

In addition to the \$9,000 of deductions allowed using the Service method for allocating expenses under section 280A (or the \$5,550 using the Tax Court method), the taxpayer can also deduct interest and taxes allocable to the non-rental use. Using the Service method, the taxpayer would have itemized deductions totaling \$1,800; using the Tax Court method, the taxpayer would have itemized deductions totaling \$5,400. The total

deductions, combining both rental and personal use and ignoring any limitations under section 68, are \$10,800 using the Service method and \$10,950 using the Tax Court method. Because depreciation was limited using the Service method, the taxpayer's basis at the end of that year would be slightly higher than it would have been using the Tax Court method.

The Tax Court method gives better results in the example above. Will that

always be the case? The Tax Court method uses 365 as its denominator for allocating interest and taxes, while the Service method (assuming the property is not used every day) uses a smaller denominator. Both methods use the same numerator. As a result, the Tax Court method will invariably allocate a smaller amount of the interest and taxes to the rental use. Thus, the Tax Court method potentially allows a larger deduction for maintenance and depreciation. When coupled with the itemized deductions available for the remaining interest and taxes, the Tax Court method is likely to provide larger total deductions. But a taxpayer who is more concerned with reducing adjusted gross income, or who is subject to the AMT, may attain better results using the Service method. Because taxpayers cannot change method from year to year, it is important to consider the taxpayer's overall results before selecting a method. ■

ITEM	SERVICE METHOD	TAX COURT METHOD
Rental Income	\$ 9,000	\$ 9,000
Mortgage Interest	-3,000	-1,000
Property Tax	-2,400	-800
Net Income Before Maintenance / Depreciation	\$ 3,600	\$ 7,200
Maintenance Expenses	-1,500	-1,500
Depreciation Expense	-2,100	-2,250
Rental Income After Deductions	\$ 0	\$ 3,450

Tax Bites in the 111th Congress

By Gail L. Richmond*

Many tax statutes include "Revenue Act" in their titles. It's an accurate descriptor, but oh so dull. Fortunately for our readers, many legislators understand the importance of creative naming. This Tax Bites presents an assortment of bills introduced in the early months of the current Congress. Readers can use the THOMAS website to follow their progress over the next year (and to decipher those represented by acronyms).

H.R. 30: 401Kids Family Savings Act of 2009

H.R. 53: Bad Polluters Act of 2009

H.R. 87: Put Your Money Where Your Mouth Is Act of 2009

H.R. 386: CLASS Act of 2009

H.R. 424: Protecting Senior's Nest Egg Act of 2009

H.R. 433: REWARD Act of 2009

H.R. 550: Get America Moving Again Act of 2009

H.R. 705: National STEM Education Tax Incentive for Teachers Act of 2009

H.R. 779: Tax Free Tips Act of 2009

S. 100: Home School Opportunities Make Education Sound Act of 2009

S. 144: Modernize Our Bookkeeping In the Law for Employee's Cell Phone Act of 2009

S. 243: GIVE Act of 2009

S. 278: Incentive to Serve Tax Act

S. 304: Main Street Recovery Act

S. 493: ABLE Act of 2009

S. 744: Affordable Tutoring of Our Children Act

S. 857: SERVE Act of 2009

S. 864: Public Good IRA Rollover Act of 2009

* Nova Southeastern University Law Center, Davie, FL.