

# THE PAPER SOURCE

## Journal

January 2024

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Where the *Note Industry* Meets

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## Real Estate Crowdfunding

By *W.J. Mencarow*

Private lenders finance more than half of all local builders' construction loans for residential property, according to [www.groundfloor.com](http://www.groundfloor.com). Crowdfunding is becoming a source of those loans. It's a way to raise money online by asking many individuals to contribute funds, often in small amounts, to a specific business venture or cause. Crowdfunding has raised money for charities, disaster relief, political campaigns, musicians — and real estate. Until relatively recently, only accredited investors (those who either have an annual income over \$200,000 or a net worth of over \$1 million) could participate in real estate crowdfunding.

Groundfloor is the only real estate crowdfunding site open to non-accredited investors. The typical loan ranges from \$50,000 to \$100,000 with a six-month to one-year term. Returns to investors start at 5 percent. Groundfloor grades available projects on a risk scale from A to G. Groundfloor is registered with the Securities and Exchange Commission (SEC) to do business in California, Georgia, Illinois, Maryland, Massachusetts, Texas, Virginia, Washington, and Washington, D.C. The company plans to expand into more states and eventually go nationwide.

Of course, I am not endorsing Groundfloor or crowdfunding. Do your due diligence, and if you want to proceed, invest with funds you can afford to lose. Here's what [www.therealestatecrowdfundingreview.com](http://www.therealestatecrowdfundingreview.com) says:

“Groundfloor specializes in residential debt investments (also called fix-and-flip loans or hard money loans). They have high volume, one of the lowest minimums in the industry (just \$10) and no investor fees. And they are currently the only site that offers individual note investments to non-accredited investors.

“On the other hand, many conservative and/or accredited investors may have issues with the very high uncured default rate (4.7+ times more than best-of-breed accredited offerings), loans in potentially expensive judicial-only states, high LTVs, and how they allegedly don't accurately report loans as non-performing in some circumstances. And all investors may feel uneasy with none of the typical bankruptcy protection to protect investor money should the platform go out of business.”

Cheers!

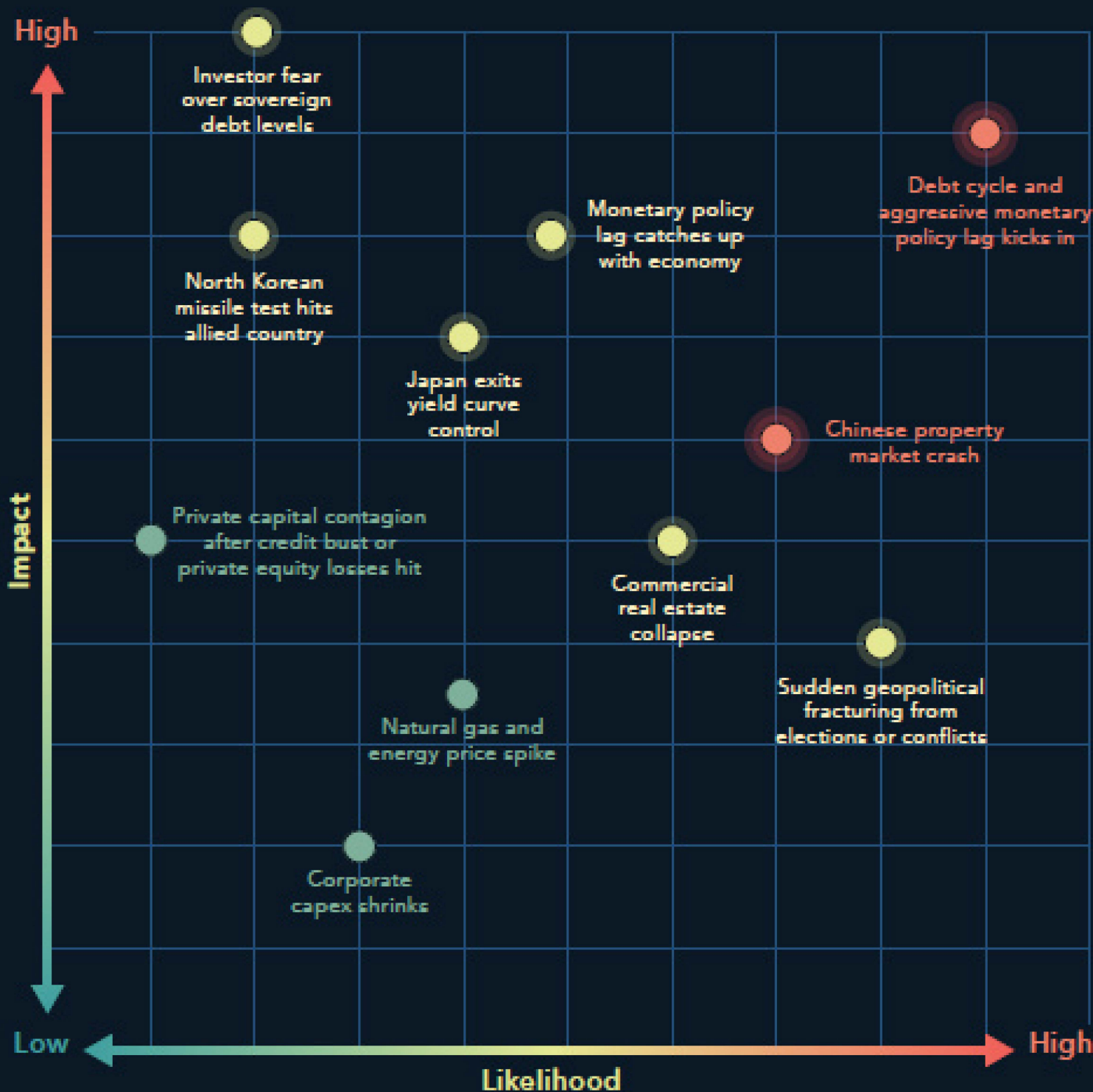
*Bill*

# Biggest Risks

## Likelihood & Impact of Economic Risks in 2024

“ History shows us that the biggest risks in a typical year aren't usually from out of left field. Rather, they are often hiding in plain sight.

- Charles Schwab



# Early Payoff For The Reverse Partial

*Did I read that right? A 92% yield??!!*



By Tom Henderson

The Reverse Partial, or as it is also called, the Partial Pass Through, sometimes can give the note buyer a little more security and yield, while at the same time giving the note seller the immediate cash he or she needs, along with retaining some cash flow.

Here is an excellent article giving examples of how Reverse Partial's can be applied to benefit both note buyer and note seller: [tinyurl.com/reverse-partial](http://tinyurl.com/reverse-partial). You should read it to understand the rest of this article. I am going to explain how to "crunch the numbers" to calculate a Reverse Partial as well as how to determine who gets what in the event of an early payoff.

For example, let's assume a note seller has a note for \$100,000 at 6% interest for 360 months, with payments of \$599.55 a month. Let's also assume the note seller needs a lump sum of cash, but also needs the monthly payments for a year to make ends meet. We, as a note buyer, are requiring a 10% yield. What do we offer?

Since the note seller will receive payments for 12 months, first we need to calculate how much we would pay to receive payments of \$599.55 for the remaining 348 months to receive a 10% yield. The note looks like this:

**N = 348**  
**I/YR = 10**  
**PV = -67,939.50**  
**PMT = 599.55**  
**FV = 0**

Remember, you will not start receiving payments for 12 months. How do we determine PV? Simple. We merely put 67,939.50 into FV and calculate what the PV would be in 12 months with 0 payments to realize a 10% yield.

**N = 12**  
**I/YR = 10**  
**PV = -61,499.68**  
**PMT = 0**  
**FV = 67,939.50**

This is the same as saying if we want to realize a 10% yield on a cash flow of \$599.55 for 348 months, but we would not start receiving these payments for 12 months, how much would we pay? ANSWER: \$61,499.68.

Let's have some fun and play "what if." What if the payor refinanced or sold the property in 6 months? Who gets what? In prior issues of *The Paper Source Journal*, I outlined the different methods of calculating who gets what in the event of early payoffs with "regular" partial purchases. The Reverse Partial payoff is a little different in that we will calculate how much the note seller is to receive, then subtract that figure from the total payout to determine how much the note buyer will receive.

Like all payoffs, we need to start by first determining the payoff amount of the note in 6 months.

**N = 354**  
**I/YR = 6**  
**PV = 99,395.18**  
**PMT = 599.55**  
**FV = 0**

Now we know the payoff is \$99,395.18. Remember, we promised the note seller 12 months of payments, so how much should the note seller receive? Technically, here are the calculations, which converts the note seller's payoff to a PV formula:

**N = 6**  
**I/YR = 6**  
**PV = 3,535.18**  
**PMT = 599.55**  
**FV = 0**

With this method, we would subtract \$3,535.18, which goes to the note seller, from the total payout of \$99,395.18 to determine how much the note buyer would receive. Did you get \$98,860 to the note buyer?

What if the note seller says, "Wait a minute. I was promised \$599.55 for 12 months. Thus multiplying \$599.55 times the remaining 6 months, we come up with a figure of \$3,595.30, which is \$60.12 higher. Even though the difference is small, it makes the note seller an unhappy camper. We know we calculated the payoff correctly with the PV method, but let's look at our position if we gave the note seller the extra \$60.12.

The total payoff is \$99,395.18. Using the note seller's figure, if we subtract \$3,597.30, this leaves the note buyer a whopping \$95,797.88.

To recap, we paid \$61,499.68 for the right to receive 348 payments in 12 months. However, the note paid off in 6 months. Let's see how we came out using the note seller's figures instead of the PV method.

**N = 6**  
**I/YR = 92**  
**PV = -61,499.68**  
**PMT = 0**  
**FV = \$95,797.88**

Did I read that right? Our yield is 92%?!?! WOW. With numbers like this, go ahead and give the note seller the extra \$60.12. This will keep tempers down, especially when the note seller realizes not waiting 6 months cost him almost \$96,000.

As a side note, these calculations are much easier if you have a program like *TValue*. It makes it much easier to play with "what ifs" to determine how you can give the note seller a little extra money, and at the same time guarantee you an astronomical yield. Go to [www.timevalue.com/tvalue-products](http://www.timevalue.com/tvalue-products) to order.

There are other issues with Reverse Partials and Pass Throughs, but there is not enough time or space to discuss in one article. Look for more ideas in forthcoming issues of *The Paper Source Journal*.

*Tom Henderson earned a BBA degree in finance and economics. He entered real estate in 1980 during times of turmoil and crisis. Tom mastered the skill of acquiring and disposing of real estate using owner financing and notes, as well as buying and selling notes, to achieve astronomical yields.*

*Tom is president of H&P Capital Investments, LLC, which buys, sells and trades owner financed notes. He can be contacted at [www.hpNOTES.com](http://www.hpNOTES.com) if you need help with structuring or selling your notes.*

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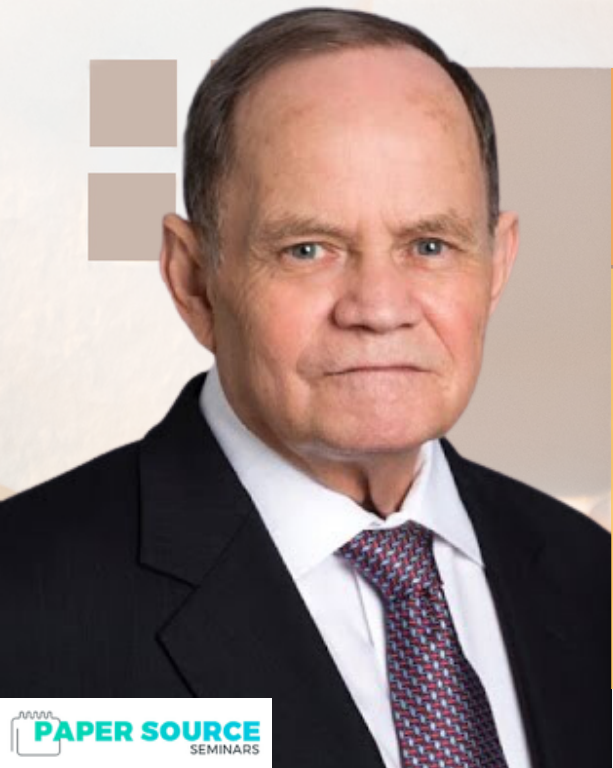
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*Tom Henderson*

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- **In-Depth Examination of the Partial Contract** Tom Uses Which Details the Different Methods to Determine “Who Gets What” in the Event of Early Payoff or Default (Hint: Are You Buying or Selling a Partial?)
- **Thorough Guide to Negotiations** When Buying or Selling Notes (Note Negotiations Are Different Than Real Estate Negotiations)
- **The 8-Word Question You Always Ask** The Note Seller (This Alone Can Save You the Price of the Workshop)
- Achieve Yields from **18%, 254% to Infinity** (Easy)
- How Tom Purchased **Two Houses for the Price of One**



**WHEN:** Feb. 29 - Mar, 2, 2024 **WHERE:** San Antonio, TX

**COST:** \$495 Advance, \$695 at the door

## EVENT SCHEDULE

Thursday 2/29 8:30am - 5:30pm

Friday 3/1 8:30am - 5:30pm

Saturday 3/2 8:30am - 3:00pm

Tom will be available for private consultations and will stay after 3:00pm Saturday until ALL questions are answered.



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# Corporate Transparency Act

Beginning January 1, 2024, many business entities registered across the United States will need to be prepared to comply with new federal reporting requirements as part of the Corporate Transparency Act (CTA). The CTA establishes beneficial ownership reporting requirements for certain corporations, limited liability companies, and other similar entities formed or registered to do business in the United States. Entities file beneficial ownership information with the U.S. Department of the Treasury's Financial Crimes Enforcement Network (FinCEN).

FOR MORE INFORMATION: The [www.fincen.gov/boi](http://www.fincen.gov/boi) webpage also contains guidance documents, answers to frequently asked questions, introductory videos, quick reference guides, and other resources.

If you have questions about the reporting requirements, you can contact FinCEN's general Regulatory Helpline by visiting [www.fincen.gov/contact](http://www.fincen.gov/contact).

In addition, you can subscribe to "FinCEN Updates" to be notified when new information and guidance materials are added to FinCEN's website.

[Watch a recording of this webinar](#) for more information.



The graphic is a rectangular promotional banner for a webinar. In the top left corner, there is an icon of a building with a dollar sign and a hand holding a document. To the right of this icon is a dark red rounded rectangle containing the text "Beneficial Ownership Information Informational Webinar" in white. The main title of the webinar, "Understanding Federal Reporting Requirements: the Corporate Transparency Act", is centered in a large, bold, dark blue font. Below the title, on the left, is a dark red rounded rectangle with the text "Wednesday, November 15th at 10:00 a.m. CST" in white. On the right side, there is the logo for "NYEMASTER NYEMASTER GOODE PC" in blue and black, and the official seal of the Iowa Secretary of State, which is circular and gold with a central figure. Below the logos, the text "Presentation by Nyemaster Goode, P.C. & Hosted by the Iowa Secretary of State" is written in a small black font.

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# Start the Year Off Right with SMART Goals for Note Professionals



Written by Jeff Armstrong

Generate 50 qualified leads each month using my 3-5 marketing methods

Having goals is smart, but having SMART goals — specific, measurable, achievable, realistic and time-bound — increases your odds of making them happen. Simply wanting your note business to succeed isn't enough; you have to [build a path to winning](#). Goals are your stepping stones on that path; in making them SMART, you give yourself the motivation and direction to achieve them.

## How to make SMART goals:



Making a goal **specific** means addressing the Who, What, Why, Where and When of what you want to do. For example, saying “I want to increase my closed sales or transactions next year” isn't specific enough. Ask yourself what will make up the majority of the closed transactions? You might use

type of properties, size of notes, performing, non-performing, etc., and who will lead this initiative? What methods will you use to convert contacts into closed sales? Why do you need to increase sales? Where will you find those note holders? When should this goal be complete?

Measuring the success of your goals helps you assess your performance and discover where you need to tweak your efforts. If you can't **measure** your goal, you can't manage it, which means you probably won't achieve it to your entire satisfaction. Ask yourself, “How many notes do I need to close to increase my closed transactions this year? How many leads will it take to generate those transactions?”

It's vital that each goal is achievable. There's no sense in creating a “stretch” goal if striving for it breaks your company and your morale. Determining if your note business goal is achievable often involves doing the math. For example, if you want to increase the number of transactions by a certain percentage, figure out the number of notes, at an average price and for your average commission, that you need to close, how many leads you must convert to sellers, how many leads you need to generate at your average conversion rate, and so on. The number YOU need will be different from what others need. Focus on YOUR personal statistics, not others, to dial these figures in for your note business.

After running the numbers, you'll have to decide if your goal is **realistic**. Assess whether you have the financial and human resources, not to mention the time, to achieve your goal as stated. If you're a one-person operation, working part time or just getting your business off the ground, then a goal of \$100,000 in commissions your first year or two probably isn't realistic.

Finally, make each goal **time-bound** to instill a sense of urgency. If December 31 is the deadline for meeting a goal, you might not feel the pressure to work on it in March. By assigning a timeline to complete each goal, you give yourself milestones to check your progress against and make any required course corrections.

**Here is an example of 5 SMART goals for note professionals to start the year off right.**



## Business goals

1. Generate 50 qualified leads each month using my [3-5 marketing methods](#), including direct mail, classified ads, online ads, building a referral network, networking, direct contact, social media platforms and your company website.
2. Improve your online presence: increase visits to your website and decrease bounce rates with daily refreshes of content on most-visited pages, update your profile, biography and testimonials on a monthly basis, and share two social media posts per week.
3. By April 30, hire a team assistant to handle non-selling tasks and answer questions.

## Personal goal

4. Continue annual continuing education and attend one local networking event every month, and attend at least one annual industry note business convention or conference.

## Family goal

5. By November 30, take seven adjacent days away from the office, to spend time with family, without returning work emails or phone calls.

Every goal you set for yourself, no matter how big or small, will be more achievable when you make it SMART.

It's easy to become distracted or weighed down by logistics without the direction that goals provide. Creating honest, detailed goals is the best way to determine where you want to be and what you need to do to get there. Be kind, keep safe and stay healthy.

Remember, success demands action, keep on marketing, it's going to work! TWITA! (That's What I'm Talkin' About!)

*Jeff Armstrong of [Armstrong Capital](#) has been a note investor specializing in the performing seller financed note industry since 1991, as well as a professional [appraiser of promissory notes](#) since 1999. Visit [Armstrong Capital](#) to email him and subscribe to Jeff's Weekly Training & Tips Newsletter. You should also follow him on Instagram and Facebook @TwitaJeff.*



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# The IRS Section 280A aka The Augusta Rule: Loophole for Tax-Free Business Rental Income for your Home

*Written by Thomas Huckabee*

If you are self-employed, you are probably already aware of the home office deduction but you may not be aware of the Section 280a Deduction. The standard home office deduction allows you to write off up to 300 square feet of workspace in your residence at five dollars per square foot for a \$1,500 annual deduction. If you use more space than that in your home to run a business, the area method and the number of rooms method can be used to write off a larger portion of your home.

As a business owner, are looking for legal tax deductions to reduce your business's taxable income liabilities? One strategy is called the "the Augusta Rule" known to the IRS as Section 280A(g), Originally created to protect residents of Augusta, Georgia who would rent out their homes to attendees of the annual Masters golf tournament, the Augusta Rule applies to any taxpayer who owns a home in the United States, provided that your home is not your primary place of business. This section of the tax code allows homeowners in any income bracket to exclude up to 14 days of rental income from their taxable income. This exemption can be a wonderful 2022 tax planning tool, especially for small business owners.

## **What is the Augusta Rule?**

The Augusta Rule lets homeowners rent out their residence to their S-corp, LLC business for up to 14 days per year without needing to report that rental income on their individual tax returns. This rule applies to any taxpayer who owns a home in the United States as long

as your home is not your primary place of business. The IRC 280A(g), or the "14 Day Rental Rule", allows business owners to claim a home rental fee as a business expense. After all, if you weren't renting the space from yourself, you would be renting it from someone else. Before you get too excited, this tax break is not available to Sole Proprietorships or Single Member LLCs. Consult a tax advisor or accountant to be sure, but most other LLCs, Partnerships, C corps and S corporate structures can take advantage of it. It works for both the business and the business owner/shareholder's personal taxes by allowing the business to deduct the expense of renting the owner's personal residence for business purposes. The business/homeowner does not have to report this income on their personal return, tax free money!

## **Why is it called the Augusta Rule Background?**

The Augusta rule IRS exemption was lobbied for by residents of Augusta, Georgia, in the 1970s. Each year, the Master's golf tournament is held at the Augusta National Golf Club, and residents of the city wanted to rent their homes to attendees of the tournament without becoming full-fledged rental businesses. Their efforts paid off, and Section 280A was added to the tax code. Fortunately, today, the IRS Augusta Rule extends to all homeowners in the US, not just those in Augusta, Georgia.

## **How Does it Work?**

The Augusta rule Section 280A(g) states in part:

"...if a dwelling unit is used during the taxable year by the taxpayer as a residence and such dwelling unit is actually rented for less than 15 days during the taxable year, then... the income derived from such use for the taxable year shall not be included in gross income..."

In layman's terms, this means short-term rentals of personal residences are not taxable.

Of course, like with all tax laws, there is some fine print worth noting:

To qualify for the exemption, the taxpayer must be renting out a dwelling unit that they use as a personal residence. This means that renting out a house, apartment, condo, mobile home, boat or similar property

may qualify for the exclusion, as long as the taxpayer uses that dwelling unit as a residence.

The Augusta Rule IRS exemption applies to the owner's primary homes, secondary homes, and vacation homes.

Expenses related to the rental of these properties are not deductible.

The 14-day restriction is cumulative and does not need to be consecutive. For example, if you live close to a popular wedding venue, you might want to rent your home to guests of different weddings throughout the summer and fall. As long as you do not exceed the 14-day rent rule in a single tax year, you can qualify.

The rental price must be reasonable for that location on that date. For example, if you live in Los Angeles near the SoFi Stadium, your home may be rented for only \$150 per night on an average day. However, in the days leading up to the 2022 Super Bowl, you might be able to charge \$500, \$700 or even \$1,000 per night for the same rental due to the increased demand. As long as your rent prices are comparable to the market, it should qualify for the exemption.

### **Common Use Example**

This may seem like a dishonest loophole, but it's not. Businesses need meetings. Board meetings, tax planning meetings, shareholder meetings, and strategic planning meetings are just a few of the meetings that are necessary for a legitimate business. In most cases, a business would rent out a meeting room, conference room, or even a ballroom at a hotel. This rental would include charges for the space, state and local taxes, food, drinks, Wi-Fi, and any additional services.

If your business occasionally rents coworking or hotel meeting rooms, conference halls, meeting halls, hotel rooms, catering hall, or other centers for business meetings or gatherings, Section 280A can be a terrific way to take the deduction and pass the tax savings on to one of the business owners by renting their residence for the business purpose.

Another example could be a monthly business meeting of partners or business management for any legitimate business purpose. Instead of renting a commercial hall or meeting place, the business can rent the home of one

of the owners or shareholders. This can be for anything from staff meetings to business multi-day retreats. You probably have a lot of the same things at your home: chairs, tables, food, drinks, and Wi-Fi. Why not just put that money in your own pocket, instead of paying a hospitality venue, like a hotel or restaurant?

### **Compliance Requirement Issues to keep in mind**

Shark Tank investor Kevin O'Leary's accounting company Taxhive wrote an article pointing out the compliance requirements for claiming the Section 280a deduction.

The steps and rules for making sure that your use will qualify to include:

### **Does your use of the home qualify as an ordinary and necessary business expense?**

Document in writing the purpose of the meeting or business purpose. For corporate entities, there should be minutes recorded with the purpose and conduct of the business meeting or event. This would include the agenda, meeting notes, and attendees.

You must determine the fair rental amount for the home or area in the home. You can do this by checking the local meeting hall or hotel room rates and recording them in the meeting notes to document for the IRS that the rent is not excessive.

The paper trail and documentation must include an invoice for the rental. It would clearly set out the rental amount and use of the home for a legitimate business purpose.

The business should pay with a check for a paper trail. If more than \$600 is paid in the tax year, it must be reported on a Form 1099 for the homeowners' tax return. WAIT, don't get excited, as this will get reversed!

The homeowner(s) would report this income on a Schedule E. Then, under the line item for "other deductions," you would enter the amount reported as income to be offset by a deduction. Describe this deduction as "non-taxable income under IRS Code Section 280A(g)." This negates the income, and the rent is not taxed.

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## **How to Rent Your Home to Your Business and Capture the Section 280a Deduction:**

- Schedule Meetings at Your House
- Take Corporate Minutes
- Find Comparables
- Invoice the Business
- Pay the Expense
- Document Income/Expense Write Off

### **How to Rent Your Home to Your Business with Section 280a**

#### **Schedule Meetings at Your House**

Anderson Advisors suggests scheduling these meetings on your calendar, and know that you cannot claim more than 14 days' worth of meetings at your residence. Note that these meetings cannot be for entertainment purposes.

Keep it on the safe side and only schedule these meetings with current clients and people in the business, not potential clients. Part of the advantage of scheduling these rental days over the course of the tax year is that you can write the charges for these rental services into your income ahead of time, which can help you map out your income plan for the rest of the year, such as trying to avoid a certain tax threshold or reach a certain gross income goal.

#### **Find Comparables for Your 280a deduction**

Do your research on Google and find out how much hospitality venues charge for the type of meeting you would be hosting at your home. This will vary from area to area and require a little footwork. It's often not necessary to call more than one hotel or restaurant and get their rates for events and services; you probably don't need to do a thorough comparison of several venues. When it comes to buying and selling real estate, we typically recommend pulling a number of comparables, but in this case, it's a safe bet that if one hotel is charging \$1,000 for a one-day conference event, most other hotels in the area are charging a similar rate. Having documentation to support you claiming this as a business deduction is critical to proving the rent was reasonable, you could print rental quotes for similar meeting locations.

#### **Invoice the Business**

Create an invoice from you to your business. This invoice should specify all the charges and reflect the numbers indicated by your search for comparables. These invoices will come from you, the property owner renting out your qualified residence, to be paid by your business, the entity renting out the home instead of a typical business meeting venue.

The rental portion of your income will also be tax-free, so these invoices are important to save not only as indicators of operating expenses for your business but also as an indication of tax-free income for personal purposes. Though an invoice can technically be as informal as an email exchange, it is better to use some sort of software or template that creates a standard invoice you can replicate 14 times so that it looks like a legitimate invoice. This method is preferred because it is easy to duplicate and helps prevent any IRS issues when it comes to your 280a deduction.

#### **Pay the Expense**

Have the business pay this expense, for example, with a business check. Keep a paper trail to solidify the legitimacy of this transaction.

For example, you might stamp yourself served invoice as PAID, or issue a receipt. This paid expense will get the tax treatment of a business expense on the side of your business, just like any of the other operating expenses your business must shoulder, which are listed as a deduction against its gross income.

Again, you will want to make sure the pricing point of renting out your own personal real estate looks legitimate. An overgenerous amount paid on the side of your business, listed as an operating expense, could also be a red flag, just as much as overpricing your personal residence for tax-free income could look like a red flag on your personal tax return.

#### **Document Income/Expense Write Off**

Document this income on your own personal tax form, and write it off on your business taxes.

For most self-employed individuals, that means using Schedule C (Form 1040 or 1040-SR) to write off the

rental expense. If you have a different type of business entity formation than the typical LLC or sole proprietorship (such as an S-corp) you may want to talk to your tax advisor.

The dispensation provided by IRC Section 280a deduction is just one of the many beneficial tax breaks the IRS provides to self-employed individuals who own a qualified residence (which also allows you to take advantage of mortgage interest and property tax as write-offs against the income tax).

### **Unique 2022 Tax Planning Opportunity for the Augusta Rule**

Perhaps the most appealing aspect of the Augusta rule is its ability to shift income from a small business. When done correctly, you could rent your home to your small business and receive both a tax deduction at the business level and an exclusion from income at the personal level.

#### **Here's another example of how it might work:**

You are part owner in a small business. The business rents your vacation home for three days for the management team to use as a planning retreat. During the long weekend, management strategizes about the upcoming year. The business rents your vacation home at market rent.

The business can deduct the price of the rental as a legitimate business expense. Because you only rented your home for 5 days the entire tax year, you do not need to report that income on your personal income tax return.

You and the business should keep records that showed the business paid market rent for the rental. You can do this by getting rental quotes from similar locations. You should also keep records that the management team performed business duties while using the rental. They can keep meeting minutes or records that show what strategic decisions were made.

By allowing the business to take a deduction for the rental expense and allowing you to exclude that rental revenue from taxable income, the Augusta rule effectively lets small business owners "double dip" on this benefit. This means that the Augusta rule can be a

great tax planning tool for both businesses and business owners.

### **How Much Rental Expenses Can You Get with a 280a Deduction?**

Remember that IRC Section 280a(g) deduction is meant to facilitate a tax benefit for legitimate businesses with legitimate business activity. If a local hotel would charge \$1,000 for a one-day rental of a boardroom with drinks and snacks included, you should not rent space from yourself for \$4,000.

Likewise, if you are having a business meeting of two individuals at your own residence, you should not use the comparison of a hotel ballroom for a shareholder meeting of 500 individuals.

Use common sense and good old honesty to gauge how much you should deduct, and do your research on comparable venue prices. In some cases, the IRS can actually limit how much you deduct for your home office expenses if you use the area method or number of rooms method, and certainly if you use the standard deduction for a home office, which is 1,500 square feet for the whole year. But there is no limit to what you can deduct in terms of a rental expense, other than what is legitimate and normal.

### **Can You Deduct Expenses if Your Property is Vacant such as 2nd vacation home?**

The article by Anderson Advisors interpretation of the IRS rules suggests that in the wording of the legal language used by the IRS, IRC Section 280a relates to a dwelling unit. And according to the IRS, a dwelling unit "includes a house, apartment, condominium, mobile home, boat, or similar property, and all structures or other property appurtenant to such dwelling unit." It does not include "that portion of a unit which is used exclusively as a hotel, motel, inn, or similar establishment." It would seem from the wording of this statement that any property you own can be leveraged for the purpose of professional tax strategies, like renting your own dwelling to your business...even if it's a vacation home or vacant property.

Keep in mind that the property in question must be something you own personally. If you have it under the

umbrella of a business or LLC, you might want to consult with a tax professional.

### Conclusion

If you are a small business or startup owner, then the Augusta rule is, without a doubt, a tax exemption you should know about. Bring it up the next time you have a tax planning discussion with your CPA. A CPA Dianna Kennedy wrote a helpful blog about "things to watch out for when using this tax strategy" to make sure it doesn't raise any issues with the IRS. Feel free to reach out to Huckabee CPA for a free consultation to make sure your use qualifies (to rent your personal residence to your business in an effort to lower your tax burden) and that you document it properly.

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# Where Are Your 1098s?

*Written by Roger McClure, JD*

Do you know whether or not you must file a form 1098 with the IRS and provide one to your note payors?

1) If you or your company, corporation, partnership or trust are in a trade or business and you receive mortgage interest incident to your trade or business, and you or the entity receive interest payments from individuals and any individual paid you more than \$600 in interest in a calendar year, you must provide a Form 1098 by January 31 of each year to each individual who paid you at least \$600 of mortgage interest in the last year. You list on the 1098 all the interest received and send a copy to the IRS. You must also file Form 1098 and 1096 with the IRS by February 28.

2) If you or your entity meet the qualifications under #1, you do not have to report to the IRS or the payor any interest paid by a corporation, trust, company, estate or other entity which is not an individual.

3) If you meet the qualifications under #1, you only report individuals whose mortgage interest payments generate more than \$600 per mortgage in one calendar year.

4) If you or your entity are not in a trade or business or your receipt of mortgage interest is not incident to a trade or business, then you do not have to send in Form 1098 to the IRS or your borrowers.

Example 1. You buy, hold and sell mortgages from time to time. You usually only have about three or four hold in your name. You report your interest income on Schedule B and your interest and other expenses on Schedule A. This amount of activity does not rise to a trade or business but is an investment activity.

Example 2. You formed a corporation, licensed it as a mortgage lender, and set up an office in your home. Your spouse works and the lending corporation is your main source of income. You make about 100 loans a year and borrow a large part of your capital. This constitutes being in a trade or business and you must provide 1098s to your qualifying non-corporate borrowers and to the IRS.

Example 3. The same facts as Example 2, but five of the mortgages you hold each paid less than \$600 in mortgage interest. You report none of the payors who paid less than \$600 of mortgage interest in the last calendar year.

Example 4. Your corporation's pension fund buys and holds to maturity about IO mortgages and continues to buy more as the pension fund grows. The pension fund is a passive investor, not intending to be in a trade or business. The pension fund provides no 1098s to anyone.

Example 5. You have a small loan company which you conduct as a side business from your regular job. It is not incorporated and you report its income and expenses on a Schedule C.

Example 6. You buy, sell or hold about 10 to 15 mortgages a year. You want to be viewed by the IRS as in a trade or business so that you can deduct the expenses of conducting your loan business on a Schedule C. Because you want to be treated for all purposes as conducting a trade or business, you provide 1098s to your qualifying non-corporate borrowers and the IRS.

The critical elements in mortgage interest reporting are that you or your entity must be engaged in a trade or business and your receipt of mortgage interest is incident to that trade or business. You or your entity do not have to be in the trade or business of mortgage lending. The loan servicer who has sufficient information to report mortgage interest subject to the Section 6050H reporting requirement must report it.






If you do not make the required 1098 reports, you can be subject to a fine of \$50 per form up to \$100,000. In general, if you cannot determine whether you are or are not receiving mortgage interest incident to a trade or business, it is best to file the reports to avoid the penalties and to add further support to your claim for the deduction of your lending business expenses.

Roger J. McClure is a note and real estate investor and an estate and tax attorney in the Washington, D. C. area. He served 10 years in the Virginia legislature, has been a radio talk show host, and received a bronze star for service in Vietnam. His book on real estate syndication was published by Prentice-Hall.

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# Notes Are “Stealth Deductions”

By Lawrence Tepper, CCIM

Now is the time to identify and use your tax deductions.

- If your SDIRA (self-directed IRA account) has invested in a note that you want to ‘roll over’ into a Roth IRA account;
- If you have personally invested in a note;
- Or if you have loaned money to someone evidenced by a note;

Now is the time to have the note appraised. The Fair Market Value is probably less than your investment; you may have suffered a loss that is tax-deductible.

The promissory or mortgage note may be held in a SDIRA, Roth IRA account, estate account, or in a trust account. The note may have been a business note, or a note from a friend or family member. It may be in safe deposit box. The note may have lost value, or may be worthless; it may qualify for a tax deduction.

Now is the time to look for these ‘stealth’ tax deductions. The burden is on you to minimize the taxes and fees you pay.



## Price Is What You Pay, Value Is What You Get

The cost value is what you paid, or what you invested. The Fair Market Value is what the note is worth today if it were sold. If \$10,000 was invested in a note originally, and today its Fair Market Value is zero (\$0.00), there may be a \$10,000 tax deduction available, depending on the specific facts. This tax deduction will benefit you if and when you take steps to report it on your tax return. The burden is on you.

The U.S. Treasury Regulations (IRS) requires valuing promissory notes, at their FAIR MARKET VALUE, not at cost. Sec. 20.2031-4 Valuation of notes:

*“The fair market value of notes, secured or unsecured, is presumed to be the amount of the unpaid principal, plus interest accrued to the date of death, unless the executor establishes the value is lower or that the notes are worthless.*

*“If not returned at face value, plus accrued interest, satisfactory evidence must be submitted that the note is worth less than the unpaid amount (because of the interest rate, date of maturity, or other cause), or that the note is uncollectible, either in whole or in part (by reason of the insolvency of the party or parties liable, or for other cause), and that any property pledged or mortgaged as security cannot satisfy the obligation.”*

## Summary

To establish FMV, the IRS requires a ‘Qualified Appraisal Report’ prepared by ‘Qualified Appraiser’. (Regulations Section 1.17A-13(c)(3) and Notice 2006-96, 2006-46 I.R.B.902. Sec. 170(f)(11)(E)(ii) )

Work with your tax advisor and with a qualified promissory note appraiser.

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*Before his recent retirement, Lawrence (Larry) Tepper specialized in appraising promissory notes nationally. He holds a law degree with an accounting minor and holds the prestigious Certified Commercial Investment Member (CCIM) from the National Association of Realtors.*

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AK: [danniallethomas.com/alaska-real-estate-investment-club.html](http://danniallethomas.com/alaska-real-estate-investment-club.html)  
AZ: [azreia.org](http://azreia.org), [tucsoninvestors.com](http://tucsoninvestors.com)  
CA: [BAWB.info](http://BAWB.info), [cvreia.com](http://cvreia.com), [lasouthreia.com](http://lasouthreia.com), [LAREIC.com](http://LAREIC.com), [NorCalREIA.com](http://NorCalREIA.com), [nsdrei.org](http://nsdrei.org),  
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# Tools and Resources: 2024

## **Bankruptcy Records**

[pacer.psc.uscourts.gov](https://pacer.psc.uscourts.gov), [ndc.org/home](https://ndc.org/home)

## **Commercial Real Estate Tax Reduction**

[sgettler@costsegregationservices.com](mailto:sgettler@costsegregationservices.com)

## **Credit Reporting Agencies, Scores & FICO, etc.**

[Equifax.com](https://Equifax.com), [Experian.com](https://Experian.com), [TransUnion.com](https://TransUnion.com)

## **Down Payment Assistance for Rehabbers**

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## **Find House Values & Comps**

[Redfin.com](https://Redfin.com), [Zillow.com](https://Zillow.com), [Trulia.com](https://Trulia.com), [Realtor.com](https://Realtor.com)

## **Foreclosure Properties and Information**

[realtytrac.com](https://realtytrac.com), [foreclosurefreesearch.com](https://foreclosurefreesearch.com), [foreclosurelistings.com](https://foreclosurelistings.com)

## **Joint Venture Funding, nationwide for wholesalers (notes and properties)**

[emdfunding1@gmail.com](mailto:emdfunding1@gmail.com)

## **Guide: Real Estate Negotiations & Beginner's Guide to Real Estate Investing**

[biggerpockets.com/real-estate-investing](https://biggerpockets.com/real-estate-investing)

## **Hard Money Lenders**

[biggerpockets.com/hardmoneylenders](https://biggerpockets.com/hardmoneylenders)

## **Mortgage Calculator**

[moneychimp.com/calculator/mortgage\\_calculator.htm](https://moneychimp.com/calculator/mortgage_calculator.htm)

## **Mortgage Note Investing Advice**

[papersourceonline.com/free-e-course-2/](https://papersourceonline.com/free-e-course-2/)

# Tools and Resources (Continued)

## People Searches

[intelius.com](http://intelius.com), [skipease.com](http://skipease.com), [zabasearch.com](http://zabasearch.com)

## Private Lenders

[aaplonline.com](http://aaplonline.com)

## Professional Loan Associations

[mbaa.org](http://mbaa.org), [namb.org](http://namb.org)

## Property Reports (Chicago Title) Become a member (usually for free) and look up properties all over the US

[premier.ctic.com](http://premier.ctic.com)

## Public Records Search, Property Finders

[courthousedirect.com](http://courthousedirect.com), [searchbug.com](http://searchbug.com), [propstream.com](http://propstream.com), [propertyradar.com](http://propertyradar.com), [batchleads.io](http://batchleads.io), [onlinerecords.com](http://onlinerecords.com)

## Real Estate Abbreviations, Glossary

[abbreviations.yourdictionary.com/articles/real-estate-abbreviations.html](http://abbreviations.yourdictionary.com/articles/real-estate-abbreviations.html)

## Resources for newbies and old hands in the REI biz

[connectedinvestors.com](http://connectedinvestors.com), [crepig.ning.com](http://crepig.ning.com), [nationalreia.org](http://nationalreia.org), [realestatefinance.ning.com](http://realestatefinance.ning.com), [smarterlandlording.com](http://smarterlandlording.com), [realestateinyourtwenties.com](http://realestateinyourtwenties.com), [investfourmore.com](http://investfourmore.com), [compstak.com](http://compstak.com), [thebrokerlist.com](http://thebrokerlist.com), [apartmentvestors.com](http://apartmentvestors.com), [creoutsider.com](http://creoutsider.com), [parkstreetpartners.com](http://parkstreetpartners.com), [mobilehomeinvesting.net](http://mobilehomeinvesting.net), [adventuresinmobilehomes.com](http://adventuresinmobilehomes.com), [landhub.com](http://landhub.com), [thelandgeek.com](http://thelandgeek.com), [landthink.com](http://landthink.com), [retipster.com](http://retipster.com), [rentpost.com](http://rentpost.com), [rehabfinancial.com](http://rehabfinancial.com), [rehabberpro.com](http://rehabberpro.com), [houseflippinghq.com](http://houseflippinghq.com), [houseflippingschool.com](http://houseflippingschool.com), [123flip.com](http://123flip.com), [flippingjunkie.com](http://flippingjunkie.com), [bawldguy.com](http://bawldguy.com), [themichaelblank.com](http://themichaelblank.com), [rei360.net](http://rei360.net), [justaskbenwhy.com](http://justaskbenwhy.com), [joecrumpblog.com](http://joecrumpblog.com), [joefairless.com](http://joefairless.com), [revestor.com](http://revestor.com), [fortunebuilders.com](http://fortunebuilders.com), [myrenatus.com](http://myrenatus.com), [realestateguysradio.com](http://realestateguysradio.com), [astudentoftherealestategame.com](http://astudentoftherealestategame.com), [realestateinvesting.org](http://realestateinvesting.org), [biggerpockets.com](http://biggerpockets.com), [gowercrowd.com](http://gowercrowd.com)

## Tax Auction Online Sites

[auction.com](http://auction.com), [bid4assets.com](http://bid4assets.com)

## Tax Records Search

[netronline.com/public\\_records.htm](http://netronline.com/public_records.htm), [publicrecords.searchsystems.net](http://publicrecords.searchsystems.net)

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