

LUENINKA | CERTIFIED PUBLIC ACCOUNTING
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**LUENINKA | Certified
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Loss on Sale of Income
Producing Property

LOSS ON SALE OF INCOME PRODUCING PROPERTY

What property allows the owner to deduct a loss?

Property that is business or investment property

Can I deduct the loss on my personal residence?

No. A loss on the sale of a residential property acquired and held as a personal residence is not deductible by an individual.

What if the property started out as my personal residence, but is now a rental property?

Yes. The loss on the sale of such property at the time it is being rented or otherwise used for income-producing purposes is deductible.

What if the property started out as a rental (income-producing) and now is my personal residence?

No. If the property is used as the taxpayer's personal residence after having been acquired as income-producing property, loss on its sale at the time it is being used as a residence is not deductible.

If I qualify, what is my loss classified as?

The nature of the loss – capital loss or ordinary loss – depends in each case upon the nature of the property, whether it is a capital asset or required to be treated as a capital asset under Code Section 1231 (1231 losses treated as ordinary).

What is Code Section 1231 property?

This property is comprised principally of depreciable personal and real property used in the taxpayer's trade or business and held for over twelve months. Trade or business property and capital assets (held over twelve months) that have been involuntarily converted (e.g., fire, etc.) are also included in this section.

Is it ever possible to deduct my loss directly from my ordinary income?

Yes, Depending on the % and type of ownership, your involvement in its management, and a few other stipulations pertaining to the "Mom and Pop Exception."

What is the Mom and Pop Exception?

Taxpayer may deduct up to \$25,000 (per year) of net passive losses attributable to rental real estate annually if the individuals are actively participating/managing (although not participating to the extent needed to avoid passive activity classification) and own more than 10% of the rental property. Any excess loss would be carried forward to future years and become fully deductible in the year the property is disposed of (sold). \$25,000 allowance reduced by 50% of the excess of the taxpayers AGI over \$100,000; eliminated completely when AGI exceeds \$150,000.

Warning! Please consult a CPA to properly advise you of your specific situation