

How do I record the hours spent as a real estate professional?

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Taxpayers are required under Income Tax Regulations Section 1.469-5T(f)(4) to provide proof of services performed and the hours attributable to those services. Here is a snippet regarding proof for material participation, and the same process can be used for substantiating real estate professional hours-

The extent of an individual's participation in an activity may be established by any reasonable means. Contemporaneous daily time reports, logs, or similar documents are not required if the extent of such participation may be established by other reasonable means. Reasonable means for purposes of this paragraph may include but are not limited to the identification of services performed over a period of time and the approximate number of hours spent performing such services during such period, based on appointment books, calendars, or narrative summaries.

Second, logs cannot be retro-created. So, you must have been maintaining your logs as you performed the real estate activities. During an audit or examination if you mention things like "I jotted activities down on my log and then went back and tallied the hours in preparation for this audit" you will probably lose. You need to have maintained the written account of your hours from the beginning. Here is the case law reference- The regulations do not allow a postevent "ballpark guesstimate" in **Moss v. Commissioner, 135 T.C. 365, 369 (2010)**.

Third, on-call hours do not count, you must "perform" an activity. The tax court has ruled that waiting for the phone to ring in case a maintenance or emergency call comes in does not count. Here's the snippet from **Tax Court Summary 2012-20 (Kutney)** under footnote 7-

Petitioners also contend that Mr. Kutney's ownership and management of the rental properties was a "truly full day activity" that required him to be available all day every day and that these on-call hours should count towards the 750-hour requirement. We disagree with this contention. Sec. 469(c)(7) applies where the taxpayer "performs more than 750 hours of services" rather than where the taxpayer is merely on call to perform services. Sec. 469(c)(7)(B)(ii); see also Moss v. Commissioner, 135 T.C. 365, 370 (2010); sec. 1.469-9(b)(4), Income Tax Regs.