



# Louisville Metro Revenue Commission Bulletin

## RENTAL OF REAL PROPERTY

This bulletin provides guidance for determining when rental income from real property is subject to the Louisville Metro Occupational License Tax on net profits. Income from the rental of real property located in Louisville Metro is subject to the Occupational License tax when an entity or individual is deemed to be “*in the business of renting real property*”.

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### TAXIBILITY OF BUSINESS ENTITIES

Certain business entities such as Corporations, Partnerships, Limited Liability Companies, and other associations, receiving income from the rental of real property are deemed to be in the business of renting real property, regardless of the type of real property rented, or the annual gross rental receipts received.<sup>1</sup>

### TAXABILITY OF INDIVIDUALS

Individuals and fiduciaries acting on behalf of individuals or deceased individuals who receive income from the rental of commercial property shall be deemed to be in the business of renting real property. Individuals who receive income exclusively from the rental of residential property shall **not** be deemed to be in the business of renting real property if the annual gross receipts received from the rental of residential property is \$50,000 or less **and** each residential property contains three or fewer rental units.<sup>2</sup>

### TAXABILITY OF COMMERCIAL PROPERTY

All business entities, including Individuals and fiduciaries acting on behalf of individuals or deceased individuals, Corporations, Partnerships, Limited Liability Companies, and associations receiving income from the rental of commercial property are deemed to be in the business of renting real property, regardless of the amount of gross receipts received.<sup>3</sup>

Commercial property includes warehouses, residential property containing four or more units, hotel buildings, office buildings, restaurants, and any other structures whose property class is commercial.

### WHAT DOES “DEEMED TO BE IN THE BUSINESS OF RENTING REAL PROPERTY” MEAN?

A business is “deemed” or considered, to be in the business of renting property once a certain threshold is met. Once any business entity or individual (or a fiduciary acting on their behalf) is deemed to be in the business of renting real property, all of the real property rental income of the business entity or individual is subject to the Occupational License tax regardless of its property class or annual gross rental receipts.

### I HAVE AN LLC AND I AM THE ONLY MEMBER. I RENT 4 RESIDENTIAL PROPERTIES AND THE ANNUAL GROSS RENTAL RECEIPTS FROM THE PROPERTIES TOTAL \$49,000 A YEAR. DO I HAVE TO FILE AN OL-3 RETURN SINCE MY ANNUAL GROSS RECEIPTS ARE UNDER \$50,000?

An LLC is a business entity, and the LLC is the holder of the rental properties. As a business entity, the LLC is deemed to be in the business of renting real property. An

<sup>1</sup> LMRC Regulations §1.16(A)

<sup>2</sup> LMRC Regulations §1.16(C)

<sup>3</sup> LMRC Regulations §1.16(B)

OL-3 return is required to be filed by the LLC, not you as the individual.

**I AM AN INDIVIDUAL AND RENT 3 RESIDENTIAL PROPERTIES. ONE OF THE RESIDENTIAL PROPERTIES HAS 4 RENTAL UNITS, BUT ONLY 3 OF THEM ARE RENTED. MY ANNUAL GROSS RENTS ARE \$46,000 A YEAR. DO I HAVE TO FILE AN OL-3 RETURN SINCE MY GROSS RECEIPTS ARE UNDER \$50,000?**

Yes, as an individual, you are renting real property containing 4 or more units, which is classified as commercial property. Whether all 4 units are actually rented does not change the property classification of commercial, therefore you are deemed to be in the business of renting real property and all of your rental income is subject to the Occupational License Tax.

**I AM AN INDIVIDUAL AND RENT 2 RESIDENTIAL PROPERTIES. I ALSO RENT A SMALL PROPERTY THAT CONTAINS A HAIR SALON. I KNOW I MUST FILE A RETURN FOR THE HAIR SALON PROPERTY AS IT IS CONSIDERED COMMERCIAL, BUT MY RESIDENTIAL PROPERTIES ONLY GENERATE GROSS RENTS OF \$25,000 A YEAR. DO I HAVE TO INCLUDE THE INCOME FROM THE RESIDENTIAL PROPERTIES ON MY OL-3 RETURN SINCE MY GROSS RECEIPTS FROM RESIDENTIAL PROPERTY ARE UNDER \$50,000?**

Yes, by engaging in the rental of commercial property, you are deemed to be in the business of renting real property. Once a business entity or individual is deemed to be in the business of renting real property, all of the real property rental income is subject to the Occupational License tax, regardless of the property class or annual gross rental receipts.

**I AM AN INDIVIDUAL AND RENT 4 RESIDENTIAL PROPERTIES. THE ANNUAL GROSS RENTAL RECEIPTS FROM ALL 4 PROPERTIES TOTALS \$49,000 A YEAR. ONE OF THE RESIDENTIAL PROPERTIES IS HELD BY AN LLC. DO I HAVE TO FILE AN OL-3 RETURN SINCE MY ANNUAL GROSS RECEIPTS ARE UNDER \$50,000?**

The LLC that holds one of the rental properties is deemed to be in the business of renting real property because it is a business entity, so the LLC is required to

file an OL-3 return for the property it owns. You as an individual owner would not be required to file an OL-3 return for the remaining 3 properties you own as long as they continue to meet the \$50,000 gross rental receipts threshold and the individual ownership requirements.

**I AM AN INDIVIDUAL AND HAVE A SHORT TERM RENTAL THAT I ADVERTISE ON AIR BNB. I ALSO HAVE A RESIDENTIAL PROPERTY THAT I LEASE ON A YEARLY BASIS. THE RESIDENTIAL PROPERTY GENERATES GROSS RENTS OF \$18,000 ANNUALLY. AIR BNB COLLECTS AND REMITS THE TRANSIENT TAX FOR ME. DO I HAVE TO FILE AN OL-3 RETURN?**

Yes, individuals that conduct short term rentals are deemed to be in the business of renting real property, therefore, all of your rental income, including the residential property you are leasing, is subject to the Occupational License net profit tax.