

***Caution: DRAFT FORM***

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If you have any comments on this draft form, you can submit them to us on our web site. Include the word DRAFT in your response. You may make comments anonymously, or you may include your name and e-mail address or phone number. We will be unable to respond to all comments due to the high volume we receive. However, we will carefully consider each suggestion. So that we can properly consider your comments, please send them to us within 30 days from the date the draft was posted.

Department of the Treasury  
Internal Revenue Service

▶ See separate instructions.  
▶ Attach to Form 1040 or 1041.

Name(s) shown on return

Identifying number

**Part I 2006 Passive Activity Credits**

**Caution:** If you have credits from a publicly traded partnership, see **Publicly Traded Partnerships (PTPs)** on page 15 of the instructions.

<b>Credits From Rental Real Estate Activities With Active Participation (Other Than Rehabilitation Credits and Low-Income Housing Credits)</b> (See Lines 1a through 1c on page 9.)			
1a	Credits from Worksheet 1, column (a)	1a	
b	Prior year unallowed credits from Worksheet 1, column (b)	1b	
c	Add lines 1a and 1b	1c	
<b>Rehabilitation Credits From Rental Real Estate Activities</b> (See Lines 2a through 2c on page 9.)			
2a	Credits from Worksheet 2, column (a)	2a	
b	Prior year unallowed credits from Worksheet 2, column (b)	2b	
c	Add lines 2a and 2b	2c	
<b>Low-Income Housing Credits</b> (See Lines 3a through 3c on page 9.)			
3a	Credits from Worksheet 3, column (a)	3a	
b	Prior year unallowed credits from Worksheet 3, column (b)	3b	
c	Add lines 3a and 3b	3c	
<b>All Other Passive Activity Credits</b> (See Lines 4a through 4c on page 9.)			
4a	Credits from Worksheet 4, column (a)	4a	
b	Prior year unallowed credits from Worksheet 4, column (b)	4b	
c	Add lines 4a and 4b	4c	
5	Add lines 1c, 2c, 3c, and 4c	5	
6	Enter the tax attributable to net passive income (see page 9)	6	
7	Subtract line 6 from line 5. If line 6 is more than or equal to line 5, enter -0- and see page 10	7	
<b>Note:</b> If your filing status is married filing separately and you lived with your spouse at any time during the year, <b>do not</b> complete Part II, III, or IV. Instead, go to line 37.			

**Part II Special Allowance for Rental Real Estate Activities With Active Participation**

**Note:** Complete this part only if you have an amount on line 1c. Otherwise, go to Part III.

8	Enter the smaller of line 1c or line 7	8	
9	Enter \$150,000. If married filing separately, see page 10	9	
10	Enter modified adjusted gross income, but not less than zero (see page 10). If line 10 is equal to or more than line 9, skip lines 11 through 15 and enter -0- on line 16	10	
11	Subtract line 10 from line 9	11	
12	Multiply line 11 by 50% (.50). <b>Do not</b> enter more than \$25,000. If married filing separately, see page 11	12	
13a	Enter the amount, if any, from line 10 of Form 8582	13a	
b	Enter the amount, if any, from line 14 of Form 8582	13b	
c	Add lines 13a and 13b	13c	
14	Subtract line 13c from line 12	14	
15	Enter the tax attributable to the amount on line 14 (see page 11)	15	
16	Enter the <b>smaller</b> of line 8 or line 15	16	

**Part III Special Allowance for Rehabilitation Credits From Rental Real Estate Activities**

**Note:** Complete this part only if you have an amount on line 2c. Otherwise, go to Part IV.

17	Enter the amount from line 7 . . . . .				17		
18	Enter the amount from line 16 . . . . .				18		
19	Subtract line 18 from line 17. If zero, enter -0- here and on lines 30 and 36, and then go to Part V . . . . .				19		
20	Enter the <b>smaller</b> of line 2c or line 19 . . . . .				20		
21	Enter \$250,000. If married filing separately, see page 12. (See page 12 to find out if you can skip lines 21 through 26.) . . . . .			21			
22	Enter modified adjusted gross income, but not less than zero. (See instructions for line 10 on page 10.) If line 22 is equal to or more than line 21, skip lines 23 through 29 and enter -0- on line 30 . . . . .			22			
23	Subtract line 22 from line 21 . . . . .			23			
24	Multiply line 23 by 50% (.50). Do not enter more than \$25,000. If married filing separately, see page 12 . . . . .			24			
25a	Enter the amount, if any, from line 10 of Form 8582 . . . . .	25a					
b	Enter the amount, if any, from line 14 of Form 8582 . . . . .	25b					
c	Add lines 25a and 25b . . . . .			25c			
26	Subtract line 25c from line 24 . . . . .			26			
27	Enter the tax attributable to the amount on line 26 (see page 12) . . . . .			27			
28	Enter the amount, if any, from line 18 . . . . .			28			
29	Subtract line 28 from line 27 . . . . .				29		
30	Enter the <b>smaller</b> of line 20 or line 29 . . . . .				30		

**Part IV Special Allowance for Low-Income Housing Credits**

**Note:** Complete this part only if you have an amount on line 3c. Otherwise, go to Part V.

31	If you completed Part III, enter the amount from line 19. Otherwise, subtract line 16 from line 7 . . . . .				31		
32	Enter the amount from line 30 . . . . .				32		
33	Subtract line 32 from line 31. If zero, enter -0- here and on line 36 . . . . .				33		
34	Enter the <b>smaller</b> of line 3c or line 33 . . . . .				34		
35	Tax attributable to the remaining special allowance (see page 12) . . . . .				35		
36	Enter the <b>smaller</b> of line 34 or line 35 . . . . .				36		

**Part V Passive Activity Credit Allowed**

37	<b>Passive Activity Credit Allowed.</b> Add lines 6, 16, 30, and 36. See page 12 to find out how to report the allowed credit on your tax return and how to allocate allowed and unallowed credits if you have more than one credit or credits from more than one activity. If you have any credits from a publicly traded partnership, see <b>Publicly Traded Partnerships (PTPs)</b> on page 15 . . . . .				37		
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**Part VI Election To Increase Basis of Credit Property**

38	If you disposed of your entire interest in a passive activity or former passive activity in a fully taxable transaction, and you elect to increase your basis in credit property used in that activity by the unallowed credit that reduced your basis in the property, check this box. See page 16 . . . . . <input type="checkbox"/>						
39	Name of passive activity disposed of ▶ .....						
40	Description of the credit property for which the election is being made ▶ .....						
41	Amount of unallowed credit that reduced your basis in the property . . . . . ▶ \$						



# Instructions for Form 8582-CR

## Passive Activity Credit Limitations

### General Instructions

Section references are to the Internal Revenue Code unless otherwise noted.

### Purpose of Form

Form 8582-CR is used by noncorporate taxpayers to figure the amount of any passive activity credit (PAC) for the current tax year (including any prior year unallowed credits) and the amount of credit allowed for the current year. It also is used to make the election to increase the basis of credit property when a taxpayer disposes of his or her interest in an activity.

PACs that are not allowed in the current year are carried forward until they are allowed against the tax on either net passive income or the special allowance, if applicable.

Different rules apply to your activities and the related credit, depending on the type of activity. Generally, passive activities include:

- Trade or business activities in which you did not materially participate for the tax year.
- Rental activities, regardless of your participation.

See *Trade or Business Activities* on page 3 and *Rental Activities* on page 2.

For more information, see Pub. 925, *Passive Activity and At-Risk Rules*.

**Note.** Corporations subject to the passive activity rules must use Form 8810, *Corporate Passive Activity Loss and Credit Limitations*.

### Who Must File

Form 8582-CR is filed by individuals, estates, and trusts with any of the following credits from passive activities.

- Investment credit (including the rehabilitation credit and energy credit).
- Work opportunity credit.
- Welfare-to-work credit.
- Credit for alcohol used as fuel.

- Credit for increasing research activities.
- Low-income housing credit.
- Enhanced oil recovery credit.
- Disabled access credit.
- Renewable electricity, refined coal, and Indian coal production credit.
- Empowerment zone and renewal community employment credit.
- Indian employment credit.
- Credit for employer social security and Medicare taxes paid on certain employee tips.
- Orphan drug credit.
- Credit for small employer pension plan startup costs.
- Credit for employer-provided child care facilities and services.
- Nonconventional source fuel credit.
- Qualified electric vehicle credit.
- Railroad track maintenance credit.
- Biodiesel fuels credit.
- Low sulfur diesel fuel production credit.
- Distilled spirits credit.
- Energy efficient home credit.
- Alternative motor vehicle credit.
- Alternative fuel vehicle refueling property credit.
- Hurricane Katrina employee retention credit.
- General credits from electing large partnerships.

### Overview of Form

The form contains six parts. The *Specific Instructions*, starting on page 9, include, at the beginning of the instructions for each part, a brief explanation of the purpose or use of that part. These explanations give a general overview of how the form works.

Also, as you read the instructions that follow, see *Example of How To Complete Form 8582-CR*, beginning on page 5. The example goes through a six-step analysis of how the form and worksheets are completed for a partner in a limited partnership that has a low-income housing credit.

### Activities That Are Not Passive Activities

The following are not passive activities.

1. Trade or business activities in which you materially participated for the tax year.
2. Any rental real estate activity in which you materially participated if you were a "real estate professional" for the tax year. You were a real estate professional only if:
  - a. More than half of the personal services you performed in trades or businesses during the tax year were performed in real property trades or businesses in which you materially participated, and
  - b. You performed more than 750 hours of services during the tax year in real property trades or businesses in which you materially participated.For purposes of item (2), each interest in rental real estate is a separate activity unless you elect to treat all interests in rental real estate as one activity.

If you are married filing jointly, one spouse must separately meet both (2)(a) and (2)(b) without taking into account services performed by the other spouse.

A real property trade or business is any real property development, redevelopment, construction, reconstruction, acquisition, conversion, rental, operation, management, leasing, or brokerage trade or business.

Services you performed as an employee are not treated as performed in a real property trade or business unless you owned more than 5% of the stock (or more than 5% of the capital or profits interest) in the employer.

3. A working interest in an oil or gas well. Your working interest must be held directly or through an entity that does not limit your liability (such as a general partner interest in a partnership). In this case, it does not matter whether you materially

participated in the activity for the tax year.

If, however, your liability was limited for part of the year (for example, you converted your general partner interest to a limited partner interest during the year), some of your income and losses from the working interest may be treated as passive activity gross income and passive activity deductions. See Temporary Regulations section 1.469-1T(e)(4)(ii).

4. The rental of a dwelling unit you used as a residence if section 280A(c)(5) applies. This section applies if you rented out a dwelling unit that you also used as a home during the year for a number of days that exceeds the greater of 14 days or 10% of the number of days during the year that the home was rented at a fair rental.

5. An activity of trading personal property for the account of owners of interests in the activity. For purposes of this rule, personal property means property that is actively traded, such as stocks, bonds, and other securities. See Temporary Regulations section 1.469-1T(e)(6).

Generally, credits from these activities are not entered on Form 8582-CR. However, credits from these activities may be subject to limitations other than the passive credit limitation rules.

## Rental Activities

A rental activity is a passive activity even if you materially participated in the activity (unless it is a rental real estate activity in which you materially participated and you were a real estate professional).

However, if you meet any of the five exceptions listed below, the rental of the property is not treated as a rental activity. See *Reporting Credits From the Activities* on this page if you meet any of the exceptions.

An activity is a rental activity if tangible property (real or personal) is used by customers or held for use by customers and the gross income (or expected gross income) from the activity represents amounts paid (or to be paid) mainly for the use of the property. It does not matter whether the use is under a lease, a service contract, or some other arrangement.

## Exceptions

An activity is not a rental activity if any of the following exceptions are met.

1. The average period of customer use is:

- a. 7 days or less, or
- b. 30 days or less and significant personal services (see below) were provided in making the rental property available for customer use.

Figure the average period of customer use for a class of property by dividing the total number of days in all rental periods by the number of rentals during the tax year. If the activity involves renting more than one class of property, multiply the average period of customer use of each class by the ratio of the gross rental income from that class to the activity's total gross rental income. The activity's average period of customer use equals the sum of these class-by-class average periods weighted by gross income. See Regulations section 1.469-1(e)(3)(iii).

Significant personal services include only services performed by individuals. To determine if personal services are significant, all relevant facts and circumstances are considered. Facts and circumstances include the frequency of the services, the type and amount of labor required to perform the services, and the value of the services relative to the amount charged for use of the property.

2. Extraordinary personal services were provided in making the rental property available for customer use. This applies only if the services are performed by individuals and the customers' use of the rental property is incidental to their receipt of the services.

3. Rental of the property is incidental to a nonrental activity.

The rental of property is incidental to an activity of holding property for investment if the main purpose of holding the property is to realize a gain from its appreciation and the gross rental income is less than 2% of the smaller of the unadjusted basis or the fair market value (FMV) of the property.

Unadjusted basis is the cost of the property without regard to depreciation deductions or any other basis adjustment described in section 1016.

The rental of property is incidental to a trade or business activity if:

- a. You own an interest in the trade or business activity during the tax year,
- b. The rental property was mainly used in the trade or business activity during the tax year or during at least 2 of the 5 preceding tax years, and
- c. The gross rental income from the property is less than 2% of the

smaller of the unadjusted basis or the FMV of the property.

Lodging provided for the employer's convenience to an employee or the employee's spouse or dependents is incidental to the activity or activities in which the employee performs services.

4. You customarily make the rental property available during defined business hours for nonexclusive use by various customers.

5. You provide property for use in a nonrental activity of a partnership, S corporation, or joint venture in your capacity as an owner of an interest in the partnership, S corporation, or joint venture.

## Reporting Credits From the Activities

If an activity meets any of the five exceptions listed above, it is not a rental activity. You must then determine:

1. Whether your rental of the property is a trade or business activity (see *Trade or Business Activities* on page 3) and, if so,

2. Whether you materially participated in the activity for the tax year (see *Material Participation* beginning on page 3).

- If the activity is a trade or business activity in which you did not materially participate, enter the credits from the activity on Worksheet 4 on page 11.
- If the activity is a trade or business activity in which you did materially participate, report the credits from the activity on the forms you normally use.

If the rental activity did not meet any of the five exceptions, it is generally a passive activity. Special rules apply if you conduct the rental activity through a publicly traded partnership (PTP). See *Publicly Traded Partnerships (PTPs)* on page 15.

If the rental activity is not conducted through a PTP, the passive rental activity is entered in Worksheet 1, 2, 3, or 4 on pages 10 and 11.

Worksheet 1 is for credits (other than rehabilitation credits and low-income housing credits) from passive rental real estate activities in which you actively participated. See *Special Allowance for Rental Real Estate Activities* on page 3.

Worksheet 2 is for rehabilitation credits from passive rental real estate activities and low-income housing credits for property placed in service

before 1990. This worksheet is also used for low-income housing credits from a partnership, S corporation, or other pass-through entity if your interest in the pass-through entity was acquired before 1990, regardless of the date the property was placed in service.

Worksheet 3 is for low-income housing credits for property placed in service after 1989 (unless held through a pass-through entity in which you acquired your interest before 1990).

Worksheet 4 is for credits from passive trade or business activities in which you did not materially participate and passive rental real estate activities in which you did not actively participate (but not rehabilitation credits from passive rental real estate activities or low-income housing credits).

## Special Allowance for Rental Real Estate Activities

If you actively participated in a passive rental real estate activity, you may be able to claim credits from the activity for the tax attributable to a special allowance of up to \$25,000, reduced by any passive losses, including the commercial revitalization deduction, allowed under this exception on Form 8582, Passive Activity Loss Limitations.

The special allowance also applies to low-income housing credits and rehabilitation credits from a rental real estate activity, even if you did not actively participate in the activity. The credits allowed under the special allowance are in addition to the credits allowed for the tax attributable to net passive income.

The special allowance is not available if you were married at the end of the year, are filing a separate return for the year, and lived with your spouse at any time during the year.

Only an individual, a qualifying estate, or a qualified revocable trust that made an election to treat the trust as part of the decedent's estate may actively participate in a rental real estate activity. Unless future regulations provide an exception, limited partners are not treated as actively participating in a partnership's rental real estate activity.

A qualifying estate is the estate of a decedent for tax years ending less than 2 years after the date of the decedent's death if the decedent would have satisfied the active participation requirements for the rental real estate activity for the tax year the decedent died.

A qualified revocable trust may elect to be treated as part of a decedent's estate for purposes of the special allowance for active participation in rental real estate activities. The election must be made by both the executor (if any) of the decedent's estate and the trustee of the revocable trust. For details, see Regulations section 1.645-1.

You are not considered to actively participate in a rental real estate activity if at any time during the tax year your interest (including your spouse's interest) in the activity was less than 10% (by value) of all interests in the activity.

Active participation is a less stringent requirement than material participation (see *Material Participation* on this page). You may be treated as actively participating if, for example, you participated in making management decisions or arranging for others to provide services (such as repairs) in a significant and bona fide sense. Management decisions that may count as active participation include:

- Approving new tenants,
- Deciding on rental terms,
- Approving capital or repair expenditures, and
- Other similar decisions.

The maximum special allowance is:

- \$25,000 for single individuals and married individuals filing a joint return for the tax year.
- \$12,500 for married individuals who file separate returns for the tax year and who lived apart from their spouses at all times during the tax year.
- \$25,000 for a qualifying estate reduced by the special allowance for which the surviving spouse qualified.

**Modified adjusted gross income limitation.** If your modified adjusted gross income (defined in the instructions for line 10 beginning on page 10) is \$100,000 or less (\$50,000 or less if married filing separately), figure your credits based on the amount of the maximum special allowance referred to in the preceding paragraph.

If your modified adjusted gross income is more than \$100,000 (\$50,000 if married filing separately) but less than \$150,000 (\$75,000 if married filing separately), your special allowance is limited to 50% of the difference between \$150,000 (\$75,000 if married filing separately) and your modified adjusted gross income.

Generally, if your modified adjusted gross income is \$150,000 or

more (\$75,000 or more if married filing separately), there is no special allowance.

However, for low-income housing credits for property placed in service before 1990 and for rehabilitation credits, the limits on modified adjusted gross income are increased. If your modified adjusted gross income is more than \$200,000 (\$100,000 if married filing separately) but less than \$250,000 (\$125,000 if married filing separately), your special allowance is limited to 50% of the difference between \$250,000 (\$125,000 if married filing separately) and your modified adjusted gross income.

If your modified adjusted gross income is \$250,000 or more (\$125,000 or more if married filing separately), there is no special allowance.

No modified adjusted gross income limitation applies when figuring the special allowance for low-income housing credits for property placed in service after 1989 (other than from a pass-through entity in which you acquired your interest before 1990).

## Trade or Business Activities

A trade or business activity is an activity (other than a rental activity or an activity treated as incidental to an activity of holding property for investment) that:

1. Involves the conduct of a trade or business (within the meaning of section 162),
2. Is conducted in anticipation of starting a trade or business, or
3. Involves research or experimental expenditures deductible under section 174 (or that would be if you chose to deduct rather than capitalize them).

## Reporting Credits From the Activities

**Trade or business activities with material participation.** If you materially participated in a trade or business activity, the activity is not a passive activity. Report the credits from the activity on the forms you normally use.

**Trade or business activities without material participation.** If you did not materially participate in a trade or business activity, the activity is a passive activity. Generally, you must use Worksheet 4 on page 11 to figure the amount to enter on Form 8582-CR for each trade or business

activity in which you did not materially participate. However, if you held the activity through a PTP, special rules apply. See *Publicly Traded Partnerships (PTPs)* on page 15.

## Material Participation

For the material participation tests that follow, participation generally includes any work done in connection with an activity if you owned an interest in the activity at the time you did the work. The capacity in which you did the work does not matter. However, work is not participation if:

- It is not work that an owner would customarily do in the same type of activity, and
- One of your main reasons for doing the work was to avoid the disallowance of losses or credits from the activity under the passive activity rules.

**Proof of participation.** You may prove your participation in an activity by any reasonable means. You do not have to maintain contemporaneous daily time reports, logs, or similar documents if you can establish your participation by other reasonable means. For this purpose, reasonable means include, but are not limited to, identifying services performed over a period of time and the approximate number of hours spent performing the services during that period, based on appointment books, calendars, or narrative summaries.

**Tests for individuals.** You materially participated for the tax year in an activity if you satisfy at least one of the following tests.

1. You participated in the activity for more than 500 hours.
2. Your participation in the activity for the tax year was substantially all of the participation in the activity of all individuals (including individuals who did not own any interest in the activity) for the year.
3. You participated in the activity for more than 100 hours during the tax year, and you participated at least as much as any other individual (including individuals who did not own any interest in the activity) for the year.
4. The activity is a significant participation activity for the tax year, and you participated in all significant participation activities during the year for more than 500 hours.

A significant participation activity is any trade or business activity in which you participated for more than 100 hours during the year and in which you did not materially participate under any of the material

participation tests (other than this fourth test).

5. You materially participated in the activity for any 5 (whether or not consecutive) of the 10 immediately preceding tax years.

6. The activity is a personal service activity in which you materially participated for any 3 (whether or not consecutive) preceding tax years.

An activity is a personal service activity if it involves the performance of personal services in the fields of health, law, engineering, architecture, accounting, actuarial science, performing arts, consulting, or in any other trade or business in which capital is not a material income-producing factor.

7. Based on all the facts and circumstances, you participated in the activity on a regular, continuous, and substantial basis during the tax year.

You did not materially participate in the activity under this seventh test, however, if you participated in the activity for 100 hours or less during the tax year.

Your participation in managing the activity does not count in determining whether you materially participated under this test if:

- a. Any person (except you) received compensation for performing services in the management of the activity, or
- b. Any individual spent more hours during the tax year performing services in the management of the activity than you did (regardless of whether the individual was compensated for the management services).

**Test for a spouse.** Participation by your spouse during the tax year in an activity you own may be counted as your participation in the activity, even if your spouse did not own an interest in the activity and whether or not you and your spouse file a joint return for the tax year.

**Test for investors.** Work done as an investor in an activity is not treated as participation unless you were directly involved in the day-to-day management or operations of the activity. For purposes of this test, work done as an investor includes:

1. Studying and reviewing financial statements or reports on operations of the activity,
2. Preparing or compiling summaries or analyses of the finances or operations of the activity for your own use, and

3. Monitoring the finances or operations of the activity in a nonmanagerial capacity.

### Special rules for limited partners.

If you were a limited partner in an activity, you generally did not materially participate in the activity. You did materially participate in the activity, however, if you met material participation test 1, 5, or 6 (see *Tests for individuals*) for the tax year.

However, for purposes of the material participation tests, you are not treated as a limited partner if you also were a general partner in the partnership at all times during the partnership's tax year ending with or within your tax year (or, if shorter, during the portion of the partnership's tax year in which you directly or indirectly owned your limited partner interest).

A limited partner's share of an electing large partnership's taxable income or loss from all trade or business and rental activities is treated as income or loss from the conduct of a single passive trade or business activity.

### Special rules for certain retired or disabled farmers and surviving spouses of farmers.

Certain retired or disabled farmers and surviving spouses of farmers are treated as materially participating in a farming activity if the real property used in the activity meets the estate tax rules for special valuation of farm property passed from a qualifying decedent. See Temporary Regulations section 1.469-5T(h)(2).

**Estates and trusts.** The PAC limitations apply to an estate or trust. See Temporary Regulations sections 1.469-1T(b)(2) and (3). The rules for determining material participation for this purpose have not yet been issued.

## Grouping of Activities

Generally, one or more trade or business activities or rental activities may be treated as a single activity if the activities make up an appropriate economic unit for the measurement of gain or loss under the passive activity rules.

Whether activities make up an appropriate economic unit depends on all the relevant facts and circumstances. The factors given the greatest weight in determining whether activities make up an appropriate economic unit are:

1. Similarities and differences in types of trades or businesses,
2. The extent of common control,

3. The extent of common ownership,
4. Geographical location, and
5. Interdependencies between or among the activities.

**Example.** You have a significant ownership interest in a bakery and a movie theater in Baltimore and in a bakery and a movie theater in Philadelphia. Depending on all the relevant facts and circumstances, there may be more than one reasonable method for grouping your activities. For instance, the following groupings may or may not be permissible.

- A single activity.
- A movie theater activity and a bakery activity.
- A Baltimore activity and a Philadelphia activity.
- Four separate activities.

Once you choose a grouping under these rules, you must continue using that grouping in later tax years unless a material change in the facts and circumstances makes it clearly inappropriate.

The IRS may regroup your activities if your grouping fails to reflect one or more appropriate economic units and one of the primary purposes of your grouping is to avoid the passive activity limitations.

**Limitation on grouping certain activities.** The following activities may not be grouped together.

1. A rental activity with a trade or business activity unless the activities being grouped together make up an appropriate economic unit and:
  - a. The rental activity is insubstantial relative to the trade or business activity or vice versa, or
  - b. Each owner of the trade or business activity has the same

proportionate ownership interest in the rental activity. If so, the portion of the rental activity involving the rental of property used in the trade or business activity may be grouped with the trade or business activity.

2. An activity involving the rental of real property with an activity involving the rental of personal property (except personal property provided in connection with the real property or vice versa).

3. Any activity with another activity in a different type of business and in which you hold an interest as a limited partner or as a limited entrepreneur (as defined in section 464(e)(2)), if that other activity engages in holding, producing, or distributing motion picture films or videotapes; farming; leasing section 1245 property; or exploring for (or exploiting) oil and gas resources or geothermal deposits.

**Activities conducted through partnerships, S corporations, and C corporations subject to section 469.** Once a partnership or corporation determines its activities under these rules, a partner or shareholder may use these rules to group those activities with:

- Each other,
- Activities conducted directly by the partner or shareholder, or
- Activities conducted through other partnerships and corporations.

A partner or shareholder may not treat as separate activities those activities grouped together by the partnership or corporation.

**Partial disposition of an activity.**

You may treat the disposition of substantially all of an activity as a separate activity if you can prove with reasonable certainty:

1. The prior year unallowed losses, if any, allocable to the part of the activity disposed of, and
2. The net income or loss for the year of disposition allocable to the part of the activity disposed of.

**Dispositions**

Unallowed PACs, unlike unallowed passive activity losses, are not allowed when you dispose of your interest in an activity. However, you may elect to increase the basis of the credit property by the amount of the original basis reduction of the property to the extent that the credit has not been allowed under the passive activity rules. Unallowed PACs that are not used to increase the basis of the credit property are carried forward until they are allowed. To make the election, complete Form 8582-CR, Part VI. No basis adjustment may be elected on a partial disposition of your interest in a passive activity.

**Example of How To Complete Form 8582-CR**

In 2005, John Jones purchased an interest as a limited partner in Partnership A. Mr. Jones is married and files a joint return. During 2005, the partnership placed in service a residential rental building that qualified for the low-income housing credit.

- Mr. Jones received a Schedule K-1 from the partnership. The low-income housing credit (\$12,000) is shown on Schedule K-1 (Form 1065), box 15, with code B.
- Mr. Jones' net passive income for 2005 is zero.