

SI 01130.503 Essential Property Excluded up to \$6,000 Equity If It Produces a 6 Percent Rate of Return

A. POLICY PRINCIPLES

1. The Exclusion

Up to \$6,000 of the equity value of nonbusiness income producing property (and business income producing property for months of eligibility before May 1, 1990) can be excluded from resources if the property produces a net annual return equal to at least 6% of the excluded equity.

2. Equity Exceeds \$6,000

Any portion of the property's equity value in excess of \$6,000 is not excluded under this provision.

3. Rate Of Return Less Than 6%

If the property produces less than a 6% return, the exclusion can apply only if:

- the lower return is for reasons beyond the individual's control (e.g., crop failure or illness); and
- there is a reasonable expectation that the property will again produce a 6% return (see C. below).

Otherwise, none of the EV is excluded under this provision.

4. More Than One Income Producing Property

If an individual owns more than one piece of income producing property:

- the 6% return requirement applies individually to each; and
- the \$6,000 EV limit applies to the total EV of all the properties meeting the 6% return requirement.

If all properties meet the 6% test but the total EV exceeds \$6,000, that portion of the total EV in excess of \$6,000 is not excluded under this provision.

B. EXAMPLES

1. Rental Property Whose EV Exceeds \$6,000

At redetermination, Mr. Cameron states that he now lives in an apartment and is renting out his formerly excluded home, which has an EV of \$10,000. Even if the property produces a 6% return, \$4,000 of its equity cannot be excluded under this provision.

2. Multiple Income Producing Activities

Mr. Patterson owns a mobile home (not his residence) that has a CMV and EV of \$3,000. He owns other property that has a CMV and EV of \$2,000. The mobile home produces a net annual rental income of \$750, and the other property produces less than \$50 a year. Since the mobile home produces more than a 6% return, its EV is excluded. Since the other property produces less than a 6% return, its EV is not excluded.

C. OPERATING POLICY — TIME LIMIT FOR RESUMPTION OF 6% RETURN

1. General Rule

If the earnings decline was for reasons beyond the individual's control, up to 24 months can be allowed for the property to resume producing a 6% return. The 24-month period begins with the first day of the tax year following the one in which the return dropped to below 6%. See F. below for development.

2. Initial Claims

In an initial claim, if the tax returns show that the activity has operated at a loss for the 2 most recent years or longer, the property cannot be excluded unless the individual submits current receipts and records to show that it currently is producing a 6% return.

3. Trade Or Business In Operation For 1 Year Or Less

If a trade or business has operated a year or less, develop per [RS 01802.002](#) - .010 to determine whether a trade or business actually exists.

D. DEVELOPMENT AND DOCUMENTATION — NONBUSINESS PROPERTY

1. Income Producing Real Property

a. Individual's Statement

When an individual alleges owning nonbusiness real property that produces income (e.g., land or a house for rent), obtain his or her signed statement concerning:

- the number of years he or she has owned the property;
- any co-owners of the property;
- a description of the property;
- the estimated CMV of the property and any encumbrances on it; and
- the estimated net and gross income from the property for the current tax year.

b. Supporting Evidence

- Absent evidence to the contrary, accept the statement with respect to years of ownership, identity of owners, and description of the property.
- Determine rate of return based on income and value figures shown on the individual's Schedule E (Supplemental Income Schedule) of Form 1040 for the year prior to filing of the application. If no tax return is available, obtain other appropriate evidence from the individual (e.g., a copy of the lease agreement for the period in question). If it is necessary to verify EV, see [SI 01140.042](#).

NOTE: When redetermining the status of property already excluded under this provision, only the value and income need to be redeveloped.

2. Income Producing Personal Property

See [SI 01130.502 B](#) for development of the property's use and value. In addition, obtain the individual's statement giving net and gross income from the property for the current tax year. Verify the property's rate of return by reviewing a copy of Schedule E of Form 1040 for the tax year prior to filing or redetermination. If no tax return is available, obtain the appropriate evidence from the individual to establish the income alleged.

E. DEVELOPMENT AND DOCUMENTATION — PROPERTY USED IN A TRADE OR BUSINESS BEFORE MAY 1, 1990

1. Individual's Statement

a. Allegation Acceptable

When an individual alleges owning a trade or business not already being excluded, obtain a statement giving:

- a description of the trade or business;
- a description of the assets of the trade or business;
- the number of years it has been operating; and
- the identity of any co-owners.

Absent evidence to the contrary, accept the statement.

b. Verification Required

Whether or not the trade or business is already being excluded, obtain and verify the individual's allegations as to:

- the estimated gross and net earnings of the trade or business for the current tax year;
- the estimated EV of each of the business assets (to the extent they are broken out on the business tax return); and
- the estimated average monthly cash expenditures for the tax year prior to the application or redetermination.

2. Use Of Tax Returns To Verify Values

a. Use Most Recent Tax Return

Obtain a copy of the business tax return (i.e., Form 1040 and the appropriate schedules) for the tax year prior to the application or redetermination. Use the return to determine the value of tools, equipment, etc., as well as the net earnings from self-employment and the average monthly cash expenditures. The following can be particularly helpful:

- Schedule C, Profit or Loss from Business or Profession;
- Schedule SE, Computation of Social Security Self-Employment;
- Schedule F, Farm Income and Expenses;
- Form 4562, Depreciation and Amortization; and
- Form 1065, U.S. Partnership Return of Income.

b. Current Tax Return Not Available

If the current tax return is not available, obtain a copy of the latest tax return available.

3. Liquid Resources Used In A Trade Or Business

Liquid resources can be excluded as property essential to self-support for periods before May 1, 1990 only if they are necessary for the operation of a trade or business.

a. Information Required

When an individual alleges owning liquid resources that are necessary for the operation of his or her trade or business, document the file as to:

- the amount of liquid resources (e.g., cash on hand or in a checking account); and
- the estimated average monthly cash expenditures (determined from the previous year's tax return or, if not available, from a review of the business receipts and expenses for the past 12 months).

b. The Determination

- Liquid resources that do not exceed triple the average monthly cash expenditures are necessary for operation of the business.
- If liquid resources exceed triple the average monthly cash expenditures, obtain the individual's signed statement as to why.
- If the individual alleges that the excess is due to seasonal expenses, verify the allegation with prior year receipts.
- In the absence of a convincing explanation for their need, liquid resources in excess of triple the average monthly cash expenditures are not excluded under this provision.

F. DEVELOPMENT AND DOCUMENTATION — RATE OF RETURN LESS THAN 6%

Apply these instructions in determining the excludability of nonbusiness income producing property (and business property for periods before May 1, 1990) when the tax return shows an earnings rate of less than 6%.

1. Individual's Explanation

Record the individual's explanation of the earnings decline in the file.

2. Supporting Evidence

Obtain evidence of prior years' earnings (e.g., tax returns for at least 2 years prior to the current tax year) to determine whether the activity has produced a 6% rate of return before.

NOTE: When no tax returns are available, use other evidence such as receipts, check registers, invoices, sales slips, bank statements, etc.

3. Circumstances Beyond the Individual's Control

a. Manual Diary

If evidence establishes that the earnings decline is for reasons beyond the individual's control, he or she has up to 24 months from the end of the tax year in which the earnings went below 6% to meet the 6% requirement. Set a manual diary to check progress after 12 months.

b. 12-Month Follow-up

- If the 12-month follow-up shows that the activity is again producing a 6% return, further follow-up is unnecessary.

- If the activity still is not producing a 6% return but the individual is actively pursuing it, allow an additional 12 months. Reditary the case.
- If the individual has ceased actively pursuing the activity, include the value of the property in determining resources for the month after the month of review.

c. 24-Month Period Ends

If the property still is not producing a 6% return, include the value of the property in determining resources for the month following the month in which the 24-month period ends.

