

Should I Stay or Should I Go? Considerations for Renting Out a Residence During Major Events*

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The Twin Cities will be the center of the sporting universe in the next few years, including the Super Bowl (2018), X Games (2017 and 2018), the NCAA Men's Basketball Final Four (2019), and the Red Bull Crashed Ice.

What Does this Mean to You?

These events present a unique, potentially lucrative, opportunity for Twin Cities residents to rent all or part of their home, condo, or apartment, for a cash windfall. Early listings show one-bedroom condos in Minneapolis going for as much as \$4,000 per night during the Super Bowl. Who needs to watch the shivering masses when you can see the Big Game from a tropical latitude, your trip financed by your two-week rental?

As with all too-good-to-be-true scenarios, this one has some unattractive realities.

The Tax Man Cometh — Eventually

Private owners can rent their residences for up to 14 days in any calendar year, and any payments received during that period are not included in the owner's taxable income for the year, no matter how much is earned. However, the owner must also use the property for their own personal use at least 14 days of that same year. One of the trade-offs of using this exception is that the owner cannot deduct expenses or take depreciation deductions related to the rental.

Rent payments generated from rentals of private residences for 15 or more days in a calendar year must be reported as taxable income by the owner. However, unlike for rentals of 14 or fewer days, the owner is able to take deductions and applicable depreciation, but only up to the amount of taxable income generated from the rental of the property.

In addition to potential income taxes, all short-term rentals of fewer than 30 days in Minnesota are subject to state sales tax (6.875 percent). If the property is located in Minneapolis, there are additional taxes that will add another 3.9 percent. That means 10.775 percent less of a vacation from your rental income windfall.

Rules, Rules, and More Rules

There are a host of local laws and ordinances that will almost certainly apply to even the most simplistic short-term rental. Metro municipalities may have rules and requirements in place with regard to the renting of property, including zoning restrictions, building and housing standards, and the need to apply for and obtain various licenses. Using Minneapolis as an example, at a minimum, a short-term rental of a residential space requires the owner to obtain a "bed and breakfast facility" license, which involves compliance with various zoning, health, housing, and other codes. While not every person listing a room through an on-line service has obtained the necessary licenses for the short-term rental of their property, the failure to do so could subject the owner to substantial fines or other legal action.

Even more impactful than local law might be restrictions that are in place if the property is part of a condo or townhome development. It has become increasingly common for these groups to include significant restrictions or prohibitions on the rental of property in their rules, bylaws, or association agreements. If an owner violates these restrictions,

the association could take legal action to stop the rental activity or impose a fine or penalty. For example, one loft complex in the North Loop neighborhood of Minneapolis has already (and publicly) warned its owners that they will be subject to a fine of up to \$5,000 if they choose to rent out their property during the Super Bowl.

About That Broken Stair...

Renting out a residence raises the possibility that a guest could be injured during the stay. If the owner's negligence was found to be the cause, all of that rental income could very quickly end up in the hands of a defense attorney. No matter the outcome, litigation is expensive and could cost the owner much more than just the rent.

Short-term renter's insurance can be obtained through any number of insurance brokers and carriers, but appropriate coverage might also be available as a rider or endorsement on the owner's existing homeowner's policy. Before relying on an existing policy, however, the policy document should be reviewed in detail and, if possible, confirmation in writing of the available coverage should be obtained from the insurer.

Short-term and vacation rental listing services such as Airbnb and VRBO may also have protection available to those who list on their website. Airbnb is the industry leader in this category through its Host Protection Insurance Program, which provides up to \$1 million of liability coverage per occurrence, and a cap of \$1 million for each listing location (subject to certain limitations, of course).

Proceed with Caution

There will undoubtedly be multiple opportunities for homeowners to cash in when the bright lights are shining on the Twin Cities. But, before advertising your home and hightailing it to the Caribbean, be sure to consider whether it might make more sense to stick around and experience the spectacle firsthand.

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