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TAX COURT ALLOWS ROOF REPAIR AS CURRENT YEAR EXPENSE

By Victor Sy, CPA, MBA

A taxpayer was allowed to deduct all of the costs of removing and replacing roof on a residential rental house as a current-year expense (instead of depreciating it over 27 ½ years), courtesy of a recent Tax Court case. The key: the work was done to keep her rental house in operating condition. The repairs were not made to prolong the life of the property or increase its value. Could you also deduct the cost of replacing the roof on your own rental property? Read the following brief of Campbell v. Commissioner Tax Court case:

1. Taxpayer owned a residential rental house in Long Beach.
2. Tenant complained that the roof was leaking and that moisture was seeping through the walls.
3. Taxpayer hired a contractor to repair the roof because she could not continue to rent it out.
4. The contractor removed the existing top materials and covered it with fiberglass sheets and hot asphalt. He also installed new drywall inside a bedroom but made no structural changes.
5. Taxpayer deducted all related costs of removing and replacing the roof on her tax return.
6. The IRS audited her, and as expected, disallowed the deduction. The IRS asserted that the repairs should have been capitalized and depreciated.
7. Taxpayer went to Tax Court to challenge the IRS findings.
8. **The verdict:** the taxpayer won. She was allowed to deduct all costs as current expenses.
9. **The key:** the costs of incidental repairs to property are deductible if those repairs neither materially add to the value of the property nor appreciably prolong the life of the property.
10. The Tax Court also noted that repairs in the nature of replacements to the extent that they arrest deterioration and prolong the life of the property generally must be capitalized and depreciated.
11. But this was not the case here. The Tax Court stressed the importance of the taxpayer's purpose for making the expenditure: to prevent leakage and keep the rental house in operating condition. The expenditures were not made to prolong its life, increase its value, or adopt it to another use.
12. If you changed the roof on your rental property or are being audited for such deduction, you may research Campbell v. Commissioner, T.C. Summary 2002-117 (9/6/02).
13. You may also cite another Tax Court case in Oberman Manufacturing Company v. Commissioner where the Court explained that there was no replacement or substitution of roof and that the taxpayer merely restored her rental house to a house that is free of leaks.
14. **TIP:** If you need the deduction, take it, but attach an explanation and cite the Campbell and Oberman Tax Court cases. This will help avoid unnecessary audits. Good luck. ☺

Update: California just liberalized rules on [tax withholding on the sale of real estate](#). For most sales of property other than a principal residence, California [withholds 3 1/3% of the sales price](#). For Sales occurring after January 1, 2007, a new law allows the seller the option of having withholding taken at the rate of 9.3% of the estimated tax gain.