

1SUPPORTING STATEMENT
Internal Revenue Service
Form 8582, Passive Activity Loss Limitations
OMB Control Number 1545-1008

1. CIRCUMSTANCES NECESSITATING COLLECTION OF INFORMATION

Internal Revenue Code (IRC) Section 469 limits the passive activity losses that a taxpayer may deduct. The passive activity losses are allowed only to the extent of passive activity income plus up to a \$25,000 allowance for rental real estate when there is active participation. Form 8582 is used to figure the passive activity loss allowed and the actual loss to be reported on the tax return. P. L. 116-136 (the CARES Act of 2020), section 2304(a), repealed the excess business loss limitation under section 461(l)(1) for tax years 2018, 2019, and 2020.

2. USE OF DATA

The information is used by the Service to verify the loss allowed under the passive activity rules. The data will be used by the Internal Revenue Service and taxpayers to verify that the proper amount of tax is reported and excluded.

3. USE OF IMPROVED INFORMATION TECHNOLOGY TO REDUCE BURDEN

Electronic filing of Form 8582 is currently available.

4. EFFORTS TO IDENTIFY DUPLICATION

The information obtained through this collection is unique and is not already available for use or adaptation from another source.

5. METHODS TO MINIMIZE BURDEN ON SMALL BUSINESSES OR OTHER SMALL ENTITIES

The IRS proactively works with both internal and external stakeholders to minimize the burden on small businesses, while maintaining tax compliance. The Agency also seeks input regarding the burden estimates from the public via notices and tax product instructions. This information collection is for individual taxpayers; therefore, there will be minimal if any impact to small businesses. The forms can be filed electronically, which further reduces any burden to small businesses.

6. CONSEQUENCES OF LESS FREQUENT COLLECTION ON FEDERAL PROGRAMS OR POLICY ACTIVITIES

Consequences of less frequent collection on federal programs or policy activities would consist of decreased amount of taxes collected by the Service, inaccurate and untimely filing of tax returns, and an increase in tax violations.

7. SPECIAL CIRCUMSTANCES REQUIRING DATA COLLECTION TO BE INCONSISTENT WITH GUIDELINES IN 5 CFR 1320.5(d)(2)

There are no special circumstances requiring data collection to be inconsistent with Guidelines in 5 CFR 1320.5(d)(2).

8. CONSULTATION WITH INDIVIDUALS OUTSIDE OF THE AGENCY ON AVAILABILITY OF DATA, FREQUENCY OF COLLECTION, CLARITY OF INSTRUCTIONS AND FORMS, AND DATA ELEMENTS

We received no comments during the comment period in response to the Federal Register notice dated February 17, 2021 (86 FR 10003).

9. EXPLANATION OF DECISION TO PROVIDE ANY PAYMENT OR GIFT TO RESPONDENTS

No payment or gift has been provided to any respondents.

10. ASSURANCE OF CONFIDENTIALITY OF RESPONSES

Generally, tax returns and tax return information are confidential as required by 26 USC 6103.

11. JUSTIFICATION OF SENSITIVE QUESTIONS

A privacy impact assessment (PIA) has been conducted for information collected under this request as part of the “Individual Master File (IMF)” system and a Privacy Act System of Records notice (SORN) has been issued for this system under IRS 24.030 CADE Individual Master File; 34.037 IRS Audit Trail and Security Records System. The Internal Revenue Service PIAs can be found at <https://www.IRS.gov/uac/Privacy-Impact-Assessments-PIA>

Title 26 USC 6109 requires inclusion of identifying numbers in returns, statements, or other documents for securing proper identification of

persons required to make such returns, statements, or documents and is the authority for social security numbers (SSNs) in IRS systems.

12. ESTIMATED BURDEN OF INFORMATION COLLECTION

Form 8582 is used to figure the passive activity loss allowed and the actual loss to be reported on the tax return. The time needed to complete and file this form will vary depending on individual circumstances. The estimated burden for individual taxpayers filing this form is approved under OMB control number 1545-0074 and are included in the estimates shown in the instructions for their individual income tax return. We estimate that 250,000 taxpayers annually, they will spend an average of 3.5 hours and the total burden for this collection is estimated to be 875,000 hours.

The estimated burden for all other taxpayers who file this form is shown below:

Authority	Description	# Respondents	# Responses Per Respondent	Total Annual Responses	Hours Per Response	Total Burden
IRC § 469	Form 8582	250,000	1	250,000	3.50	875,000
	Totals	250,000		250,000		875,000

The following regulations impose no additional burden. Please continue to assign OMB number 1545-1008 to these regulations:

- 1.469-1T(f)(2)(A)
- 1.469-1T(f)(2)(B)

13. ESTIMATED TOTAL ANNUAL COST BURDEN TO RESPONDENTS

To ensure more accuracy and consistency across its information collections, IRS is currently in the process of revising the methodology it uses to estimate burden and costs. Once this methodology is complete, IRS will update this information collection to reflect a more precise estimate of burden and costs.

14. ESTIMATED ANNUALIZED COST TO THE FEDERAL GOVERNMENT

The primary cost to the government consists of the cost of printing this

form. We estimate that the cost of printing the Form is \$69,132. The estimated annualized cost to the Federal Government is based on a model that considers the following three factors for each information product: aggregate labor costs for development, including annualized start -up expenses, operating and maintenance expenses, and distribution of the product that collects the information.

The government computes cost using a multi-step process. First, the government creates a weighted factor for the level of effort to create each information collection product based on variables such as; complexity, number of pages, type of product and frequency of revision. Second, the total costs associated with developing the product such as labor cost, and operating expenses associated with the downstream impact such as support functions, are added together to obtain the aggregated total cost. Then, the aggregated total cost and factor are multiplied together to obtain the aggregated cost per product. Lastly, the aggregated cost per product is added to the cost of shipping and printing each product to IRS offices, National Distribution Center, libraries and other outlets. The result is the Federal Government estimated annualized cost per product.

The federal government estimated annualized cost is as follows:

<u>Product</u>	<u>Aggregate Cost per Product (factor applied)</u>		<u>Printing and Distribution</u>		<u>Government Cost Estimate per Product</u>
Form 8582	46,203	+	991	=	47,194
Instructions 8582	21,324	+	614	=	21,938
Grand Total	67527	+	1,605	=	69,132

Table costs are based on 2020 actuals obtained from IRS Chief Financial Office and Media and Publications

* New product costs will be updated in the next revision of this collection.

15. REASONS FOR CHANGE IN BURDEN

There are no changes to the burden previously approval by OMB. This submission is for renewal purposes.

16. PLANS FOR TABULATION, STATISTICAL ANALYSIS AND PUBLICATION

There are no plans for tabulation, statistical analysis and publication.

17. REASONS WHY DISPLAYING THE OMB EXPIRATION DATE IS INAPPROPRIATE

IRS believes that displaying the OMB expiration date is inappropriate because it could cause confusion by leading taxpayers to believe that the regulation sunsets as of the expiration date. Taxpayers are not likely to be aware that the Service intends to request renewal of the OMB approval and obtain a new expiration date before the old one expires.

18. EXCEPTIONS TO THE CERTIFICATION STATEMENT

There are no exceptions to the certification statement.

Note: The following paragraph applies to all of the collections of information in this submission:

An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless the collection of information displays a valid OMB control number. Books or records relating to a collection of information must be retained as long as their contents may become material in the administration of any internal revenue law. Generally, tax returns and tax return information are confidential, as required by 26 U.S.C. 6103.