Example. Beth owns a home subject to a mortgage of $40,000. She sells the home for $100,000 to John, who takes it subject to the $40,000 mortgage. Beth continues to make the payments on the $40,000 note. John pays $10,000 down and gives Beth a $90,000 note secured by a wraparound mortgage on the home. Beth doesn't record or otherwise perfect the $90,000 mortgage under the state law that applies. Therefore, the mortgage isn't a secured debt and John can't deduct any of the interest he pays on it as home mortgage interest.

Choice to treat the debt as not secured by your home. You can choose to treat any debt secured by your qualified home as not secured by the home. This treatment begins with the tax year for which you make the choice and continues for all later tax years. You can revoke your choice only with the consent of the IRS.

You may want to treat a debt as not secured by your home if the interest on that debt is fully deductible (for example, as a business expense) whether or not it qualifies as home mortgage interest. This may allow you, if the limits in Part II apply, more of a deduction for interest on other debts that are deductible only as home mortgage interest.

Cooperative apartment owner. If you own stock in a cooperative housing corporation, see the Special Rule for Tenant-Stockholders in Cooperative Housing Corporations near the end of this *Part I.*

Qualified Home

For you to take a home mortgage interest deduction, your debt must be secured by a qualified home. This means your main home or your second home. A home includes a house, condominium, cooperative, mobile home, house trailer, boat, or similar property that has sleeping, cooking, and toilet facilities.

The interest you pay on a mortgage on a home other than your main or second home may be deductible if the proceeds of the loan were used for business, investment, or other deductible purposes. Otherwise, it is considered personal interest and isn't deductible.

Main home. You can have only one main home at any one time. This is the home where you ordinarily live most of the time.

Second home. A second home is a home that you choose to treat as your second home.

Second home not rented out. If you have a second home that you don't hold out for rent or resale to others at any time during the year, you can treat it as a qualified home. You don't have to use the home during the year.

Second home rented out. If you have a second home and rent it out part of the year, you also must use it as a home during the year for it to be a qualified home. You must use this home more than 14 days or more than 10% of the number of days during the year that the home is rented at a fair rental, whichever is longer. If you don't use the home long enough, it is considered rental property and not a second home. For information on residential rental property, see Pub. 527.

More than one second home. If you have more than one second home, you can treat only one as the qualified second home during any year. However, you can change the home you treat as a second home during the year in the following situations.

- If you get a new home during the year, you can choose to treat the new home as your second home as of the day you buy it.
- If your main home no longer qualifies as your main home, you can choose to treat it as your second home as of the day you stop using it as your main home.
- If your second home is sold during the year or becomes your main home, you can choose a new second home as of the day you sell the old one or begin using it as your main home.

Divided use of your home. The only part of your home that is considered a qualified home is the part you use for residential living. If you use part of your home for other than residential living, such as a home office, you must allocate the use of your home. You must then divide both the cost and fair market value of your home between the part that is a qualified home and the part that isn't. Dividing the cost may affect the amount of your home acquisition debt, which is limited to the cost of your home plus the cost of any improvements. (See Home Acquisition Debt in *Part II*, later.)

Renting out part of home. If you rent out part of a qualified home to another person (tenant), you can treat the rented part as being used by you for residential living only if all of the following conditions apply.

- The rented part of your home is used by the tenant primarily for residential living.
- The rented part of your home isn't a self-contained residential unit having separate sleeping, cooking, and toilet facilities.
- You don't rent (directly or by sublease) the same or different parts of your home to more than two tenants at any time during the tax year. If two persons (and dependents of either) share the same sleeping quarters, they are treated as one tenant.

Office in home. If you have an office in your home that you use in your business, see Pub. 587, Business Use of Your Home. It explains how to figure your deduction for the business use of your home, which includes the business part of your home mortgage interest.

Home under construction. You can treat a home under construction as a qualified home for a period of up to 24 months, but only if it becomes your qualified home at the time it is ready for occupancy.

The 24-month period can start any time on or after the day construction begins.

Home destroyed. You may be able to continue treating your home as a qualified home even after it is destroyed in a fire, storm, tornado, earthquake, or other casualty. This means you can continue to deduct the interest you pay on your home mortgage, subject to the limits described in this publication.

You can continue treating a destroyed home as a qualified home if, within a reasonable period of time after the home is destroyed, you:

- Rebuild the destroyed home and move into it, or
- Sell the land on which the home was located.

This rule applies to your main home and to a second home that you treat as a qualified home.

Time-sharing arrangements. You can treat a home you own under a time-sharing plan as a qualified home if it meets all the requirements. A time-sharing plan is an arrangement between two or more people that limits each person's interest in the home or right to use it to a certain part of the year.

Rental of time-share. If you rent out your time-share, it qualifies as a second home only if you also use it as a home during the year. See Second home rented out, earlier, for the use requirement. To know whether you meet that requirement, count your days of use and rental of the home only during the time you have a right to use it or to receive any benefits from the rental of it.

Married taxpayers. If you're married and file a joint return, your qualified home(s) can be owned either jointly or by only one spouse.

Separate returns. If you're married filing separately and you and your spouse own more than one home, you can each take into account only one home as a qualified home. However, if you both consent in writing, then one spouse can take both the main home and a second home into account.

Special Situations

This section describes certain items that can be included as home mortgage interest and others that can't. It also describes certain special situations that may affect your deduction.

Late payment charge on mortgage payment. You can deduct as home mortgage interest a late payment charge if it wasn't for a specific service performed in connection with your mortgage loan.

Mortgage prepayment penalty. If you pay off your home mortgage early, you may have to pay a penalty. You can deduct that penalty as home mortgage interest provided the penalty isn't for a specific service performed or cost incurred in connection with your mortgage loan.

Sale of home. If you sell your home, you can deduct your home mortgage interest (subject to any limits that apply) paid up to, but not including, the date of the sale.

Example. John and Peggy Harris sold their home on May 7. Through April 30, they made home mortgage interest payments of $1,220. The settlement sheet for the sale of the home showed $50 interest for the 6-day period in May up to, but not including, the date of sale. Their mortgage interest deduction is $1,270 ($1,220 + $50).