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Setting a Boat up as a business.

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Definition of Terms

Bay Yacht Agency (Hereinafter referred to as BYA). A corporation that primarily uses, independent contractors (Full and part time) to sell various boats.

Let's Go Cruising (Hereinafter referred to as LGC). A Yacht management company that works with owners to charter and service their boats under a seasonal agreement.

Charter company. The general class of entities that offer co-management and booking services under a specific, seasonal agreement with the owners. Also referred to as "Management Company" There may be more than one management company coincidentally, or separately as owner may choose to offer his boat for charter or demos at more than one location during any given year.

Owner/participant (Hereinafter referred to as "Owner").The participant who sets up a business to charter and demo the boat.

The Vessel the boat that will be used for charters and demos by the owner

Boat-As-A-Business. A program designed by Bay Yacht Agency and Let's Go Cruising for Owners who want to set up the boat business described

Sales Associate. An owner who enters into an Independent Contractors agreement with BYA and/or LGC

Bare Boat Charter. This has a distinct definition in maritime law and primarily designates a term charter where the owner does not provide a captain. This is a short term charter (rental activity) generally for a week or less, where the owner does not provide a captain. Rather, the potential charterers demonstrate their capability through a resume and skills test on the boat (which may be conducted by



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the owner or his agent). If the Charterer is not sufficiently skilled, then he may choose a captain from a list maintained by the Charter Company and pre-approved by the owner. This is the only type of charter agreement contemplated. There is no lease to individuals, or to the management company. Each charter contract is executed between the charterer and the owner—in some cases with LGC acting as owner’s agent and authorized to accept the contract.

“A charter in which the bare ship is chartered without crew; the charterer, for a stipulated sum taking over the vessel for a stated period of time, with a minimum of restrictions; the charterer appoints the master and the crew and pays all running expenses. See Demise Charter.”

www.consultwebs.com/legal_glossaries/transportation/glossaryb.html

The boat in this case is generally U.S. C.G. documented as a “Pleasure boat endorsement”, and not a “Coastwise endorsement”. For a discussion of this issue, and an owner acting as his own captain, please read: <http://www.bayacht.com/aaa/Charter/CharterReg-Demise-ownerCapt.pdf>

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Discussion

Bay Yacht Agency has been in business continuously under the same owner since 1972. The guidelines offered herein and to owners are a direct result of compiling a consensus opinion from a host of tax advisors where this general activity has been discussed in the past.

Bay Yacht Agency, its officers, agents and employees are not tax advisors. This information is provided for information and research purposes only. This paper represents a sampling of the information that has been gathered from various sources including government agencies and their forms and explanations.

The business purpose for this Boat as a businessTM is to set up a business that incorporates owning a boat that is used for charters, demonstrations, and ultimately resale, all for a profit. Ultimately, the exit strategy may involve rolling one boat over for another, converting the boat to personal use, or selling the boat outright for a profit.

Placing the boat in service. This is the first year in which the business starts. Generally, the minimum criteria is that the boat is settled on (titled in the entity name—not the year ordered, for instance), and the owner should enter into his management agreement and sales associate agreement. The boat should be ready for its intended purpose (chartering and demos) in the year that it is placed in service, though IRS examples specifically state that it doesn’t have to actually earn income this first year—it must simply be “ready and available”. At settlement, we will typically execute all of these agreements, and place the boat on the active charter roster so that it is ready for its intended purpose, essentially at the date of (or day after) settlement. For further discussion, or especially late year acquisitions, discuss the possibilities with us.



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SPECIAL NOTE: Late year considerations. If the business is established late in the year, Material participation rule (2), rather than (3) would apply in order to meet the qualification. (Guidelines on p.9, Appendix (1)). Further, the tax payer may elect to set up a fiscal business year rather than a calendar business year so that the final acquisition may be deferred into some time later in his business year, but still in the current fiscal year, and so qualify for the current calendar year benefits. (I have a detailed paper on this subject, available once the confidentiality agreement is signed. Call Eric Smith 410-703-5655 or email esmith@bayacht.com) Fill out the confidentiality form here:

For access to more detailed white papers, business plans, and copies of agreements, please fill out our confidentiality agreement on-line form: <http://www.bayacht.com/aaa/nl-artic/Confidentiality.htm>

The owner will normally set up a business entity, typically an LLC, under which he will operate. The owner will consult with BYA in setting the boat up to optimize it for its intended purpose, and then engage BYA to commission the boat to the agreed specifications. The owner shall have sole authority to set his boat up in the way he perceives that it will be best optimized for its intended purpose—principally to charter. After the boat is commissioned, the owner will contract with LGC on a seasonal basis to work with him in handling service issues and booking charters. The owner will be actively involved in his business and will also be arranging charters on his own, and through other charter booking agencies. It is anticipated that the owner will spend at least 100 hours in the activity and that will be more than any other single individual—with the management company, for instance.

The owners participation will include: (See the 7 tests for active participation, Appendix 1)

1. Reviewing charter applicants resumes for competency to charter his boat.
2. In some cases, checking out charterers that he arranges, and/or checking his boat out before and after charters in order to assure that it is maintained in charterable, and demonstrator condition.
3. Placing ads in periodicals and arranging to have a web site maintained. He will have business cards for distribution to friends and associates that includes information about his boat and web site.
4. Offering demos to potential charter or purchase candidates that he sets up, or that are referred by BYA or LGC—and earn commissions/
5. Participating in boat shows with BYA, LGC, or other Charter Companies with whom he may become associated, in his sales associate capacity, earning commissions—when possible.
6. He will be constantly checking various cruising areas in order to help develop new and exciting itineraries for his possible charterers. Information about these itineraries will be incorporated into his web site and on mailings.
7. He will, from time to time, investigate other areas where he might also charter his boat for a full year or more, or a part of the year.

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Record keeping—How the business will operate.

3 Principal records...

1. Business Account with separate records from his personal accounts. The owner will set up a business checking account, through which all funds related to the business will pass. Income received from any source will be deposited into this account, and any payments made will be paid from this account so that at year end, this account will reflect all of the financial activity of the entity.
2. Statements from the Management Company. The owner will receive monthly statements from whatever management company, including LGC, manages his boat, along with monthly statements which will reflect any charters booked as a result of the charter company acting as his agent, and any service fees for work authorized by the Owner. Owner will receive a check for the balance.

In his capacity as a Sales Associate, client will refer clients to BYA and LGC, and at times, clients will be referred to him in order to further sales of boats and charters. He is in an ideal position as an independent, knowledgeable participant to help sell charters on his boat, or others in the fleet acting as a charter agent, and to help sell boats as well—as a Sales Associate, earning commissions.

3. Owner will keep a log of use of the vessel.

There are generally 3 categories of use.

1. **Business Use:** He will log in the charter days and any other days where he received direct payments--as business use.
2. **Service use:** He will log in days that he worked on the boat, checked the boat out, (especially) before and after charters, days he performed service or maintenance on the boat, days he demonstrated the boat to potential clients and days that he cruised in order to update his itinerary list and web site.
3. **Personal Use:** He will log in as personal use days that he used the boat for personal pleasure that did not fall into the categories above. In general, the business use (1) and personal use (3) are added and then the proportion of use allocated as business is multiplied times the various deductible expenses such as dockage, insurance, maintenance, and depreciation to determine the tax payers final deductions. In general, expenses such as direct management or commission expenses paid as a result of a charter are 100% deductible.

LGC and BYA will furnish annual records of clients that were referred to them or that they referred and these should be incorporated into the log book.

It is anticipated that the owner will spend a minimum of 100 hours in the activity, and that is more time than any other single person will spend. Though LGC will be performing some management and booking activities, this will be spread over: Captains, boat cleaners, service techs, charter brokers,



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administrative personal and the like—so that no one of these people will spend anywhere near the time that the owner spends. The owner will participate on a regular, continual, and substantial basis. (See the 7 tests for active participation, Appendix 1)

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General tax guidelines...

Typically, when the Owners business is set up as an entity that has pass through privileges—such as an LLC the expense write-offs that exceed the income, can be written off against other, even unrelated sources of “active” income.

Expense write offs: In general, the expenses specifically related to conducting the trade or business can be written off, proportional to their applicability to the business. It is generally understood that: the business use (1-above) and personal use (3 above) are added and then the proportion of use allocated as business is multiplied times the various deductible expenses such as dockage, insurance, maintenance, and depreciation to determine the tax payers final deductions. In general, expenses such as direct management or commission expenses paid as a result of a charter are 100% deductible.

Why an owner qualifies for Material participation, and does not fall under the hobby loss rules.

Appendix (1), p.9.

1. He is actively involved in the business in order to make a profit.
2. He meets the 100 hour test as a minimum. His Sales Associate participation helps in this regard.
3. He operates his business in a business like manner, including keeping a contemporaneous log of the business activity, and keeping separate records.
4. He keeps a separate checking account and keeps complete records, including a log of activity, has business cards and has a web site—we will help with providing templates for the business cards and web site and will provide a log with instructions.
5. While one guideline is to show a profit in 3 out of 5 years, that is not an absolute criteria and many financial experts have pointed out that this is not necessary as long as the business owner is continuously on the lookout to make his business profitable, operates in a business like way, and has a business plan that shows the potential profit at some point (in the next 5 years)—this might include profit from the sale of the boat. A great small business advocate is Sandy Botkin, and his site offers many interesting ideas for a small businessman starting up. See Addendum 3 for more...

An interview: <http://www.bayacht.com/aaa/nl-artic/ArticleWhyaBusiness.htm>

Sandy's site: <http://www.taxreductioninstitute.com/>

6. His contract with the management company is a seasonal agreement and cannot be construed as a lease.

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"RE: 179 Deduction

Businesses can now write-off up to \$500,000 of [qualified equipment and software](#) during the 2010 tax year - subject to a phase-out if a business has capital expenditures exceeding \$2,000,000.

NEWS ALERT: Jan 1, 2011 The 'Tax Relief Act of 2010' signed 12/17/2010, extends Section 179 Deduction as well as expands Bonus Depreciation thru the 2011 tax year.

Section 179 limits were increased by the 'Jobs Act of 2010' on 09/27/2010 – allowing businesses to write-off up to \$500,000 of qualified capital expenditures subject to a dollar-for-dollar phase-out once these expenditures exceed \$2 million.

Bonus Depreciation was increased by the 'Tax Relief Act of 2010' on 12/17/2010 - allowing businesses to use 1st year Bonus Depreciation of 100% on qualified assets purchased after Sep 8, 2010 but no later than Dec 31, 2011.

What's the difference between Section 179 and Bonus Depreciation? The most important difference is Section 179 covers both new and used equipment, while Bonus Depreciation covers new equipment only. Bonus Depreciation is useful to very large businesses spending more than \$2 million on capital equipment in 2011; also businesses with a net loss in 2011 qualify to deduct the cost of new equipment.

Computer Software will continue to be eligible for §179 expensing in 2011.

When applying these provisions, Section 179 is generally taken first, followed by Bonus Depreciation – unless the business has no taxable profit in 2011.

For authoritative information, visit our friends at: <http://www.section179.org/>

For 2011 Reference and other questions answered:

<http://www.taxguru.org/incometax/rates/sec179.htm>

<http://www.depreciationbonus.org/>

<http://www.section179.org/>

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Depreciation guidelines

Boats are classified as a 10 year asset for depreciation and may qualify for 10 year, MACRS depreciation plus, for 2011 they qualify for up to \$500,000 in a 179 expense allowance, and bonus depreciation—both in the year of start up.

<http://www.bankrate.com/finance/taxes/tax-breaks-for-small-businesses-1.aspx> <http://www.section179.org/>

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179 Guidelines...

1. Why, under the BAB (Boat As A Business) property is not considered a lease (Lease property is not allowed the 179 expense allowance)

1. The owner enters into a seasonal charter agreement with a management company. The management company does not lease the boat. The management company enters into short term, generally less than a week: “Bareboat Charter agreements” with multiple clients.
2. The agreement is not exclusive. The owner may also charter/rent his boat.
3. The owner does not give up care/custody or control.
4. The owner pays his own expenses.
5. The owner maintains an active, rather than passive operation. The owner can meet at least one of the 7 guidelines for active involvement (3) “Spends at least 100 hours, and that’s more than time any other single individual spends”
6. The terms of the agreements are much less than 50% of the class life—not even a consideration for a lease.
7. This approach is not a lease

2. Applying the 179 deduction to your income...

These guidelines generally apply ...

Businesses can now write-off up to \$500,000 of [qualified equipment and software](#) during the 2010 tax year - subject to a phase-out if a business has capital expenditures exceeding \$2,000,000.

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Computer Software will continue to be eligible for §179 expensing in 2011.

Your deduction is limited to your [aggregate taxable income from the active conduct of any](#)



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trade or business. Active trade or business includes employee and spouse's wages, sole proprietorships, partnerships and S corporations. Basically, this means that unless you have other sources of business income, your Section 179 deduction can't create a taxable loss for your business. **i.e. from ES: income from virtually any source that is not considered "passive" income.**

For example, you are someone else's employee for most of the year. Your wages exceed the Section 179 deduction. You start your own business at the end of the year and purchase equipment and furniture. Even if your new business doesn't generate gross income that year, you can still take the Section 179 deduction on the new equipment and furniture. Why? Your wages exceed the Section 179 deduction.

This aspect of inclusion also applies to a spouse. For example, you earn annual wages of \$60,000 as an employee. Your spouse doesn't work during the year but begins a new business at the end of the year. Your spouse purchases and places in service \$15,000 of Section 179 property at the end of the year. Your spouse's business doesn't generate gross income at the end of the year. Even though your spouse hasn't earned trade or business income for the year, the Section 179 deduction of \$15,000 is still allowed in full since your wages count as trade or business income.

Any amounts disallowed by the trade or business taxable income limit are carried over to the next year and added to the cost of any eligible property placed in service in that year.

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Disposition options...

As part of any prudent tax planning the disposition options should be considered. There are generally 3 options:

1. Roll the first boat over for a second boat. In general, this is considered a "Like-kind" exchange and no tax recapture is due. Note, Real property, even though it may be rental property does not qualify for this like-kind exchange provision. Real Property can only be exchanged for Real Property—this question comes up with owners often when they want to move from a rental home property to a boat rental property.

Example:

Rudy, a drywall contractor, trades in his three-year-old small Ford pickup for a new full-sized Chevy truck. Rudy also pays the dealer \$10,000. No matter how much depreciation Rudy took on his Ford in the past, he won't have any taxable gain (or loss). This a like-kind exchange of business assets.

Basis for a new boat. If you sell and buy similar property calculate the basis of the new Boat

New Basis Example

You use your boat in business for 5 years. It's adjusted basis is \$100,000 and it's trade in value is \$125,000. The new boat you want costs \$300,000. Ordinarily, you would trade your old boat for the new



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one and pay \$175,000. Your basis for the depreciation on the new boat would then be \$275,000 (\$175,000 plus \$100,000 adjusted basis of old boat)

2. Sell the boat outright. Excess Depreciation (depreciation and 179 allowance taken that exceeds what would have been taken with applicable depreciation alone) is recaptured as ordinary income.—much depends on the first years depreciation and 179 taken and on when the boat is sold (how many years of accelerated depreciation taken).

Example:

Fannie sells a 20-foot custom teak conference table that doesn't fit into her new law office. She paid \$10,000 for it, and over several years took \$8,000 in depreciation deductions. Her tax basis is \$2,000. Fannie sells it to Vonny for \$2,500.

Tax result: Fannie owes income tax on \$500 (\$2,500 – \$2,000), the gain the tax law says she had after the recapture of previously claimed tax deductions.

3. Converting to personal use. (Generally, At the point the personal use exceeds 50% of the total use). Excess Depreciation is recaptured as ordinary income.

Example:

Conversion is considered to have occurred when the business use falls to below 50%. For example, supposed after 5 years John stops using his \$300,000 boat as a business, and he has used \$175,000 in depreciation. John now, simply, wants to use his boat personally from now on. John notes that other, similar, charter boats are selling (Get your dealer to help you with actual figures) for 65% less than their purchase prices.) This (salvage) amount is less than the total depreciation claimed, and because John is not actually selling the boat and establishing a different value—John simply saves this information, and pays no tax.

Tax result: There is no recapture.

IRS does have other guidelines for recapture of excess depreciation...

Recapture of Excess Depreciation

If you used listed property more than 50% in a qualified business use in the year you placed it in service, you must recapture (include in income) excess depreciation in the first year you use it 50% or less. You also increase the adjusted basis of your property by the same amount.

Excess depreciation is:



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1. The depreciation allowable for the property (including any section 179 deduction and special depreciation allowance claimed) for years before the first year you do not use the property predominantly for qualified business use, **minus**
2. The depreciation that would have been allowable for those years if you had not used the property predominantly for qualified business use in the year you placed it in service.

To determine the amount in (2) above, you must refigure the depreciation using the straight line method and the ADS recovery period.

Example.

In June 2004, Ellen Rye purchased and placed in service a pickup truck that cost \$18,000. She used it only for qualified business use for 2004 through 2007. Ellen claimed a section 179 deduction of \$10,000 based on the purchase of the truck. She began depreciating it using the 200% DB method over a 5-year GDS recovery period. The pickup truck's gross vehicle weight was over 6,000 pounds, so it was not subject to the passenger automobile limits discussed later under *Do the Passenger Automobile Limits Apply*. During 2008, she used the truck 50% for business and 50% for personal purposes. She includes \$4,018 excess depreciation in her gross income for 2008. The excess depreciation is determined as follows.

Total section 179 deduction (\$10,000) and depreciation claimed (\$6,618) for 2004 through 2007. (Depreciation is from Table A-1.)		\$16,618
Minus: Depreciation allowable (Table A-8):		
2004 – 10% of \$18,000	\$1,800	
2005 – 20% of \$18,000	3,600	
2006 – 20% of \$18,000	3,600	
2007 – 20% of \$18,000	3,600	12,600
Excess depreciation		\$4,018

If Ellen's use of the truck does not change to 50% for business and 50% for personal purposes until 2010, there will be no excess depreciation. The total depreciation allowable using Table A-8 through 2010 will be \$18,000, which equals the total of the section 179 deduction and depreciation she will have claimed.

Generally, in the case of a boat, if you kept it about 5 years and depreciated somewhere around 50% you would have little or no depreciation recapture. At worst, you might have some small amount of recapture but you had the use of your money. Another option would be to sell the boat to a relative or friend for the salvage value and pay no recapture. Who knows, you might still be able to use it or even buy it back privately down the line.

As always, advanced planning helps. Please feel free to consult with us if you want an estimate of resale value and/or recapture for planning purposes and, especially, for planning the first year's tax strategy.

<http://accounting-financial-tax.com/2009/06/depreciation-recapture-tax-dispose-of-business-assets/>



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Recapture of depreciation-- http://www.taxalmanac.org/index.php/Reg._1.168%28i%29-4

The conversion of MACRS property from business or income-producing use to personal use during a taxable year is treated as a disposition of the property in that taxable year.

Publication 946

<http://www.irs.gov/publications/p946/index.html>

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Summary for financial advisor...

I recognize that much of this information is not new. My goal has been simply to assemble some of the key facts in one easy reference, and to highlight the specific guidelines that would allow an owner to qualify for active participation. This information has been assembled from interviews with 100's of tax advisors and client interviews over the last 30+ years while helping over 780 people set their boat up as a business, successfully. In all of that time, I do not know of one single case of a client who followed these guidelines, losing any of the tax advantages that they legitimately claimed.

It is important to note, that this program is totally different from a lease program or a charter company program (such as Moorings, Sunsail, etc.) In this program, the management agreement is seasonal and not considered a lease, the owner is actively involved, meets the qualifying criteria (100 hours, and that's more than any other individual involved), and has the appropriate records to support his position.

<http://www.bayacht.com/aaa/nl-artic/mgt-vs-charter.htm>

The challenge for the tax advisor is to:

1. Realize that this owner wants a boat and wants to be involved in this activity. 100's of others have followed these guidelines successfully. In the couple of known reversals (in different programs), the owner was operating in a specifically different way and did not follow these guidelines. (Activity was declared a lease, etc.)
2. Understand the specifics of these Boat-As-A-Business guidelines, and why they are totally different than the structure of a typical charter company plan and why operating this way is in keeping with the business guidelines required of any business as established by IRS. <http://www.bayacht.com/aaa/nl-artic/mgt-vs-charter.htm>. Two critical components are that the agreement not be construed as a lease and that the owner can be an active participant by contributing more time (at least 100 hours) than any other individual.
3. By interviewing the client, determine what part of the first years available tax advantages should be taken in the form of a 179 expense allowance and/or bonus depreciation,—and what portion to spread out over longer term depreciation—either MACRS, or straight line. For a quick analysis, this Java script might be helpful to calculate marginal and average tax bracket: <http://www.dinkytown.net/java/TaxMargin.html>
4. Discuss and plan for disposition options.
5. Point out some of the other options for any one who wishes to set up a small business and is not enjoying those benefits now. Sandy Botkin has a wonderful site and talks about many of the issues and benefits. <http://www.taxreductioninstitute.com/>



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6. Bay Yacht Agency typically equips the boat, provides marine financing, provides a detailed business plan with expenses and income (we welcome your input and are happy to work with you on this), will set up a LLC (or work with owner's financial advisor on this), and provides all documentation and will even set up a checking/savings account with ACH provisions for exchanging funds and keeping accurate records almost instantaneously. BYA also provides instruction or sailing lessons, and finally provides a management company to help manage the boat business established. The management company operates totally within the requirements of IRS guidelines, including insuring that the management agreement is not construed as a lease, and providing for the 100 hour requirement of the owner, and this being more than any other individual spends.
7. Final note. Clients enter into this program for many reasons, but two often cited reasons are:
 - a. A recognition that the owner has limited time now, but will have more time later. The income and tax advantages can help him gain experience and equity until such time as he can convert the boat to personal use when he has more time.
 - b. Professional management ensures that his investment is well taken care of with a clearly documented service schedule. His boat is always maintained in pristine condition for his personal use, or for demonstrations with potential clients.

Please feel free to contact Eric Smith if you have any other questions or concerns. Email me with clients full name: esmith@bayacht.com and I will get back to you.

In the end, I am sure that one of the reasons that your client chose you is because he trusts that you are an advocate for helping him to achieve his goals. If owning a boat for the least possible cost is one of those goals, then I hope this information will help you, to help him!

For access to more detailed white papers, business plans, and copies of agreements, please fill out our confidentiality agreement on-line form: <http://www.bayacht.com/aaa/nl-artic/Confidentiallity.htm>

Eric Smith, President, Bay Yacht Agency

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Appendix 1

Here are the actual 7 tests(Direct from IRS guidelines)...

Material Participation. For purposes of the passive activity rules, you materially participated in the operation of this trade or business activity during the year if you meet any of the following seven tests:

1. You participated in the activity for more than 500 hours during the tax year.
2. Your participation in the activity for the tax year was substantially all of the participation in the activity of all individuals (including individuals who did not own any interest in the activity) for the tax year. (Note, ES: This may be applicable for businesses established late in the year where the client provides virtually all of the participation.)
3. You participated in the activity for more than 100 hours during the tax year, and you participated at least as much as any other person for the tax year. This includes individuals who did not own any interest in the activity.
4. The activity is a significant participation activity for the tax year, and you participated in all significant participation activities for more than 500 hours during the year. An activity is a “significant participation activity” if it involves the conduct of a trade or business, you participated in the activity for more than 100 hours during the tax year, and you did not materially participate under any of the material participation tests (other than this test 4).
5. You materially participated in the activity for any 5 of the prior 10 tax years.
6. The activity is a personal service activity in which you materially participated for any 3 prior tax years. A personal service activity is an activity that involves performing personal services in the fields of health, law, engineering, architecture, accounting, actuarial science, performing arts, consulting, or any other trade or business in which capital is not a material income producing factor.
7. Based on all the facts and circumstances, you participated in the activity on a regular, continuous, and substantial basis during the tax year. But you do not meet this test if you participated in the activity for 100 hours or less during the tax year. Your participation in managing the activity does not count in determining if you meet this test if any person (except you) —
 - a. Received compensation for performing management services in connection with the activity, or
 - b. Spent more hours during the tax year than you spent performing management services in connection with the activity (regardless of whether the person was compensated for the services).

If you meet any of the test (3) you can qualify.

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Appendix 2

Calculate your tax rate here: <http://www.maxi-pedia.com/2010+federal+tax+rates+tables>

Sponsored Links

[H&R Block Tax Calculators](http://www.HRBlock.com) Use Our Calculators To Ensure Accurate Deductions & Credits www.HRBlock.com

[Amscot Tax Services](http://www.AmscotFinancial.com/TaxService) Let Amscot Prepare your Taxes. Complete Line of Fast Tax

Options. www.AmscotFinancial.com/TaxService

[TurboTax Official Site](http://www.turbotax.com) Use TurboTax Free Fed Edition. Maximum Refund Guarantee! Now

Free. www.turbotax.com

[Taxes Ads](#)

[Income Tax Courses](#) [Income Calculator](#) [Personal Tax](#) [Filing State Taxes](#) [Federal Tax Schedule](#)

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2010 Tax Rates

Below are the marginal tax brackets for 2010. Tax rates progressively increase as income increases. However, the increasingly higher tax rates apply only to the income in each range, which is called a tax bracket. Also, the tax rates apply only to taxable income. Various adjustments and deductions, including the standard deduction and personal exemptions, all lower a person's taxable income. Taxable income is almost always less than your total income.

Capital gains may be taxed at different tax rates. [Capital gains tax rates](#) are calculated separately. The rates below are what we call ordinary or marginal tax rates. They are ordinary rates in distinction to the lower rates imposed on capital gains. They are marginal in the sense that these rates apply to the next dollar earned.

Note: These tax rate schedules are provided for tax planning purposes. To compute your actual income tax, please see the office instructions from the IRS for Form 1040, 1040A, or 1040EZ as appropriate.

How to read these tax rate charts. First, find your filing status. Second, find your income level. A single person making \$50,000 would be in the 25% tax bracket, for example. On this income, the person would pay tax of \$4,681.25 plus 25% on income over \$34,000. The \$4,681.25 amount covers taxes calculated on income that falls in the 10% and 15% brackets. The 25% amount covers taxes calculated on income only within the 25% bracket.

Single Filing Status

[Tax Rate Schedule X, Internal Revenue Code section 1(c)]

- **10%** on income between \$0 and \$8,375
- **15%** on the income between \$8,375 and \$34,000; *plus* \$837.50
- **25%** on the income between \$34,000 and \$82,400; *plus* \$4,681.25
- **28%** on the income between \$82,400 and \$171,850; *plus* \$16,781.25



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- 33% on the income between \$171,850 and \$373,650; *plus* \$41,827.25
- 35% on the income over \$373,650; *plus* \$108,421.25

Married Filing Jointly or Qualifying Widow(er) Filing Status

[Tax Rate Schedule Y-1, Internal Revenue Code section 1(a)]

- 10% on the income between \$0 and \$16,750
- 15% on the income between \$16,750 and \$68,000; *plus* \$1,675
- 25% on the income between \$68,000 and \$137,300; *plus* \$9,362.50
- 28% on the income between \$137,300 and \$209,250; *plus* \$26,687.50
- 33% on the income between \$209,250 and \$373,650; *plus* \$46,833.50
- 35% on the income over \$373,650; *plus* \$101,085.50

Married Filing Separately Filing Status

[Tax Rate Schedule Y-2, Internal Revenue Code section 1(d)]

- 10% on the income between \$0 and \$8,375
- 15% on the income between \$8,375 and \$34,000; *plus* \$837.50
- 25% on the income between \$34,000 and \$68,650; *plus* \$4,681.25
- 28% on the income between \$68,650 and \$104,625; *plus* \$13,343.75
- 33% on the income between \$104,625 and \$186,825; *plus* \$23,416.75
- 35% on the income over \$186,825; *plus* \$50,542.75

Head of Household Filing Status

[Tax Rate Schedule Z, Internal Revenue Code section 1(b)]

- 10% on the income between \$0 and \$11,950
- 15% on the income between \$11,950 and \$45,550; *plus* \$1,195
- 25% on the income between \$45,550 and \$117,650; *plus* \$6,235
- 28% on the income between \$117,650 and \$190,550; *plus* \$24,260
- 33% on the income between \$190,550 and \$373,650; *plus* \$44,672
- 35% on the income over \$373,650; *plus* \$105,095

Tax rate tables, 2009

A tax calculator to calculate marginal and average tax rate...

<http://www.dinkytown.net/java/TaxMargin.html>



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2009

2009 Tax Rate Table for Married Individuals Filing Joint Returns and Surviving Spouses

Taxable Income	Tax
<\$16,700	10% of the taxable income
\$16,700 to \$67,900	\$1,670 + 15% of taxable income over \$16,700
\$67,900 to \$137,050	\$9,350 + 25% of taxable income over \$67,900
\$137,050 to \$208,850	\$26,637.50 + 28% of taxable income over \$137,050
\$208,850 to \$372,950	\$46,741.50 + 33% of taxable income over \$208,850
Over \$372,950	\$100,894.50 + 35% of taxable income over \$372,950

2009 Tax Rate Table for Heads of Households

Taxable Income	Tax
<\$11,950	10% of the taxable income
\$11,950 to \$45,500	\$1,195 + 15% of taxable income over \$11,950
\$45,500 to \$117,450	\$6,227.50 + 25% of taxable income over \$45,500
\$117,450 to \$190,200	\$24,215 + 28% of taxable income over \$117,450
\$190,200 to \$372,950	\$44,585 + 33% of taxable income over \$190,200
Over \$372,950	\$104,892.50 + 35% of taxable income over \$372,950

2009 Tax Rate Table for Unmarried Individuals (other than Surviving Spouses and Heads of Households)

Taxable Income	Tax
<\$8,350	10% of the taxable income
\$8,350 to \$33,950	\$835 + 15% of taxable income over \$8,350
\$33,950 to \$82,250	\$4,675 + 25% of taxable income over \$33,950
\$82,250 to \$171,550	\$16,750 + 28% of taxable income over \$82,250
\$171,550 to \$372,950	\$41,754 + 33% of taxable income over \$171,550
Over \$372,950	\$108,216 + 35% of taxable income over \$372,950



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2009 Tax Rate Table for Married Individuals Filing Separate Returns

Taxable Income	Tax
<\$8,350	10% of the taxable income
\$8,350 to \$33,950	\$835 + 15% of taxable income over \$8,350
\$33,950 to \$68,525	\$4,675 + 25% of taxable income over \$33,950
\$68,525 to \$104,425	\$13,318.75 + 28% of taxable income over \$68,525
\$104,425 to \$186,475	\$23,370.75 + 33% of taxable income over \$104,425
Over \$186,475	\$50,447.25 + 35% of taxable income over \$186,475

2009 Tax Rate Table for Estates and Trusts

Taxable Income	Tax
<\$2,300	15% of the taxable income
\$2,300 to \$5,350	\$345 + 25% of taxable income over \$2,300
\$5,350 to \$8,200	\$1,107.50 + 28% of taxable income over \$5,350
\$8,200 to \$11,150	\$1,905.50 + 33% of taxable income over \$8,200
Over \$11,150	\$2,879 + 35% of taxable income over \$11,150

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How Marginal Tax Rates are Used

Individuals can use the tax rate schedules in a number of ways to help plan their finances. You can use these tax rates to figure out how much tax you will pay on extra income you earn. For a taxpayer in the 25% tax bracket, extra income will be taxed at that rate until the taxpayer reaches the next tax bracket. Alternatively, you can use these tax rates to figure out how much tax you will save by increasing your deductions. For a taxpayer in the 28% tax bracket will save 28 cents in federal tax for every dollar spent on a tax-deductible expense, such as mortgage interest or charity.

Source: Internal Revenue Service, [Revenue Procedure 2007-66](#).

A handy calculator: <http://www.dinkytown.net/java/TaxMargin.html>



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Addendum 3

What are the rules for being a business?

<http://www.taxreductioninstitute.com/kb.asp?article=2> The following is a part of this discussion by Sandy.

The internal revenue code notes that if you have a profit for three out of five consecutive years (five out of seven for horses), you are presumed to be a business. However, even if you don't have the necessary profit, you can still have many years of losses if you run your endeavor with a reasonable expectation of profit.

There are a number of factors that the courts use in making this determination. One of the biggest and most important factors is whether you have a business plan. This is a five-year projection of income and expenses. It should at some year in the projection show a profit. I cannot overstate the importance of this. You should also have a marketing plan built in to your business plan showing your projected marketing activities.

Another factor is whether you have the appropriate documentation. Businesses have correct detailed records. Businesses keep tax diaries. Hobbies do not. You should also work your business regularly. This means working your business at least 45 minutes per day, four or five days a week. It is much more beneficial to work a business four hours a week then to put in eight hours in one week and none in the second week.

Business owners go to training that should be documented. In addition, if business owners don't have a profit in one year, they don't repeat the same mistakes. Insanity is expecting different results doing the same thing. Business owners change marketing strategies if they don't work and consult with experts.

There is much more that I can add to this discussion, but it should give you a good review of what is necessary. I suggest that you obtain my, "Tax Strategy Program," and read the accompanying workbook.

Additional site for how to avoid being ruled a hobby business:

<http://www.simplesubjects.com/tax/hobby-or-business-avoiding-the-hobby-loss-rules.html>

From BYA:

Other areas to explore:

Generally, IRS will not apply the hobby loss rules to a "C" Corp.

Be sure business plan ties together as a related and inter-dependant aggregate the concept that the Sales Associate activity is supportive of the charter activity and that the totality of the charter income and sales associate income and time spent is applicable to the business activity.



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Document advice received from experts. BYA has assisted approximately 670 clients since 1972 and can be considered an expert in this area. Also, boating courses, magazine subscriptions and interviews with others in the industry, including loan brokers, insurance agents and others that BYA has access to, and who have extensive knowledge of this particular business help in this regard and contacts should be shown in the log.

For access to more detailed white papers, business plans, marketing plans, and copies of applicable agreements discussed, please fill out our confidentiality agreement on-line form:

<http://www.bayacht.com/aaa/nl-artic/Confidentiality.htm>

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Appendix 4 These are for past years and were amended for 2010-2011

179 Guidelines THESE WERE BEFORE THE RECENT MODIFICATIONS FOR 08-2010 WHICH INCREASED THE LIMITS TO \$250,000 AND THE PHASE OUT TO \$800,000

<http://www.taxguru.org/incometax/Rates/Sec179.htm>

2002	\$24,000
2003	\$100,000
2004	\$102,000
2005	\$105,000
2006	\$108,000
2007	\$125,000
2008	\$128,000
2009	\$128,000 + COLA
2010	\$128,000 + COLA (Currently \$135,000)
2011	\$25,000

179 expense allowance phases out, dollar for dollar after these amounts...

For 2007, that phase-out begins at \$500,000

For 2008 + 2009+2010, that phase-out begins at \$800,000

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Appendix 5

Sample, summary business plan.

On request. Will show 5 year cash flows with detailed expense and income at various assumed income levels so profitability can be seen. Includes Owner's specific, estimated tax bracket, loan information, etc.

For access to more detailed white papers, business plans, and copies of agreements, please fill out our confidentiality agreement on-line form: <http://www.bayacht.com/aaa/nl-artic/Confidentiality.htm>

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Appendix 6-links

Inflation discussion: <http://www.inflationdata.com/Inflation/Inflation/AnnualInflation.asp>

Discussion and calculator: <http://www.dinkytown.net/java/TaxMargin.html>

Cost of goods in real dollars using CPI: <http://www.lospadrescounty.net/et/inflation.html>

See the Boats available: <http://www.bayacht.com/new.htm> See the charter boat list currently in the fleet: <http://www.letsgocruising.com/chooseyacht.html>

A general discussion of the program (Linked to a more detailed discussion and Q&A)
<http://www.bayacht.com/invest.htm>

How to use "The Perfect Storm of opportunity" to your advantage—now. A paper based on interviews with business people and financial analysts as well as with boat manufacturers.
<http://www.bayacht.com/aaa/nl-artic/PerfectStorm.htm>

References See: <http://www.section179.org/> to explore these links.

[IRS Publication | Electing the Section 179 Deduction](#)

[Gov Publication | Economic Stimulus Act of 2008](#)

[Gov Publication | American Recovery & Reinvestment Act of 2009](#)

[Gov Publication | HIRE Act of 2010](#)

[Gov Publication | Small Business Jobs Act of 2010](#)

[Gov Publication | Tax Relief Act of 2010](#)



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