Premium Tax Diagnostic Report

Prepared for: John Thompson

Client Profile

Category	Details
Income	$750,000
Filing Status	Married Filing Jointly
Partnerships	2 (1 property each – 33% husband, 67% wife)
S-Corp	Yes (for property management)
W-2 Salary	$40,000 (wife only)
STR Properties	2 (material participation unclear)
Flipping Activity	1/year via syndication (husband is GP)
Flip Profit	~$200,000
Grouping Election	❌ Not Filed
REPS Logs	Not Confirmed

Executive Summary

This client is a high-income, multi-entity real estate operator earning approximately $750K annually. While structurally sophisticated, the setup has several unoptimized areas:

- **No grouping election** filed, leaving REPS and passive losses exposed
- **Flipping activity** through GP role triggers full SE tax
- STR and LTR classifications are **ambiguous**, risking passive treatment
- **S-Corp structure** is in place but underutilized for tax deferral and SE tax optimization

Estimated tax savings left on the table: $45,000–$70,000+ annually.

Legal Framework

IRS Code References

- **IRC §469(c)(7)** – Real Estate Professional Status (REPS)
- **Treas. Reg. §1.469-4** – Grouping election rules
- **IRC §1402** – SE tax on partnership/GP income
- **IRC §199A** – QBI deduction for pass-through entities
- **IRC §280A(g)** – Augusta Rule (not yet utilized)
- **IRC §1250** – Depreciation recapture considerations

Relevant Court Cases

- **Bailey v. Comm., T.C. Memo 2001-296** – REPS denied due to lack of grouping
- **Moss v. Comm., T.C. Memo 2014-8** – Contemporaneous time logs required

- **Leyh v. Comm., T.C. Memo 2015-104** – Burden of proof on taxpayer for REPS
- **Hardy v. Comm., T.C. Memo 2017-16** – Flipping = business activity, not passive RE

Entity & Activity Analysis

Partnerships (33/67 Ownership)

- Each holds a separate property
- No grouping election = REPS must be proven per property
- Without grouping, passive losses may be suspended unnecessarily

Risk: REPS failure + suspended losses
Recommendation: File late grouping election under Rev. Proc. 2010-13 (if eligible)

S-Corp Management Company

- Used for property management
- Wife draws $40K W-2 salary = 199A compliant
- Husband draws no salary = missed QBI + retirement plan opportunity
- No Solo 401(k) or HSA currently in place

Recommendation:

- Pay husband $20K–$30K W-2 salary
- Set up Solo 401(k) and fund HSA through S-Corp
- Maximize tax-deferred comp + QBI optimization

Flipping Activity via Syndication (GP Role)

- ~$200K net flip profit flows through GP interest

- Subject to full **SE tax under §1402**
- Not routed through S-Corp = audit exposure + higher tax burden

Recommendation:

- Route GP income through S-Corp
- Pay reasonable W-2 salary + draw distributions
- Maintain separate GLs/books for flip vs rental vs syndication

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STR & LTR Classification

- 2 STRs: unclear average stay and participation
- STRs may qualify as non-passive **if**:
    - Average stay is ≤ 7 days
    - Material participation is met (100+ hours, more than anyone else)

Recommendation:

- Track average stay and STR hours (Reg. §1.469-1T(e)(3)(ii)(A))
- Establish material participation to convert losses to non-passive
- LTRs also need participation logs for REPS inclusion

Missed Opportunities

Strategy	Opportunity	Est. Value
Grouping Election	Unlock passive losses + REPS support	$15,000–$20,000
Flip SE Tax Optimization	Via S-Corp salary split	$6,000–$9,000

Solo 401(k) + HSA Deferral	Husband + wife through S-Corp	$30,000–$66,000
STR Material Participation	Reclassify losses from passive	$5,000–$10,000
Augusta Rule	Rent home to S-Corp (14 days/year)	$3,500–$5,600

Action Plan Summary

1. **File grouping election** (Treas. Reg. §1.469-4)
2. **Route GP income through S-Corp** — add W-2 for husband
3. **Establish and fund Solo 401(k), HSA** via S-Corp
4. **Track STR and LTR hours** — confirm material participation
5. **Use Augusta Rule** — hold 14 documented meetings annually
6. **Validate 199A eligibility** — QBI + wage threshold alignment
7. **Audit-proof all REPS time and grouping elections**

Audit Risk Summary

Issue	Risk Level	Mitigation
No Grouping Election	HIGH	File late grouping with reasonable cause
Flip Income via GP	HIGH	Route via S-Corp + W-2 + distributions
STR Misclassification	MODERATE	Track avg stay + hours per property
Missing REPS Logs	HIGH	Maintain contemporaneous logs
Ambiguous Partnerships	MODERATE	Define roles + document % ownership + logs

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Estimated Tax Savings Table

Strategy	Estimated Annual Benefit
Flip SE Tax Optimization	$7,500
REPS Loss Unlock	$18,000
Solo 401(k) Deferral	$44,000
Augusta Rule	$5,000
STR Material Participation	$7,000

Total Potential Savings: $81,500

Final Conclusion

Despite solid income and a complex entity structure, this client is under-leveraging multiple tax strategies.

The biggest issues are lack of grouping election, unshielded flip income, and undocumented STR/LTR activities.

By implementing these recommendations — particularly before year-end — the client can recover **$75K–$85K in annual tax savings** while significantly lowering audit risk.