



Note: *The draft you are looking for begins on the next page.*

Caution: DRAFT—NOT FOR FILING

This is an early release draft of an IRS tax form, instructions, or publication, which the IRS is providing for your information. **Do not file draft forms** and do **not** rely on draft forms, instructions, and pubs for filing. We incorporate all significant changes to forms posted with this coversheet. However, unexpected issues occasionally arise, or legislation is passed—in this case, we will post a new draft of the form to alert users that changes were made to the previously posted draft. Thus, there are never any changes to the last posted draft of a form and the final revision of the form. Forms and instructions are subject to OMB approval before they can be officially released, so we post drafts of them until they are approved. Drafts of instructions and pubs usually have some additional changes before their final release. Early release drafts are at [IRS.gov/DraftForms](https://www.irs.gov/DraftForms) and remain there after the final release is posted at [IRS.gov/LatestForms](https://www.irs.gov/LatestForms). Also see [IRS.gov/Forms](https://www.irs.gov/Forms).

Most forms and publications have a page on IRS.gov: [IRS.gov/Form1040](https://www.irs.gov/Form1040) for Form 1040; [IRS.gov/Pub501](https://www.irs.gov/Pub501) for Pub. 501; [IRS.gov/W4](https://www.irs.gov/W4) for Form W-4; and [IRS.gov/ScheduleA](https://www.irs.gov/ScheduleA) for Schedule A (Form 1040), for example, and similarly for other forms, pubs, and schedules for Form 1040. When typing in a link, type it into the address bar of your browser, not a Search box on IRS.gov.

If you wish, you can submit comments to the IRS about draft or final forms, instructions, or pubs at [IRS.gov/FormsComments](https://www.irs.gov/FormsComments). Include “NTF” followed by the form or pub number (for example, “NTF1040”, “NTFW4”, “NTF501, etc.) in the body of the message to route your message properly. We cannot respond to all comments due to the high volume we receive and may not be able to consider many suggestions until the subsequent revision of the product, but we will review each “NTF” message. If you have comments on reducing paperwork and respondent (filer) burden, with respect to draft or final forms, please respond to the relevant information collection through the Federal Register process; for more info, click [here](#).



Instructions for Form 8582

Passive Activity Loss Limitations

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

Future Developments

For the latest information about developments related to Form 8582 and its instructions, such as legislation enacted after they were published, go to [IRS.gov/Form8582](https://www.irs.gov/Form8582).

General Instructions

Reminders

Prior year unallowed commercial revitalization deduction (CRD). If you have prior year unallowed CRDs limited by the passive loss rules, you may continue to include them in the calculations as shown in the *Specific Instructions*, beginning with [Part I—2023 Passive Activity Loss](#), later.

Excess business loss limitation. If you are a noncorporate taxpayer and have allowable business losses after taking into account first the at-risk limitations and then the passive loss limitations (this form), your losses may be subject to the excess business loss limitation. After taking into account all the other loss limitations, complete Form 461, *Limitation on Business Losses*, to figure the amount of your excess business loss. See Form 461 and its instructions for details on the excess business loss limitation.

Reporting prior year unallowed losses. Form 8582 must generally be filed by taxpayers who have an overall gain (including any prior year unallowed losses) from business or rental passive activities. See [Exception](#) under *Who Must File*, later.

Regrouping due to Net Investment Income Tax. You may be able to regroup your activities if you're subject to the Net Investment Income Tax. See [Regrouping Due to Net Investment Income Tax](#) under *Grouping of Activities*, later, for more information.

Purpose of Form

Form 8582 is used by noncorporate taxpayers to figure the amount of any passive activity loss (PAL) for the current tax year and to report the application of prior year unallowed PALs.

A PAL occurs when total losses (including prior year unallowed losses) from all your passive activities exceed the total income from all your passive activities.

Generally, passive activities include the following.

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

PALs can't be used to offset income from nonpassive activities. However, a special allowance for rental real estate activities may allow some losses even if the losses exceed passive income.

PALs not allowed in the current year are carried forward until they're allowed either against passive activity income; against the special allowance, if applicable; or when you sell or exchange your entire interest in the activity in a fully taxable transaction to an unrelated party.

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 is filed by individuals, estates, and trusts who have passive activity deductions (including prior year unallowed losses). However, you don't have to file Form 8582 if you meet the following exception.

Exception

You actively participated in rental real estate activities (see [Special Allowance for Rental Real Estate Activities](#), later), and you meet all of the following conditions.

- Rental real estate activities with active participation were your only passive activities.
- You have no prior year unallowed losses from these (or any other passive) activities.
- Your total loss from the rental real estate activities wasn't more than \$25,000 (\$12,500 if married filing separately).
- If you're married filing separately, you lived apart from your spouse all year.
- You have no current or prior year unallowed credits from a passive activity.
- Your modified adjusted gross income (see the instructions for [line 6](#), later) was not more than \$100,000 (not more than \$50,000 if married filing separately).
- You don't hold any interest in a rental real estate activity as a limited partner or as a beneficiary of an estate or a trust.

If all the above conditions are met, your rental real estate losses are not limited, and you don't need to complete Form 8582. Enter losses reported on Schedule E (Form 1040), *Supplemental Income and Loss*, Part I, line 21, on Schedule E (Form 1040), Part I, line 22. For losses from a partnership or an S corporation, enter the amount of the allowable loss from Schedule K-1 on Schedule E (Form 1040), Part II, column (g). Enter losses reported on line 32 of Form 4835, *Farm Rental Income and Expenses*, on Form 4835, line 34c.

Coordination With Other Limitations

Generally, PALs are subject to other limitations (for example, basis and at-risk limitations) before they're subject to the passive loss limitations. Once a loss becomes allowable under these other limitations, you must determine whether the loss is limited under the passive loss rules. See Form 6198, At-Risk Limitations, for details on the at-risk rules. Also, capital losses that are allowable under the passive loss rules may be limited under the capital loss limitations of section 1211. Percentage depletion deductions that are allowable under the passive loss rules may be limited under section 613A(d).

If you have allowable business losses after taking into account the loss limitations discussed above and computing the allowable passive losses on this form, your losses may be subject to the excess business loss limitation. Complete Form 461 to figure the amount of your excess business loss. Any disallowed loss resulting from this limitation will be treated as a net operating loss (NOL) that must be carried forward and deducted in a subsequent year. See Form 461 and its instructions for details on the excess business loss limitation.

Definitions

Except as otherwise indicated, the following terms in these instructions are defined as shown below.

Net income. This is the excess of current year income over current year deductions from the activity. This includes any current year gains or losses from the disposition of assets or an interest in the activity.

Net loss. This is the excess of current year deductions over current year income from the activity. This includes any current year gains or losses from the disposition of assets or an interest in the activity.

Overall gain. This is the excess of the "net income" from the activity over the prior year unallowed losses from the activity.

Overall loss. This is (a) the excess of the prior year unallowed losses from the activity over the "net income" from the activity, or (b) the prior year unallowed losses from the activity plus the "net loss" from the activity.

Prior year unallowed losses. These are the losses from an activity that were disallowed under the PAL limitations in a prior year and carried forward to the tax year under section 469(b). See Regulations section 1.469-1(f)(4) and Pub. 925.

Activities That Are Not Passive Activities

The following aren't 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 whether you materially participated under 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. For details on making this election, see the Instructions for Schedule E (Form 1040).

If you're 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.

Real property includes land, buildings, and other inherently permanent structures permanently affixed to land. Any interest in real property, including fee ownership, co-ownership, leasehold, option, or similar interest is real property. Tenant improvements to land, buildings, or other structures that are inherently permanent or otherwise classified as real property are real property for this purpose. See Regulations section 1.469-9(b)(2) for more definitions and information about determining whether a trade or business is a real property trade or business.

For examples of the determination of whether a trade or business is a real property trade or business, see Regulations section 1.469-9(b)(2)(iii).

Services you performed as an employee aren't 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.

Note. If a rental real estate activity isn't a passive activity for the current year, any prior year unallowed loss is treated as a loss from a former passive activity. See [Former Passive Activities](#), later.

3. A working interest in an oil or gas well. Your working interest must be held directly or through an entity that doesn't limit your liability (such as a general partner interest in a partnership). In this case, it doesn't 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's actively traded, such as stocks, bonds, and other securities. See Temporary Regulations section 1.469-1T(e)(6) for more details.

Generally, income and losses from these activities aren't entered on Form 8582. However, losses from these activities may be subject to limitations other than the passive loss rules.

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.

Trade or business activities are generally reported on Schedule C (Form 1040), Profit or Loss From Business (Sole Proprietorship); Schedule F (Form 1040), Profit or Loss From Farming; or in Part II or III of Schedule E (Form 1040). For trade or business activities that are significant participation passive activities (defined in item 4 under [Tests for individuals](#), later), see Pub. 925 for how to report their income or losses.

Rental Activities

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

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 doesn't matter whether the use is under a lease, a service contract, or some other arrangement.

However, if you meet any of the five exceptions below, the rental of the property isn't treated as a rental activity. See [Reporting Income and Losses From the Activities](#), later, if you meet any of the exceptions.

Exceptions

An activity is not a rental activity if any of the following apply.

1. The average period of customer use is:
 - a. 7 days or less, or
 - b. 30 days or less and significant personal services 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 taken into consideration, including 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 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 a joint venture in your capacity as an owner of an interest in the partnership, S corporation, or joint venture.

Example. If a partner contributes the use of property to a partnership, none of the partner's distributive share of partnership income is income from a rental activity unless the partnership is engaged in a rental activity.

Also, a partner's gross income from a guaranteed payment under section 707(c) isn't income from a rental activity. The determination of whether the property used in the activity is provided in the partner's capacity as an

owner of an interest in the partnership is made on the basis of all the facts and circumstances.

Reporting Income and Losses From the Activities

If an activity meets any of the five exceptions listed above, it's 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](#), earlier), and, if so,
2. Whether you materially participated in the activity for the tax year (see [Material Participation](#), later).

If the activity is a trade or business activity in which you didn't materially participate, enter the income and losses from the activity in [Part V](#).

If the activity is a trade or business activity in which you did materially participate, report any income or loss from the activity on the forms or schedules normally used.

If the rental activity didn't meet any of the five exceptions, it's generally a passive activity. However, special rules apply if you conduct the rental activity through a publicly traded partnership (PTP) or if any of the rules described under [Recharacterization of Passive Income](#), later, apply. Also see the [PTP](#) rules, later.

If none of the special rules apply, enter the income and losses from the passive rental activity in Parts IV or V. See the instructions for [Parts IV and V](#) for details.

Special Allowance for Rental Real Estate Activities

Active participation. If you actively participated in a passive rental real estate activity, you may be able to deduct up to \$25,000 of loss from the activity from your nonpassive income. This special allowance is an exception to the general rule disallowing losses in excess of income from passive activities.

The special allowance isn't available if you were married, 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've 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. To make this election, see the instructions on

Form 8855, Election To Treat a Qualified Revocable Trust as Part of an Estate.

You aren't 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](#), later). You may be treated as actively participating if, for example, you participated in making management decisions or arranged 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 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 (see the instructions for [line 6](#), later) is \$100,000 or less (\$50,000 or less if married filing separately), your loss is deductible up to 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.

If you qualify under the active participation rules, use Part IV. See the instructions for [Part IV](#), later.

Material Participation

For the material participation tests listed below, 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 doesn't matter. However, work isn't participation if:

- It isn't 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 don't 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 didn't 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 didn't 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 didn't materially participate under any of the material participation tests (other than this fourth test).

5. You materially participated in the activity (other than by meeting this fifth test) 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 isn't 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 didn't 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 doesn't 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 didn't own

an interest in the activity and whether or not you and your spouse file a joint return for the tax year.

Tests for investors. Work done as an investor in an activity isn't 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 the following.

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.
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 didn't materially participate in the activity. You did materially participate in the activity, however, if you met material participation test 1, 5, or 6 under [Tests for individuals](#), earlier, for the tax year.

However, for purposes of the material participation tests, you aren't 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).

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 would meet 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 PAL limitations apply in figuring the distributable net income and taxable income of an estate or trust. The rules for determining material participation for this purpose haven't 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 it's determined that the original grouping was clearly inappropriate or 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 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.
4. Any trading activities in which you don't materially participate. A trading activity is an activity of trading in personal property. For this purpose, personal property is any personal property that is actively traded, for example, financial securities. A taxpayer who does not materially participate in a trading activity is prohibited from grouping the activity with any other activity, including any other trading activity. The prohibition on grouping is effective for taxable years beginning on or after March 22, 2021. If you are a calendar year taxpayer, the new provisions first applied to you in calendar year 2022.

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.

Regrouping Due to Net Investment Income Tax

You may be able to regroup your activities, as described below, if you're subject to the Net Investment Income Tax (NIIT) for the first time. For detailed information, see Regulations section 1.469-11(b)(3)(iv).

Regrouping on an original return. Under the NIIT fresh start election, you may regroup for the first tax year you're subject to the NIIT (without regard to the effect of regrouping). You may regroup only once under this election and that regrouping will apply to the tax year for which you regroup and all future tax years. You're eligible to regroup if:

1. You weren't previously subject to the NIIT;
2. The amount you would have entered on Form 8960, line 12, without the regrouping, would have been greater than zero; and
3. The amount you would have entered on Form 8960, line 13, without the regrouping, would have been greater than the amount you would have entered on Form 8960, line 14, without the regrouping.

Regrouping on an amended return. You may regroup your activities on an amended tax return, but only if you weren't subject to the NIIT on your original return (or previously amended return). You're eligible if:

1. You weren't previously subject to the NIIT for the tax year for which you're filing an amended return or any prior tax year;
2. The changes on the amended return cause you to be subject to the NIIT for the first time beginning in the taxable year for which you're amending the return;
3. The limitation period for assessments under section 6501 hasn't ended;
4. The changes on your amended return cause the amount on Form 8960, line 12, of your amended return to be greater than zero; and
5. The changes on your amended return cause the amount on Form 8960, line 13, of your amended return to be greater than the amount entered on Form 8960, line 14.

This rule applies equally to changes to modified adjusted gross income or net investment income upon an IRS examination.

Manner of regrouping. If you regroup your activities under this rule, you must attach to your original or amended return, as applicable, a statement that satisfies the requirements described in [Regrouping](#) under *Disclosure Requirement* next.

Disclosure Requirement

The following disclosure requirements for groupings apply. You're required to report certain changes to your groupings that occur during the tax year to the IRS. If you fail to report these changes, each trade or business

activity or rental activity will be treated as a separate activity. You'll be considered to have made a timely disclosure if you filed all affected income tax returns consistent with the claimed grouping and make the required disclosure on the income tax return for the year in which you first discovered the failure to disclose. If the IRS discovered the failure to disclose, you must have reasonable cause for not making the required disclosure. For more information on disclosure requirements, see Revenue Procedure 2010-13, available at [IRS.gov/irb/2010-04_IRB#RP-2010-13](https://www.irs.gov/irb/2010-04_IRB#RP-2010-13).

New grouping. You must file a written statement with your original income tax return for the first tax year in which two or more activities are originally grouped into a single activity. The statement must provide the names, addresses, and employer identification numbers (EINs), if applicable, for the activities being grouped as a single activity. In addition, the statement must contain a declaration that the grouped activities make up an appropriate economic unit for the measurement of gain or loss under the passive activity rules.

Addition to an existing grouping. You must file a written statement with your original income tax return for the tax year in which you add a new activity to an existing group. The statement must provide the name, address, and EIN, if applicable, for the activity that's being added and for the activities in the existing group. In addition, the statement must contain a declaration that the activities make up an appropriate economic unit for the measurement of gain or loss under the passive activity rules.

Regrouping. You must file a written statement with your original income tax return for the tax year in which you regroup the activities. The statement must provide the names, addresses, and EINs, if applicable, for the activities that are being regrouped. If two or more activities are being regrouped into a single activity, the statement must contain a declaration that the regrouped activities make up an appropriate economic unit for the measurement of gain or loss under the passive activity rules. In addition, the statement must contain an explanation of the material change in the facts and circumstances that made the original grouping clearly inappropriate.

Passive Activity Income and Deductions

Take into account only passive activity income and passive activity deductions to figure your net income or net loss from all passive activities or any passive activity.

If your passive activity is reported on Schedule C, E, or F, and the activity has no prior year unallowed losses or any gain or loss from the disposition of assets or an interest in the activity, take into account only the passive activity income and passive activity deductions from the activity to figure the amount to enter on Form 8582.

If you own an interest in a passive activity through a partnership or an S corporation, the partnership or S corporation will generally provide you with the net income or net loss from the passive activity. If, however, the partnership or S corporation must state an item of gross

income or deduction separately to you, and the gross income or deduction is passive activity gross income or a passive activity deduction (respectively), include that amount in the net income or net loss entered on Form 8582.



The partnership or S corporation doesn't have a record of your prior year unallowed losses from the passive activities of the partnership or S corporation. If you had prior year unallowed losses from these activities, they can be found in column (c) of your 2022 Part VIII.

Passive Activity Income

To figure your overall gain or loss from all passive activities or any passive activity, take into account only passive activity income. Don't enter income that isn't passive activity income on Form 8582.

Passive activity income includes all income from passive activities (with certain exceptions described in Temporary Regulations section 1.469-2T(c)(2) and Regulations section 1.469-2(c)(2)), including gain from the disposition of an interest in a passive activity and from the disposition of property used in a passive activity at the time of the disposition.

Passive activity income doesn't include the following.

- Income from an activity that isn't a passive activity.
- Portfolio income, including interest (other than self-charged interest treated as passive activity income, discussed later), dividends, annuities, and royalties not derived in the ordinary course of a trade or business, and gain or loss from the disposition of property that produces portfolio income or is held for investment (see section 163(d)(5)). See Temporary Regulations section 1.469-2T(c)(3).
- Alaska Permanent Fund dividends.
- Personal service income, including salaries, wages, commissions, self-employment income from trade or business activities in which you materially participated for the tax year, deferred compensation, taxable social security and other retirement benefits, and payments from partnerships to partners for personal services. See Temporary Regulations section 1.469-2T(c)(4).
- Income from positive section 481 adjustments allocated to activities other than passive activities. See Temporary Regulations section 1.469-2T(c)(5).
- Income or gain from investments of working capital.
- Income from an oil or gas property if you treated any loss from a working interest in the property for any tax year beginning after 1986 as a nonpassive loss under the rule excluding working interests in oil and gas wells from passive activities (see item 3 under [Activities That Are Not Passive Activities](#), earlier). See Regulations section 1.469-2(c)(6).
- Any income from intangible property if your personal efforts significantly contributed to the creation of the property.
- Any income treated as not from a passive activity under Temporary Regulations section 1.469-2T(f) and Regulations section 1.469-2(f). See [Recharacterization of Passive Income](#), later.

- Overall gain from any interest in a PTP (see item 2 under [Passive activity loss rules for partners in PTPs](#), later).
- State, local, and foreign income tax refunds.
- Income from a covenant not to compete.
- Any reimbursement of a casualty or theft loss included in income as recovery of all or part of a prior year loss deduction if the deduction for the loss wasn't treated as a passive activity deduction.
- Cancellation of debt income to the extent that at the time the debt was discharged, the debt wasn't properly allocable under Temporary Regulations section 1.163-8T to passive activities.

Recharacterization of Passive Income

Certain income from passive activities must be recharacterized and excluded from passive activity income. The amount of income recharacterized equals the net income from the sources given below. If during the tax year you received net income from any of these sources (either directly or through a partnership or an S corporation), see Pub. 925 to find out how to report net income or loss from these sources. For more information, see Temporary Regulations section 1.469-2T(f) and Regulations section 1.469-2(f).

Income from the following sources may be subject to the net income recharacterization rules.

- Significant participation passive activities defined in item 4 under [Tests for individuals](#), earlier.
- Rental of property if less than 30% of the unadjusted basis of the property is subject to depreciation.
- Passive equity-financed lending activities.
- Rental of property incidental to a development activity.
- Rental of property to a nonpassive activity.
- Acquisition of an interest in a pass-through entity that licenses intangible property.

Passive Activity Deductions

To figure your overall gain or overall loss from all passive activities or any passive activity, take into account only passive activity deductions.

Passive activity deductions include all deductions from activities that are passive activities for the current tax year and all deductions from passive activities that were disallowed under the PAL rules in prior tax years and carried forward to the current tax year. See Regulations section 1.469-1(f)(4).

Passive activity deductions include any loss from a disposition of property used in a passive activity at the time of the disposition and any loss from a disposition of less than your entire interest in a passive activity. See [Dispositions](#), later, for the treatment of losses upon disposition of your entire interest in an activity.

Passive activity deductions don't include the following.

- Deductions for expenses (other than interest expense) that are clearly and directly allocable to portfolio income.
- Qualified home mortgage interest, capitalized interest expenses, and other interest expenses (except self-charged interest treated as a passive activity deduction (discussed next) and interest expenses properly allocable to passive activities).

- Losses from dispositions of property that produce portfolio income or property held for investment.
- State, local, and foreign income taxes.
- Charitable contribution deductions.
- Net operating loss deductions, percentage depletion carryovers under section 613A(d), and capital loss carryovers.
- Deductions and losses that would've been allowed for tax years beginning before 1987, but for basis or at-risk limitations.
- Net negative section 481 adjustments allocated to activities other than passive activities. See Temporary Regulations section 1.469-2T(d)(7).
- Deductions for losses attributable to a federally declared disaster.
- The deduction allowed for the deductible part of self-employment taxes.

Self-Charged Interest

Certain self-charged interest income or deductions may be treated as passive activity gross income or passive activity deductions if the loan proceeds are used in a passive activity. Generally, self-charged interest income and deductions result from loans between you and a partnership or S corporation in which you had a direct or indirect ownership interest. This includes both loans you made to the partnership or S corporation and loans the partnership or S corporation made to you. It also includes loans from one partnership or S corporation to another partnership or S corporation if each owner in the borrowing entity has the same proportional ownership interest in the lending entity.

The self-charged interest rules don't apply to your interest in a partnership or S corporation if the entity made an election under Regulations section 1.469-7(g) to avoid the application of these rules. For more details on the self-charged interest rules, see Regulations section 1.469-7.

Former Passive Activities

A former passive activity is any activity that was a passive activity in a prior tax year but is not a passive activity in the current tax year. A prior year unallowed loss from a former passive activity is allowed to the extent of current year income from the activity.

If current year net income from the activity is less than or equal to the prior year unallowed loss, enter the prior year unallowed loss and any current year net income from the activity on Form 8582.

If current year net income from the activity is more than the prior year unallowed loss from the activity, enter the prior year unallowed loss and the current year net income up to the amount of prior year unallowed loss on Form 8582.

If the activity has a net loss for the current year, enter the prior year unallowed loss (but not the current year loss) on Form 8582.

To report a disposition of a former passive activity, follow the rules under [Dispositions](#) next.

Dispositions

Disposition of an Entire Interest

If you disposed of your entire interest in a passive activity or a former passive activity to an unrelated person in a fully taxable transaction during the tax year, your losses allocable to the activity for the year aren't limited by the PAL rules.

A fully taxable transaction is a disposition in which you recognize all realized gain or loss.

If you're using the installment method to report this kind of disposition, figure the loss for the current year that isn't limited by the PAL rules by multiplying your overall loss (which doesn't include losses allowed in prior years) by the following fraction:

$$\frac{\text{Gain recognized in the current year}}{\text{Unrecognized gain as of the beginning of the current year}}$$

A partner in a PTP isn't treated as having disposed of an entire interest in an activity of a PTP until there's an entire disposition of the partner's interest in the PTP.

Reporting an Entire Disposition on Form 4797 or Form 8949

If you completely dispose of your entire interest in a passive activity or a former passive activity, you may have to report net income or loss and prior year unallowed losses from the activity. All the net income and losses are reported on the forms and schedules normally used.

Combine all income and losses (including any prior year unallowed losses) from the activity for the tax year to see if you have an overall gain or loss.

If you have an overall gain, report the income, losses, and prior year unallowed losses in Part IV or V.

If you have an overall gain and this is a former passive activity, report all income and losses (including any prior year unallowed losses) on the forms and schedules normally used and don't use Form 8582.

If you have an overall loss when you combine the income and losses, don't use Form 8582 for the activity. All losses (including prior year unallowed losses) are allowed in full. Report the income and losses on the forms and schedules normally used.

An overall loss from an entire disposition of a passive activity is a nonpassive loss if you have an aggregate loss from all other passive activities. When figuring your modified adjusted gross income for Part II, line 6, of Form 8582, be sure to take into account the overall loss from the disposition of the activity.

Example 1. Activity with overall gain. You sell your entire interest in a rental real estate activity in which you actively participated for a gain of \$15,525. \$7,300 of the gain is section 1231 gain reported on Form 4797, Part I, and \$8,225 is ordinary recapture income reported on Form 4797, Part II. On line 22 of Schedule E (Form

1040), you report a total loss of \$15,450, which includes a current year \$2,800 net loss and a \$12,650 prior year unallowed loss. You have an overall gain from the disposition (\$15,525 - \$15,450 = \$75).

Because you had an overall gain, you make the following entries in Part IV. You enter the \$15,525 gain on the disposition in column (a), the current year loss of \$2,800 in column (b), and the prior year unallowed loss of \$12,650 in column (c).


Example 2. Activity with overall loss. You sell your entire interest in an oil and gas limited partnership that was your only passive activity for a gain of \$2,000. You have a current year Schedule E loss of \$3,330 and a Schedule E prior year unallowed loss of \$1,115.

Because you have an overall loss of \$2,445 after combining the gain and losses, none of the amounts are entered on Form 8582.

You enter the net loss plus the prior year unallowed loss (\$3,330 + \$1,115 = \$4,445) on Schedule E, Part II, column (i), and the \$2,000 gain on the sale on Form 8949, in either Part I or Part II, depending on how long you held the partnership interest.

Disposition of Less Than an Entire Interest

Gains and losses from the disposition of less than an entire interest in an activity are treated as part of the net income or net loss from the activity for the current year.

 A disposition of less than substantially all of an entire interest doesn't trigger the allowance of prior year unallowed losses.

Disposition of Substantially All 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.

Specific Instructions

Part I—2023 Passive Activity Loss

Use Part I to combine the net income and net loss from all passive activities to determine if you have a passive activity loss (PAL) for 2023. Use Parts IV and V first to determine the entries for lines 1 and 2 of Part I, as follows.

- Use Part IV for rental real estate activities with active participation.
- Use Part V for all other passive activities.

Line 3. If you have prior year unallowed CRD from rental real estate activities, treat that dollar amount as negative and combine with lines 1d and 2d. Enter the combined amount on line 3 and enter "CRD" and the dollar amount of the CRD (as a negative) on the dotted line.

Note. If you included prior year unallowed CRD from rental real estate activities in line 3, and line 3 is a loss and line 1d is zero or more, go to the instructions for Part II, line 9, later.



If you need additional lines for any of the Parts IV through IX, you can either attach copies of the applicable pages of Form 8582, or your own schedule that's in the same format as the applicable part(s).

Part IV

Individuals and qualifying estates who actively participated in rental real estate activities must include the income or loss from those activities in Part IV to figure the amounts to enter on Part I, lines 1a through 1c, of Form 8582.

Don't enter a prior year unallowed loss in column (c) of Part IV unless you actively participated in the activity in both the year the loss arose and the current tax year. If you didn't actively participate in both years, enter the prior year unallowed loss in column (c) of Part V.



Married individuals who file separate returns and lived with their spouses at any time during the tax year don't qualify under the active participation rule and must use Part V instead of Part IV.

Column (a). Enter the current year net income from each activity. Enter the total of column (a) on Part I, line 1a, of Form 8582.

Example. A Schedule E rental activity has current year profit of \$5,000 and a Form 4797 gain of \$2,000. You enter \$7,000 in column (a).

Column (b). Enter the current year net loss for each activity. Don't enter any prior year unallowed losses in this column. Enter the total of column (b) on Part I, line 1b, of Form 8582.

If an activity has net income on one form or schedule and a net loss on another form or schedule, report the net amounts separately in columns (a) and (b) of Part IV.

Example. A Schedule E rental activity has current year income of \$1,000 on line 21 of Schedule E and a current year Form 4797 loss of \$4,500. You enter \$1,000 in column (a) and \$4,500 in column (b).

Column (c). Enter the prior year unallowed losses for each activity. You find these amounts in Part VII, column (c), of your 2022 Form 8582. Enter the total of column (c) from your 2023 Part IV on Part I, line 1c, of Form 8582.

Columns (d) and (e). Combine income and losses in columns (a) through (c) for each activity, and either enter the overall gain for the activity in column (d) or enter the overall loss for the activity in column (e). Don't enter amounts from columns (d) and (e) in Parts I, II, or III of Form 8582. These amounts will be used when the rest of Form 8582 is completed to figure the loss allowed for the current year.

Part V

Use Part V to figure the amounts to enter on Part I, lines 2a through 2c, for:

- Passive trade or business activities,
- Passive rental real estate activities that don't qualify for the special allowance, and
- Rental activities other than rental real estate activities.

If you have prior year unallowed CRD from passive activities other than rental real estate activities, include that amount in Part V. Add "CRD" after the name of the activity.

Column (a). Enter the current year net income for each activity. Enter the total of column (a) on Part I, line 2a, of Form 8582. (See the example under [Column \(a\)](#) for Part IV, earlier.)

Column (b). Enter the current year net loss for each activity. Enter the total of column (b) on Part I, line 2b, of Form 8582. (See the example under [Column \(b\)](#) for Part IV, earlier.)

Column (c). Enter the unallowed losses for the prior years for each activity. You find these amounts in Part VII, column (c), of your 2022 Form 8582. Enter the total of column (c) from your 2023 Part V on Part I, line 2c, of Form 8582.

Columns (d) and (e). Combine income and losses in columns (a) through (c) for each activity, and either enter the overall gain for the activity in column (d) or enter the overall loss for the activity in column (e). Don't enter amounts from columns (d) and (e) in Parts I, II, or III of Form 8582. These amounts will be used when the rest of Form 8582 is completed to figure the loss allowed for the current year.

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



If your filing status is married filing separately and you lived with your spouse at any time during the year, you are not eligible for the special allowances in Part II. Do not complete Part II. Instead, go to Part III of Form 8582. See the instructions for [Part III—Total Losses Allowed](#), later.

Use Part II to figure the maximum amount of rental loss allowed if you have an overall loss on Part I, line 1d, from your rental real estate activities you actively participated in during 2023.

Note. If you included prior year unallowed CRD from rental real estate activities in line 3, first figure the special \$25,000 allowance for losses from rental real estate activities with active participation from Part I, line 1d, if any, without regard to the CRD, by completing lines 4 through 8. To apply any remaining portion of the \$25,000 allowance to prior year unallowed CRD from rental real estate activities, see the instructions for [line 9](#).



If you're claiming both the premium tax credit (PTC) and self-employed health insurance deduction (SEHID) and Part I, lines 1d and 3, of Form 8582 are both losses, see Self-Employed Health Insurance Deduction and PTC in Pub. 974. You'll have to complete worksheets in Pub. 974 before you complete Part II of Form 8582.

Enter all numbers in Part II as positive amounts (that is, greater than zero).

Example. Part II, line 4, has a loss of \$42,000 (reported as a positive amount) and line 8 is \$25,000. You enter \$25,000 on line 9 (the smaller of line 4 or line 8, both treated as positive amounts).

Note. If you included prior year unallowed CRD from rental real estate activities in line 3, and line 3 is a loss and line 1d is a loss, complete lines 4 through 8, then see the instructions for line 9 below. If line 1d of Part I is zero or more, and line 3 is a loss, go directly to the instructions for line 9 below.

Line 4. Enter on line 4 the smaller of the loss on Part I, line 1d, or the loss on line 3.

Example. Part I, line 1d, has a loss of \$3,000 and line 2d has a gain of \$100. The combined loss on line 3 is \$2,900. You enter \$2,900 as a positive number on Part II, line 4 (the smaller of the loss on Part I, line 1d, or the loss on line 3).

Line 5. Married persons filing separate returns who lived apart from their spouses at all times during the year must enter \$75,000 on line 5 instead of \$150,000.

Line 6. To figure modified adjusted gross income, combine all the amounts used to figure adjusted gross income except don't take into account:

- Passive income or loss included on Form 8582,
- Any rental real estate loss allowed to real estate professionals (defined under [Activities That Are Not Passive Activities](#), earlier),
- Any overall loss from a PTP,
- The taxable amount of social security and tier 1 railroad retirement benefits,
- Deductible contributions to traditional individual retirement accounts (IRAs) and section 501(c)(18) pension plans,
- The deduction allowed for the deductible part of self-employment taxes,
- The exclusion from income of interest from series EE and I U.S. savings bonds used to pay higher education expenses,
- The exclusion of amounts received under an employer's adoption assistance program,
- The student loan interest deduction, or
- The deduction allowed for foreign-derived intangible income and global intangible low-taxed income.

Include in modified adjusted gross income any portfolio income and expenses that are clearly and directly allocable to portfolio income. Also include any income that's treated as nonpassive income, such as overall gain from a PTP and net income from an activity or item of property subject to the recharacterization of passive income rules.

When figuring modified adjusted gross income, include any overall loss from the entire disposition of a passive activity (considered a nonpassive loss).

Example. Your adjusted gross income on line 11 of Form 1040 or Form 1040-SR is \$92,000 and you have taxable social security benefits of \$5,500 on line 6b. Your modified adjusted gross income is \$86,500 (\$92,000 – \$5,500).

Line 8. Don't enter more than \$12,500 on line 8 if you're married filing a separate return and you and your spouse lived apart at all times during the year.

Line 9. If you do not have prior year unallowed CRD from rental real estate activities, enter the smaller of line 4 or line 8 on line 9.

If you have prior year unallowed CRD from rental real estate activities included in line 3 of Part I, and you have a loss on line 1d and line 3 of Part I, first figure the special \$25,000 special allowance for losses from rental real estate activities with active participation, without regard to the CRD, by completing lines 4 through 8, then go to the Worksheet below. If line 1d of Part I is zero or more, and line 3 is a loss, complete the Worksheet below and enter the result on line 9 as described below.

The remaining portion of the \$25,000 allowance, if any, is available for the prior year unallowed CRD from rental real estate activities. Use the Worksheet to figure the maximum amount of prior year unallowed CRD allowed from rental real estate activities.

Worksheet for Special Allowance for Prior Unallowed Commercial Revitalization Deductions From Rental Real Estate Activities

Enter all numbers in this calculation as positive amounts (greater than zero)

A. Enter \$25,000* reduced by the amount, if any, of the smaller of Part II, line 4 or line 8	\$ _____
B. Enter the loss from Part I, line 3	\$ _____
C. Reduce line B by the amount of the smaller of Part II, line 4 or line 8	\$ _____
D. Enter the smallest of the amount of the prior unallowed CRD (as a positive amount), the amount on line A, or the amount on line C	\$ _____

* Enter \$12,500 (reduced by the amount, if any, of the smaller of Part II, line 4 or line 8) on line A if you're married but filing a separate return and you and your spouse lived apart at all times during the year.

Combine line D with the smaller of line 4 or line 8 and enter the combined amount on line 9. Enter "CRD" and the dollar amount of the special allowance for CRD on the dotted line.

Part III—Total Losses Allowed

Use Part III to figure the amount of the losses from all passive activities (as determined in Part I) allowed for 2023.

Line 11. Use Parts IV through IX of Form 8582 and the related instructions to figure the unallowed loss to be carried forward and the allowed loss to report on your forms and schedules for 2023.

Parts IV and V

Parts IV and V, columns (d) and (e), show whether an activity had an overall gain or loss. If you have activities that show overall gain in column (d) of Parts IV or V, report all the income and losses listed in columns (a), (b), and (c) for those activities on the proper forms and schedules, including Form 8582.

If you have activities that show an overall loss in column (e) of Parts IV or V, you must allocate your allowed loss on Part III, line 11, of Form 8582 to those activities by completing Parts VI, VII, plus VIII and/or IX.

Complete Part VI only if you entered an amount (other than zero) on Part II, line 9, of Form 8582. Otherwise, skip Part VI and complete Part VII for all activities in Part IV or V that have overall losses in column (e) and any amount of prior year unallowed CRD included in line 3.

Part VI

Use Part VI to allocate the special allowance on Part II, line 9, of Form 8582 among your rental real estate activities.

If you used the Worksheet in the instructions for line 9 to apply any remaining special allowance to prior year unallowed CRD from one or more rental real estate activities, complete a separate Part VI to allocate that portion of the special allowance to those CRD activities.

In the first column of Part VI, enter the name of each activity. In the second column, enter the form or schedule and line number on which the loss will be reported.

Example. You receive a Schedule K-1 from partnership P that reports losses from two rental real estate activities, Activity X and Activity Y. The losses from partnership P are reported on line 28A of Schedule E. In the first two columns of Part VI, enter:

Name of Activity	Form or Schedule
Activity X	Sch E, line 28A
Activity Y	Sch E, line 28A

If the loss from an activity is reported in more than one place, identify both locations in the second column (for example, Sch E, line 28A/Form 4797, line 2). If you need additional space, show this information on an attached statement.

If you entered an amount on Part II, line 9, and there is no amount included in line 9 from prior year disallowed CRD, list in Part VI all activities with an overall loss in column (e) of Part IV.

If you also included an amount for prior year unallowed CRD from rental real estate activities in line 9, complete another Part IV for these CRD activities. You can use another Part IV or your own schedule in the same format as Part IV. Enter the prior year unallowed CRD for each activity in column (a) of the second Part IV. Then follow the instructions for column (b) and column (c) below for each Part IV.

Column (a). Enter the overall loss from column (e) of Part IV for each activity.

Column (b). Divide each of the individual losses shown in column (a) by the total of all the losses in column (a), and enter this ratio for each activity in column (b). The total of all the ratios in column (b) must equal 1.00.

Column (c). Multiply each ratio in column (b) by the amount on Part II, line 9, of Form 8582, if there is no prior year unallowed CRD from rental real estate activities, and

enter the results in column (c). The total of column (c) must be the same as Part II, line 9, of Form 8582.

If there is prior year unallowed CRD included in Part II, line 9:

1. For the Part VI for rental real estate activities with active participation, multiply each ratio in column (b) by the lesser of line 4 or line 8; and

2. For the Part VI for prior year unallowed CRD, multiply each ratio in column (b) by the amount from line D of the Worksheet in the instructions for line 9 above.

The total of column (c) for the Part VI for rental real estate activities with active participation should be the same as the lesser of line 4 or line 8, Part II, and the total of column (c) for the second Part VI for prior year unallowed CRD should be the amount from line D of the Worksheet.

Column (c) total is the same as column (a) total. If the total losses in column (c) are the same as those in column (a), the losses in Part IV (or, in the case of the second Part VI for prior year unallowed CRD, the additional amount listed in Part I, line 3) are allowed in full and aren't carried over to Part VII. Report all amounts in columns (a), (b), and (c) of Part IV on the proper forms and schedules.

Column (c) total is less than column (a) total. If the total losses in column (c) are less than the total losses in column (a), complete column (d).

Column (d). Subtract column (c) from column (a) and enter the results in column (d). Also enter the amounts from column (d) of Part VI in column (a) of Part VII.

Part VII—Allocation of Unallowed Losses

Complete Part VII if any activities have an overall loss in column (e) of Part V or losses in column (d) of Part VI (in column (e) of Part IV and any prior year unallowed CRD included in Part I, line 3, if you didn't have to complete Part VI).

On Part VII, enter the name of each activity and the form or schedule and line number on which the loss will be reported. See the [Example](#) for Part VI. If you have prior year unallowed CRD from a passive activity other than rental real estate in Part V, and/or unallowed losses for prior year CRD from a rental real estate activity in Part VI, column (d), add "CRD" after the name of each of the activities.

Column (a). Enter the amounts, if any, from column (d) of Part VI (from column (e) of Part IV and any prior year unallowed CRD included in Part I, line 3, if you didn't have to complete Part VI). Also enter the losses, if any, from column (e) of Part V.

Column (b). Divide each of the individual losses shown in column (a) by the total of all the losses in column (a) and enter this ratio for each activity in column (b). The total of all the ratios must equal 1.00.

Column (c). Complete the following computation.

A. Enter as a positive amount Part I, line 3, of Form 8582	_____
B. Enter Part II, line 9, of Form 8582	_____
C. Subtract line B from line A	_____

Multiply each ratio in column (b) by the amount on line C above, and enter the result in column (c).

Parts VIII and IX

Parts VIII and IX figure your unallowed and allowed losses for each activity.

If you have losses from any activity that are reported on two or more different forms or schedules, use Part IX instead of Part VIII for that activity.

Also use Part IX instead of Part VIII for any activity with two or more transactions that are reported on the same form or schedule but must be separately identified for tax purposes. Transactions that must be separately identified include capital losses that are 28% rate losses and those that aren't.

Note. 28% rate gain or loss includes all collectibles gains and deductible long-term losses and section 1202 gain on the sale of qualified small business stock. See the Instructions for Schedule D for details.

Part VIII—Allowed Losses

Use Part VIII for any activity listed in Part VII if all the loss from that activity is reported on one form or schedule and no transactions need to be identified separately (as discussed in [Part IX](#), later). Also see *Identification of Disallowed Passive Activity Deductions* in Pub. 925 for more information.

Example. You will report all the allowed loss from an activity listed in Part VII on Schedule E. Use Part VIII to determine the allowed loss, even if part of the loss is a current year Schedule E loss and part of it is a prior year unallowed Schedule E loss.

In Part VIII, enter the name of each activity and the form or schedule and line number on which the loss is reported. Identify each CRD from Part VII on a separate line of Part VIII and add "CRD" after the name of the activity. See the [Example](#) for Part VI.

Column (a). For each activity entered in Part VIII, enter the net loss plus the prior year unallowed loss for the activity. Figure this amount by adding the losses in columns (b) and (c) of Parts IV and V and any prior year unallowed CRD included in Part I, line 3.

Column (b). For each activity entered in Part VIII, enter the amount from column (c) of Part VII for the activity. These are your unallowed losses for 2023. Keep a record of these amounts so the losses can be used to figure your PAL next year.

Column (c). Subtract column (b) from column (a). These amounts are the losses allowed for 2023 under the passive loss rules. Report the amounts in this column on

the forms and schedules normally used, subject to any further limitations described in [Coordination With Other Limitations](#), earlier.

See the forms and schedules listed under [How To Report Allowed Losses](#), later.

Part IX—Activities With Losses Reported on Two or More Forms or Schedules

Use Part IX for any activity listed in Part VII that has losses that are reported on two or more different forms and schedules or are identified separately on the same form or schedule (for example, 28% rate and non-28%-rate capital losses reported on Form 8949). Part IX allocates the allowed and unallowed loss for the activity and allocates the allowed loss to the different forms or schedules (or where identified separately on the same form or schedule) used to report the losses.

Only losses that would cause a difference in tax liability if they were reported on a different form or schedule or are identified separately on the same form or schedule are kept separate. Those forms, schedules, and parts are the following.

- Schedules C, E, and F.
- Form 8949 (Parts I and II (28% rate losses and non-28%-rate losses)).

Note. You must generally make a separate entry in Form 8949, Part I or Part II, for each transaction reported. See the Instructions for Form 8949.

- Forms 4684 (Section B), 4797 (Parts I and II), and 4835.

Use a separate copy of Part IX for each activity for which you have losses reported on two or more different forms or schedules or which are identified separately on the same form or schedule.

In Part IX, enter the form or schedule and line number on the dotted line above each line 1a (for example, Schedule D, line 12, to report a long-term capital loss from a partnership).

Line 1a, column (a). Enter the net loss plus any prior year unallowed loss from the activity that's reported on the same form or, in the case of Form 4797 and Form 8949, the same part.

If you have a Form 8949 28% rate loss and a Form 8949 non-28%-rate loss, see [Example of Form 8949 transactions](#), later, before completing Part IX.

Line 1b, column (a). Enter any net income from the activity that's reported on the same form or schedule (or on the same part of the same form or schedule) as the loss on line 1a, column (a).

Example. You enter a prior year unallowed loss from Form 4797, Part I, on line 1a. If the activity has a current year Form 4797, Part I, gain, enter the gain on line 1b, column (a). If the activity doesn't have a Form 4797, Part I, gain, enter -0- on line 1b, column (a).

Column (b). Subtract line 1b, column (a), from line 1a, column (a), and enter the result in column (b). If line 1b,

column (a), is more than line 1a, column (a), enter -0- in column (b).

Column (c). Divide each of the losses entered in column (b) by the total of column (b) and enter the ratio in column (c). The total of this column must be 1.00.

Column (d). Multiply the unallowed loss for this activity, found in Part VII, column (c), by each ratio in column (c) of Part IX. If -0- is entered in column (b) of Part IX, also enter -0- for that form or schedule in column (d).

The amount in column (d) is the unallowed loss for 2023. Keep a record of Part IX so you can use the losses to figure your PAL next year.

Column (e). Subtract the amount in column (d) from the loss entered on line 1a, column (a). This amount is the loss allowed for 2023 under the passive loss rules. Report the amounts in this column on the forms or schedules normally used, subject to any further limitations described in [Coordination With Other Limitations](#), earlier. The forms and schedules you use must show the losses from this column and the income, if any, for that activity from column (a) of Part IV or Part V.

Example of Form 8949 transactions. The taxpayer had the following Form 8949 transactions from passive activities in 2023.

Activity I

A passive activity prior year unallowed long-term capital loss (a 28% rate loss) of \$1,000 and a current year long-term capital loss (a non-28%-rate loss) of \$3,000.

Activity II

A current year collectibles loss (a 28% rate loss) of \$230 and net income of \$1,100 from Schedule E (Form 1040).

Part V

Activity I has an overall loss of \$4,000 (current year long-term capital loss of \$3,000 and a prior year unallowed long-term capital loss of \$1,000). Activity II has an overall gain of \$870 (current year net income of \$1,100 less a current year long-term capital loss of \$230). Part III, line 11, of Form 8582 shows an allowed loss of \$1,100.

Since Activity II has an overall gain, the amounts shown in columns (a) and (b) of Part V for that activity are reported on the proper forms and schedules and aren't shown in any other part.

Part VII

Activity I has an unallowed loss of \$3,130 (Part I, line 3, of Form 8582 (\$3,130) less the sum of Part II, line 9, of Form 8582 (-0-) x 100%).

Part IX

Part IX is used to figure the portion of the unallowed loss attributable to the 28% rate loss and the portion attributable to the non-28%-rate loss.

The loss attributable to the 28% rate loss (\$1,000) and the loss attributable to the non-28%-rate loss (\$3,000) are separate entries in Part IX. The ratio of each loss to the total of the two losses is figured as follows. $\$1,000/\$4,000 = 0.25$ and $\$3,000/\$4,000 = 0.75$. Each of these ratios is multiplied by the unallowed loss for Activity I, shown in column (c) of Part VII (\$3,130).

Unallowed losses for Activity I are the following.

- 28% rate loss: $0.25 \times \$3,130 = \782.50 .
- Non-28%-rate loss: $0.75 \times \$3,130 = \$2,347.50$.

Allowed losses for Activity I are the following.

- 28% rate loss: $\$1,000 - \$782.50 = \$217.50$.
- Non-28%-rate loss: $\$3,000 - \$2,347.50 = \$652.50$.

The total loss allowed for Activity I (\$870) is entered in Part II of Form 8949. The allowed 28% rate loss (\$217.50) is entered on the 28% Rate Gain Worksheet (see the instructions for Schedule D, line 18). Keep a record of the unallowed 28% rate and non-28%-rate losses to figure the PAL for next year.

See the forms and schedules listed under [How To Report Allowed Losses](#) next.

How To Report Allowed Losses

Line 3 is income. If Part I, line 3, of Form 8582 shows net income or zero, all the losses in columns (b) and (c) of Parts IV and V and any prior year unallowed CRD included in line 3 are allowed in full under the passive loss rules. Report the income and losses in columns (a), (b), and (c) of Parts IV and V and any prior year unallowed CRD included in line 3 on the forms and schedules normally used.

Line 11 is the same as the total of Part I, lines 1b, 1c, 2b, 2c, and CRD included in line 3. In this case, all the losses in columns (b) and (c) of Parts IV and V and any prior year unallowed CRD included in line 3 are allowed in full under the passive loss rules. Report the income and losses in columns (a), (b), and (c) of Parts IV and V on the forms and schedules normally used.

Columns (a) and (c) of Part VI are the same amount. In this case, all the losses in columns (b) and (c) of Part IV and any prior year unallowed CRD included in line 3 are allowed in full under the passive loss rules. Report the income and losses in columns (a), (b), and (c) of Part IV and any prior year unallowed CRD included in line 3 on the forms and schedules normally used.

Losses allowed in column (c) of Part VIII. The amounts in column (c) of Part VIII are the losses or deductions allowed for 2023 for the activities listed in that part. Report the loss allowed from column (c) of Part VIII and the income, if any, for that activity from column (a) of Part IV or V on the form or schedule normally used.

Losses allowed in column (e) of Part IX. The amounts in column (e) of Part IX are the losses or deductions allowed for 2023 for the activity listed on that part. Report the losses allowed from column (e) of Part IX and the income, if any, for that activity from column (a) of Part IV or V on the forms or schedules normally used.

Schedules C and F, and Form 4835. Enter on the net profit or loss line of your Schedule C or F, or line 34c of Form 4835, the allowed passive loss from the part. To the left of the entry space, enter "PAL."

If the net profit or loss line on your form or schedule shows net profit for the year, reduce the net profit by the allowed loss from Part VIII or IX and enter the result on the net profit or loss line.

Example. Schedule C shows net profit for the year of \$5,000 from a passive activity. The activity also has a Form 4797 gain of \$2,500 and a prior year unallowed Schedule C loss of \$6,000. The loss allowed for 2023 is \$6,000. You enter a net loss of \$1,000 on line 31 of Schedule C (the \$5,000 net profit for the year less the \$6,000 loss allowed for the year). To the left of the entry space, you enter “PAL.”

See [Form 4797 and Form 8949](#), later, if you also had passive gains and losses from the sale of assets or of an interest in a passive activity.

Schedule E, Part I. Enter the allowed loss from the part on line 22 of Schedule E. An activity that has net profit for the year and prior year unallowed losses will have net profit on line 21 and the allowed loss on line 22. The allowed loss on line 22 will include the loss allowed to the extent of the net profit. Line 24 of Schedule E will show total profit and line 25 will show total losses allowed (both passive and nonpassive). Line 26 will show the total net profit or loss.

Schedule E, Parts II and III. Any item of income shown on your Schedule K-1 that's passive income must be entered as passive income in the appropriate column of Schedule E, Part II or III. Enter the passive loss allowed from Part VIII or IX of Form 8582 in the appropriate column for passive losses. The passive losses allowed include the loss allowed to the extent of any net income from the activity. Passive net income or loss reportable in Schedule E, Part II, includes any self-charged interest income and deductions treated as passive activity income and deductions. See [Self-Charged Interest](#), earlier.

See [Form 4797 and Form 8949](#), later, if you also had passive gains or losses from the sale of assets or of an interest in a passive activity.

Form 4684, Section B. Any passive activity gain from Form 4684 is unchanged. It was used on Form 8582 to determine allowable PALs. If you don't have passive losses on Form 4684, complete Form 4684 and follow the instructions for that form for where to report the gain.

If you have passive losses on Form 4684, cross through the amount you first entered on line 31, 32, 38a, 38b, or 39 of that form, and enter the allowed loss from the part. To the left of the entry space, enter “PAL.”

Form 4797 and Form 8949. If you sold assets from a passive activity or you sold an interest in your passive activity, all gains from the activity must be entered on the appropriate line of Form 4797 or Form 8949. Identify the gain as “FPA.” Enter any allowed losses for Form 4797 or Form 8949 on the appropriate line. On Form 8949, include “PAL” in the description of the property in column (a). On Form 4797, enter “PAL” to the left of the entry space (for example, line 2 or line 10).

Entire disposition with an overall loss. If you made an entire disposition of your interest in a passive activity and that activity had an overall loss, none of the gains, if any, or losses were entered on Form 8582. However, all the gains and losses must be reported on the forms or schedules normally used. To the left of the entry space, enter “EDPA.”

Entire disposition with an overall gain. Gains and losses from this activity were included on Form 8582 so that the gains might offset other PALs. Report all the gains and losses on the forms and schedules normally used, and to the left of the entry space, enter “EDPA.”

Publicly Traded Partnerships (PTPs)

A PTP is a partnership whose interests are traded on an established securities market or are readily tradable on a secondary market (or its substantial equivalent).

An established securities market includes any national securities exchange and any local exchange registered under the Securities Exchange Act of 1934 or exempted from registration because of the limited volume of transactions. It also includes any over-the-counter market.

A secondary market generally exists if a person stands ready to make a market in the interest. An interest is treated as readily tradable if the interest is regularly quoted by persons, such as brokers or dealers, who are making a market in the interest.

The substantial equivalent of a secondary market exists if there's no identifiable market maker, but holders of interests have a readily available, regular, and ongoing opportunity to sell or exchange interests through a public means of obtaining or providing information on offers to buy, sell, or exchange interests. Similarly, the substantial equivalent of a secondary market exists if prospective buyers and sellers have the opportunity to buy, sell, or exchange interests in a timeframe and with the regularity and continuity that the existence of a market maker would provide.

Special Instructions for PTPs

Section 469(k) provides that the passive activity limitations must be applied separately to items from each PTP. PALs from a PTP may generally be used only to offset income or gain from passive activities of the same PTP. The special allowance for rental real estate activities (including CRDs) doesn't apply to PALs from a PTP.

Passive activity loss rules for partners in PTPs. Don't report passive income, gains, or losses from a PTP on Form 8582. Instead, use the following rules to figure and report your income, gains, and losses from passive activities you held through each PTP you owned during the tax year.

1. Combine any current year income, gains and losses, and any prior year unallowed losses to see if you have an overall loss from the PTP. Include only the same types of income and losses you would include to figure your net income or loss from a non-PTP passive activity. See [Passive Activity Income and Deductions](#), earlier.

2. If you have an overall gain, the net gain portion (total gain minus total losses) is nonpassive income.

It's important to figure the nonpassive income because it must be included in modified adjusted gross income to figure the special allowance for active participation in a non-PTP rental real estate activity on Form 8582. Also, you may be able to include the nonpassive income in investment income when figuring your investment interest expense deduction. See Form 4952, Investment Interest Expense Deduction.

Report all gains and allowed losses from the activity on the forms or schedules normally used, and to the left of each entry space, enter "From PTP."

Example. You have Schedule E income of \$8,000 and a Form 4797 prior year unallowed loss of \$3,500 from the passive activities of a PTP. You have a \$4,500 overall gain (\$8,000 – \$3,500) that's nonpassive income. On Schedule E, Part II, you report the \$4,500 net gain as nonpassive income in column (k). In column (h), you report the remaining Schedule E gain of \$3,500 (\$8,000 – \$4,500) as passive income. On the appropriate line of Form 4797, you report the prior year unallowed loss of \$3,500. You enter "From PTP" to the left of each entry space.

3. If you have an overall loss (but didn't dispose of your entire interest in the PTP to an unrelated person in a fully taxable transaction during the year), the losses are allowed only to the extent of the income, and the excess loss is carried forward to use in a future year if you have income to offset it. Report as a passive loss on the schedule or form you normally use the portion of the loss equal to the income. Report the income as passive income on the form or schedule you normally use.

Example. You have a Schedule E loss of \$12,000 (current year losses plus prior year unallowed losses) and Form 4797 gain of \$7,200 from the passive activities of a PTP. You report the \$7,200 gain on the appropriate line of Form 4797. On Schedule E, Part II, you report \$7,200 of the losses as a passive loss in column (g). You carry forward the unallowed loss of \$4,800 (\$12,000 – \$7,200).

If you have unallowed losses from more than one activity of the PTP or from the same activity of the PTP that must be reported on different forms or schedules, allocate the unallowed losses on a pro rata basis to figure the amount allowed for each activity or on each form or schedule.

TIP To allocate and keep a record of the unallowed losses, use Parts VII, VIII, and IX of Form 8582.

List each activity of the PTP in Part VII. Enter the overall loss from each activity in column (a). Complete column (b) of Part VII according to its instructions. Multiply the total unallowed loss from the PTP by each ratio in column (b) and enter the result in column (c) of Part VII.

Next, complete Part VIII for each activity listed in Part VII if all the loss from that activity is reported on one form or schedule. Use Part IX instead of Part VIII for each activity with losses reported on two or more different forms or schedules (or are identified separately on the same form or schedule). Enter the net loss plus any prior year unallowed losses in column (a) of Part VIII (or line 1a, column (a), of Part IX, if applicable). The losses in column

(c) of Part VIII (column (e) of Part IX) are the allowed losses to report on your forms or schedules. Report these losses and any income from the PTP on the forms and schedules normally used.

4. If you have an overall loss and you disposed of your entire interest in the PTP to an unrelated person in a fully taxable transaction during the year, your losses (including prior year unallowed losses) allocable to the activity for the year aren't limited by the passive loss rules. A fully taxable transaction is one in which you recognize all your realized gain or loss. Report the income and losses on the forms and schedules normally used.

For rules on the disposition of an entire interest reported using the installment method, see [Disposition of an Entire Interest](#), earlier.

Paperwork Reduction Act Notice. We ask for the information on this form to carry out the Internal Revenue laws of the United States. You are required to give us the information. We need it to ensure that you are complying with these laws and to allow us to figure and collect the right amount of tax.

You are not required to provide the information requested on a form that is subject to the Paperwork Reduction Act unless the form displays a valid OMB control number. Books or records relating to a form or its instructions must be retained as long as their contents may become material in the administration of any Internal Revenue law. Generally, tax returns and return information are confidential, as required by section 6103.

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 is included in the estimates shown in the instructions for their individual income tax return. The estimated burden for all other taxpayers who file this form is shown below.

Recordkeeping	26 min.
Learning about the law or the form	22 min.
Preparing the form	1 hr., 52 min.
Copying, assembling, and sending the form to the IRS	48 min.

If you have comments concerning the accuracy of these time estimates or suggestions for making this form simpler, we would be happy to hear from you. See the instructions for the tax return with which this form is filed.