Residential Rentals: Passive Activity and At-Risk Rules

Course #34053A

Taxes

2 Credit Hours

Support@PacificCPE.com | (800) 787-5313

PacificCPE.com

RESIDENTIAL RENTALS: PASSIVE ACTIVITY AND AT-RISK RULES

This course explains the two primary sets of rules that may limit loss deductions from business, rental, or other income-producing activities: the at-risk rules and the passive activity loss rules. It provides clarity on how each limitation works and when they apply, helping ensure accurate reporting and compliance with IRS regulations.

LEARNING ASSIGNMENTS AND OBJECTIVES

As a result of studying each assignment, you should be able to meet the objectives listed below each individual assignment.

SUBJECTS

Residential Rentals: Passive Activity and At-Risk Rules)

Study the course materials

Complete the review questions at the end of each chapter

Answer the exam questions 1 to 10

Objectives:

- Recognize the two sets of rules that may limit the losses you can deduct on your tax return from any trade, business, rental, or other income-producing activity.

Program publication date **3/27/25**

EXAM OUTLINE

- **TEST FORMAT:** The final exam for this course consists of 10 multiple-choice questions and is based specifically on the information covered in the course materials.

- **ACCESS FINAL EXAM:** Log in to your account and click Take Exam. A copy of the final exam is provided at the end of these course materials for your convenience, however you must submit your answers online to receive credit for the course.

- **LICENSE RENEWAL INFORMATION:** This course qualifies for **2** CPE hours.

- **PROCESSING:** You will receive the score for your final exam immediately after it is submitted. A score of 70% or better is required to pass.

- **CERTIFICATE OF COMPLETION:** Will be available in your account to view online or print. If you do not pass an exam, it can be retaken free of charge.

TABLE OF CONTENTS

PASSIVE ACTIVITY AND AT-RISK RULES

Objective

After completing this course, you should be able to:

- Recognize the two sets of rules that may limit the losses you can deduct on your tax return from any trade, business, rental, or other income-producing activity.

I. REMINDERS

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 (Form 8582), 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.

Commercial revitalization deduction (CRD). The 120-month deduction period for rental real estate placed in service by December 31, 2009, has expired.

Changes in rules on grouping and definition of real property trade or business. T.D. 9943 revised certain rules in the Regulations under section 469.

- **Applicable date.** The new rules apply to tax years beginning on or after March 22, 2021, but you may chose to adopt these rules earlier. See Regulations section 1.469-11(a)(1) and (4) for additional information on applicability dates and early adoption. If you are a calendar year taxpayer, the new provision applies to you in calendar year 2022.
- **Grouping rules.** T.D. 9943 added Regulations section 1.469-4(d)(6), which prohibits grouping of trading activities described in Temporary Regulations section 1.469-1T(e)(6) subject to section 163(d)(5) (A)(ii) involving a non-passive trade or business in which the taxpayer does not materially participate with any other activity or activities including other trading activities.
- **Definition of real property trade or business.** T.D. 9905 and 9943 expanded Regulations section 1.469-9(b)(2) to define several terms used in determining whether a trade or business is a real property trade or business for purposes of section 469(c)(7)(C). T.D. 9905 added Regulations sections 1.469-9(b)(2)(ii)(H) and (I) defining real property operations and real property management. T.D. 9943 added Regulations sections 1.469.9(b)(2)(ii)(A) and (B) defining real property development and real property redevelopment.

Regrouping Due to Net Investment Income Tax. You may be able to regroup your activities if you are subject to the Net Investment Income Tax. See *Regrouping Due to Net Investment Income Tax* under *Grouping Your Activities*, later, for more information.

At-risk amounts. The following rules apply to amounts borrowed after May 3, 2004.

- You must file Form 6198 if you are engaged in an activity included in (6) under *Activities Covered by the At-Risk Rules* and you have borrowed certain amounts described in *Certain borrowed amounts excluded* under *At-Risk Amounts* in this course.
- You may be considered at risk for certain amounts described in *Certain borrowed amounts excluded* under *At-Risk Amounts* secured by real property used in the activity of holding real property (other than mineral property) that, if nonrecourse, would be qualified nonrecourse financing.

II. INTRODUCTION

This course discusses two sets of rules that may limit the amount of your deductible loss from trade, business, rental, or other income-producing activity. The first part of the course discusses the passive activity rules. The second part discusses the at-risk rules. However, when you figure your allowable losses from any activity, you must apply the at-risk rules before the passive activity rules.

III. PASSIVE ACTIVITY LIMITS

WHO MUST USE THESE RULES?

The passive activity rules apply to:

- Individuals,
- Estates,
- Trusts (other than grantor trusts),
- Personal service corporations, and
- Closely held corporations.

Even though the rules do not apply to grantor trusts, partnerships, and S corporations directly, they do apply to the owners of these entities.

For information about personal service corporations and closely held corporations, including definitions and how the passive activity rules apply to these corporations, see Form 8810 and its instructions.

Caution!

Before applying the passive activity limits on passive activity losses, you must first determine the amount of the deductions disallowed under the basis, excess farm loss, or at-risk rules.

PASSIVE ACTIVITY LOSS

Generally, the passive activity loss for the tax year is not allowed. However, there is a special allowance under which some or all of your passive activity loss may be allowed. See *Special $25,000 allowance*, later.

Definition of passive activity loss. Generally, your passive activity loss for the tax year is the excess of your passive activity deductions over your passive activity gross income. See *Passive Activity Income and Deductions*, later.

For a closely held corporation, the passive activity loss is the excess of passive activity deductions over the sum of passive activity gross income and net active income. For details on net active income, see the Instructions for Form 8810. For the definition of passive activity gross income, see *Passive Activity Income*, later. For the definition of passive activity deductions, see *Passive Activity Deductions*, later.

Identification of Disallowed Passive Activity Deductions

If all or a part of your passive activity loss is disallowed for the tax year, you may need to allocate the disallowed passive activity loss among different passive activities and among different deductions within a passive activity.

Allocation of disallowed passive activity loss among activities. If all or any part of your passive activity loss is disallowed for the tax year, a ratable portion of the loss (if any) from each of your passive activities is disallowed. The ratable portion of a loss from an activity is computed by multiplying the passive activity loss that is disallowed for the tax year by the fraction obtained by dividing:

1. The loss from the activity for the tax year; by
2. The sum of the losses for the tax year from all activities having losses for the tax year.

Use Part VII of Form 8582 to figure the ratable portion of the loss from each activity that is disallowed.

Loss from an activity. The term “loss from an activity” means:

1. The amount by which the passive activity deductions (defined later) from the activity for the tax year exceed the passive activity gross income (defined later) from the activity for the tax year; reduced by