home because the amount of the deduction, \$1,500, does not exceed the gross income derived by A from the qualified business use of his home for the taxable year reduced by the business deductions described in section 4.05 of this revenue procedure, or \$5,600 (\$9,000 gross income - \$3,400 of business deductions).

For 2014, A does not elect the safe harbor method and instead calculates and substantiates actual expenses for purposes of § 280A. Pursuant to section 4.07 of this revenue procedure, A must use the appropriate optional depreciation table for determining the depreciation deduction allowable for the room for 2014. The

appropriate optional depreciation table provides that the depreciation rate for year two is 2.564%. Accordingly, A deducts depreciation for the room on his federal income tax return for 2014 in the amount of \$256.40 ($\$10,000 \times .02564$). Consequently, A's adjusted depreciable basis in the room as of December 31, 2014, is reduced to \$9,743.60 ($\$10,000 - \256.40).

Example 2. B, an architect, is a sole proprietor who uses a room in her residence regularly and exclusively to meet with clients in the normal course of her trade or business throughout 2013. B determines that the room is 300 square feet and has a cost basis of \$10,000. B placed the room in service in January 2010. For 2010, 2011, and 2012, B depreciates the room as nonresidential real property under the general depreciation system of § 168(a), using the straight-line method of depreciation, a 39-year recovery period, and the mid-month convention, but does not use the optional depreciation table. The adjusted depreciable basis of the room as of December 31, 2012, is \$9,241.45.

For 2013, B elects the safe harbor method provided by this revenue procedure. Pursuant to section 4.06 of this revenue procedure, B does not deduct any depreciation for the room on her federal income tax return for 2013, and the depreciation deduction allowable for the room for 2013 is deemed to be zero. Accordingly, B's adjusted depreciable basis in the room as of December 31, 2013, is \$9,241.45.

For 2014, B resumes calculating and substantiating actual expenses for purposes of § 280A. Pursuant to section 4.07 of this revenue procedure, B must use the appropriate optional depreciation table for determining the depreciation deduction allowable for the room for 2014 because B used the safe harbor method provided by this revenue procedure for a prior taxable year. In 2014, the room has been placed in service by B for five years. The appropriate optional depreciation table provides that the depreciation rate for year five is 2.564%. Accordingly, B deducts depreciation for the room on her federal income tax return for 2014 in the amount of \$256.40 ($\$10,000 \times .02564$). Consequently, B's adjusted depreciable basis in the room as of December 31, 2014, is reduced to \$8,985.05 ($\$9,241.45 - \256.40).

SECTION 5. EFFECT ON OTHER DOCUMENTS

Section 8.02 of Rev. Proc. 87-57, 1987-2 C.B. 687, is modified to read as follows:

.02 The optional depreciation tables specify schedules of annual depreciation rates to be applied to the unadjusted basis (or, if applicable, to the remaining adjusted depreciable basis as determined under § 1.168(k)-1(d)(2)(i) of the Income Tax

Regulations) of property in each taxable year. If a taxpayer uses a table to compute the annual depreciation allowance for any item of property, the taxpayer must use the table to compute the annual depreciation allowances for the entire recovery period of such property, except as otherwise expressly provided by the Code, the regulations under the Code, or other guidance published in the Internal Revenue Bulletin. Further, a taxpayer may not continue to use the table if there are any adjustments to the basis of the property for reasons other than (1) depreciation allowed or allowable, or (2) an addition or an improvement to such property that is subject to depreciation as a separate item of property. Use of the tables in this revenue procedure to compute depreciation allowances does not require the filing of any notice with the Internal Revenue Service.

Taxpayers use the appropriate table for any property based on the depreciation system, the applicable depreciation method, the applicable recovery period, and the applicable convention. The tables list the percentage depreciation rates to be applied to the unadjusted basis (or, if applicable, to the remaining adjusted depreciable basis as determined under § 1.168(k)-1(d)(2)(i)) of property in each taxable year.

In Tables 1-5, for the general depreciation system, the listed depreciation rates reflect the 200 percent declining balance method switching to the straight line method for property with applicable recovery periods of 3, 5, 7, or 10 years and the 150 percent declining balance method switching to the straight line method for property with applicable recovery periods of 15 or 20 years.

SECTION 6. EFFECTIVE DATE

This revenue procedure is effective for taxable years beginning on or after January 1, 2013.

SECTION 7. REQUEST FOR COMMENTS

The Service and the Treasury Department request comments on all aspects of this revenue procedure.

Comments should be submitted in writing on or before April 15, 2013, and should include a reference to Rev. Proc. 2013-13. Submissions should be sent to:

Internal Revenue Service
Attn: CC:PA:LPD:PR
(Rev. Proc. 2013-13), Room 5203
P.O. Box 7604
Ben Franklin Station
Washington, DC 20044

Submissions also may be hand delivered Monday through Friday between the hours of 8 a.m. and 4 p.m. to CC:PA:LPD:PR (Rev. Proc. 2013-13), Courier's Desk, Internal Revenue Service, 1111 Constitution Avenue, N.W., Washington, DC. Alternatively, comments may be submitted electronically directly to the IRS via the following e-mail address: Notice.comments@irscounsel.treas.gov. Please include "Rev. Proc. 2013-13" in the subject line of any electronic communication. All comments will be available for public inspection and copying.

SECTION 8. DRAFTING INFORMATION

The principal author of this revenue procedure is Christopher W. Call of the Office of Associate Chief Counsel (Income Tax & Accounting). For further information regarding

this revenue procedure contact Christopher W. Call at (202) 622-4970 (not a toll-free call).