

1996 Passive Activity Loss Limitations

3801

Attach to Form 540, 540NR, 541 or 100S (S corporations).

Name(s) as shown on return

Social security number, California corporation no. or FEIN

Part I 1996 Passive Activity Loss

Caution: See the instructions for Worksheet 1 and Worksheet 2 for federal Form 8582 before completing Part I. Be sure to use California amounts.

Rental Real Estate Activities with Active Participation

1a Activities with net income from Worksheet 1, column (a)	1a			
1b Activities with net loss from Worksheet 1, column (b)	1b	()	
1c Prior year unallowed losses from Worksheet 1, column (c). See instructions.	1c	()	
1d Combine line 1a, line 1b and line 1c.	1d			

All Other Passive Activities

2a Activities with net income from Worksheet 2, column (a)	2a			
2b Activities with net loss from Worksheet 2, column (b)	2b	()	
2c Prior year unallowed losses from Worksheet 2, column (c). See instructions.	2c	()	
2d Combine line 2a, line 2b and line 2c.	2d			
3 Combine line 1d and line 2d. If the result is net income or zero, see the instructions for line 3. If line 3 and line 1d are losses, go to line 4. Otherwise, enter -0- on line 9 and go to line 10. See instructions	3			

Part II Special Allowance for Rental Real Estate with Active Participation

Note: Enter all numbers in Part II as positive amounts. See instructions.

4 Enter the smaller of the loss on line 1d or the loss on line 3.	4			
5 Enter \$150,000. If married filing separate, see instructions.	5			
6 Enter federal modified adjusted gross income, but not less than zero. See instructions. Note: If line 6 is equal to or greater than line 5, skip line 7 and line 8, enter -0- on line 9, and then go to line 10. Otherwise, go to line 7	6			
7 Subtract line 6 from line 5.	7			
8 Multiply line 7 by 50% (.50). Do not enter more than \$25,000. If married filing separate, see instructions.	8			
9 Enter the smaller of line 4 or line 8	9			

Part III Total Losses Allowed

10 Add the income, if any, on line 1a and line 2a and enter the total	10			
11 Total losses allowed from all passive activities for 1996. Add line 9 and line 10. See the instructions on Side 2 to find out how to report the losses on your tax return.	11			

Step 1

After identifying the adjustments related to non-passive activities and reporting these amounts on the appropriate lines of Schedule CA (540 or 540NR), you must then identify the adjustments related to passive activities. If you have adjustments from both passive and nonpassive activities that are reported on the same schedule, you must first compute your passive activity loss (PAL).

Use the **California Worksheet** to the right to determine California net income or net loss from each passive activity. Complete the worksheet for each passive activity. The worksheet calculates your California net income or net loss from each passive activity. The amount to enter in column (d) of the worksheet is found on the federal form on which the activity is reported.

Example: You have a rental loss which is reported on federal Schedule E. The amount of this loss before the application of the PAL rules is found on federal Schedule E, line 22. Enter this amount in column (d) of the worksheet.

Note for partners, members of limited liability companies (LLCs) and S corporation shareholders: If you do not materially participate in the activity of a partnership, LLC or S corporation in which you hold an interest and you determine the activity is passive, **skip Steps 1, 2 and 3** and go directly to the worksheets. Use the amount from your California Schedule K-1, column (d), to complete these worksheets. However, if you have passive income or losses from other activities, continue to the next step.

Step 2

Use the amount in column (f) of the **California Worksheet** to complete Worksheet 1 and Worksheet 2 to determine the amounts to enter on form FTB 3801, lines 1a, 1b, 2a and 2b.

Step 3

After you have completed form FTB 3801, complete Worksheets 3, 4 and 5 or 6. The allowed losses from Worksheet 5 or Worksheet 6 are carried back to the California forms or schedules on which they are normally reported to figure your California PAL adjustment amount. If there is no California schedule or form to figure the PAL adjustment amount (e.g., rental real estate loss), use the **California Adjustment Worksheet** to the right to figure your PAL adjustment.

Step 4

For the PAL that you carried back to the forms or schedules to figure your California passive activity adjustment amounts (e.g., Schedule D or Schedule D-1), enter the adjustment amount from each form or schedule on the corresponding line on Schedule CA (540 or 540NR).

For the PAL that you did not carry back to a California schedule or form (e.g., rental real estate, partnership or S corporation loss), use the **California Adjustment Worksheet**. Enter the adjustment amounts from line 1(e) and line 2(e) on Schedule CA (540 or 540NR), in column B or column C on the line for the activity.

California Worksheet (see Step 1) Use this worksheet to figure California income (loss) from passive activities **before** application of the PAL rules. **Attach this worksheet to your California tax return.**

Column (a): Enter a description of the passive activity.

Column (b): Enter the name of the federal form or schedule on which you reported the activity such as federal Schedule C, etc.

Column (c): Enter the name of the California form or schedule, if any, used to calculate the California adjustment such as FTB 3885A, FTB 3526, etc.

Column (d): Enter your federal net income (loss) from this activity before application of the PAL rules.

Column (e): Enter any adjustment resulting from differences in federal and California law related to this specific activity such as depreciation.

Column (f): Combine column (d) and column (e). The result is your California net income (or net loss) for this activity.

(a) Passive Activity	(b) Federal Schedule	(c) California Schedule	(d) Federal Amount	(e) California Adjustment	(f) California Amount
Items with Federal Net Losses					
Items with Federal Net Income					

California Adjustment Worksheet (see Step 4) Use this worksheet to figure your California adjustment from passive activities **after** application of the PAL rules. **Attach this worksheet to your California tax return.**

Column (a): Enter a description of the passive activity. If your federal and California amounts are zero **after** application of the PAL rules, also enter the activity in column (a).

Column (b): Enter the name of the federal form or schedule on which you reported the activity such as federal Schedule C, etc.

Column (c): Enter your federal net income (loss) from this activity **after** application of the PAL rules such as Schedule C, line 31. Treat all amounts as positive numbers.

Column (d): Enter your California net income (loss) from this activity **after** application of the PAL rules.

- Add the column (c) amounts of line 1 and enter the result on line 1(c). Add the column (d) amounts of line 1 and enter the result on line 1(d). Add the column (c) amounts of line 2 and enter the result on line 2(c). Add the column (d) amounts of line 2 and enter the result on line 2(d).
- CA adjustment. If line 1(d) is greater than line 1(c), enter the difference in column (e) and on Schedule CA (540 or 540NR), in column B on the line for this activity. If line 1(c) is greater than line 1(d), enter the difference in column (e) and on Schedule CA (540 or 540NR), in column C on the line for this activity. **Note:** If you have a federal net loss on line 1(c) and net California income on line 1(d), enter the difference in column (e) and on Schedule CA (540 or 540NR), in column C on the line for this activity.
- CA adjustment. If line 2(d) is greater than line 2(c), enter the difference in column (e) and on Schedule CA (540 or 540NR), in column C on the line for this activity. If line 2(c) is greater than line 2(d), enter the difference in column (e) and on Schedule CA (540 or 540NR), in column B on the line for this activity. **Note:** If you have net federal income on line 2(c) and a net California loss on line 2(d), enter the difference in column (e) and on Schedule CA (540 or 540NR), in column B on the line for this activity.

(a) Passive Activity	(b) Federal Schedule	(c) Federal Amount	(d) California Amount	(e) California Adjustment
Items with Federal Net Losses or zero				
1 CA adjustment		1(c)	1(d)	1(e)
Items with Federal Net Income				
2 CA adjustment		2(c)	2(d)	2(e)

Caution: Worksheets 1 through 6 are not required to be filed with your California tax return and may be detached before filing form FTB 3801. Keep a copy of the worksheets for your records. Refer to the instructions for federal Form 8582 for specific instructions on how to complete the worksheets.

Worksheet 1 For form FTB 3801, line 1a, line 1b and line 1c

Name of activity	Current year		Prior year	Overall gain or loss	
	(a) Net income (line 1a)	(b) Net loss (line 1b)	(c) Unallowed loss (line 1c)	(d) Gain	(e) Loss
Total. Enter on form FTB 3801, line 1a, line 1b and line 1c ▶					

Worksheet 2 For form FTB 3801, line 2a, line 2b and line 2c

Name of activity	Current year		Prior year	Overall gain or loss	
	(a) Net income (line 2a)	(b) Net loss (line 2b)	(c) Unallowed loss (line 2c)	(d) Gain	(e) Loss
Total. Enter on form FTB 3801, line 2a, line 2b and line 2c ▶					

Worksheet 3 Use this worksheet if an amount is shown on form FTB 3801, line 9.

Name of activity	Form or schedule to be reported on	(a) Loss	(b) Ratio	(c) Special allowance	(d) Subtract column (c) from column (a)
Total ▶			1.00		

Worksheet 4 Allocation of Unallowed Losses

Name of activity	Form or schedule to be reported on	(a) Loss	(b) Ratio	(c) Unallowed loss
Total ▶			1.00	

Worksheet 5 Allowed Losses

Name of activity	Form or schedule to be reported on	(a) Loss	(b) Unallowed loss	(c) Allowed loss
Total ▶				

Worksheet 6 Activities With Losses Reported on Two or More Different Forms or Schedules

Name of Activity	(a)	(b)	(c) Ratio	(d) Unallowed loss	(e) Allowed loss
Form or schedule to be reported on: _____					
1a Net loss plus prior year unallowed loss from form or schedule ▶					
b Net income from form or schedule ▶					
c Subtract line 1b from line 1a. If zero or less, enter -0- ▶					
Form or schedule to be reported on: _____					
1a Net loss plus prior year unallowed loss from form or schedule ▶					
b Net income from form or schedule ▶					
c Subtract line 1b from line 1a. If zero or less, enter -0- ▶					
Form or schedule to be reported on: _____					
1a Net loss plus prior year unallowed loss from form or schedule ▶					
b Net income from form or schedule ▶					
c Subtract line 1b from line 1a. If zero or less, enter -0- ▶					
Total. ▶			1.00		

Caution: Worksheets 1 through 6 are not required to be filed with your California tax return and may be detached before filing form FTB 3801. Keep a copy of the worksheets for your records.

1996 Instructions for Form FTB 3801

California Passive Activity Loss Limitations

These instructions are based on the Internal Revenue Code (IRC) as of **January 1, 1993** and the California Revenue and Taxation Code (R&TC).

General Information

In general, California did not conform its law to changes made to the Internal Revenue Code (IRC) by the federal Revenue Reconciliation Act of 1993 (Public Law 103-66). California legislation during 1994 and 1996 did adopt a few specific provisions of the 1993 federal changes. All other references in these instructions are to the IRC as it existed on January 1, 1993. The following are specific differences that may affect how you figure your passive activity loss (PAL).

Material Participation in Real Property Business (IRC Section 469(c)(7)). Beginning in 1994, and for federal purposes only, rental real estate activities of persons in real property business are not automatically treated as passive activities. California did not conform to this provision.

Recovery period for nonresidential real property placed in service on or after May 13, 1993 (IRC Section 168(c)(1)). The California recovery period is 31.5 years; the federal recovery period is 39 years.

Expense treatment for small business (IRC Section 179(b)(1)). The maximum allowed under California law is \$10,000; the maximum allowed under federal law is \$17,500.

Amortization of certain intangibles (IRC Section 197). Property classified as IRC Section 197 property under federal law is also IRC Section 197 property for California purposes; there is no separate California election required or allowed. However, for California purposes, in the case of IRC Section 197 property acquired before January 1, 1994, the California adjusted basis as of January 1, 1994, must be amortized over the remaining federal amortization period.

A Purpose

Use form FTB 3801 to figure the PAL allowed on your California tax return. If you have differences between California and federal depreciation or amortization for an activity, you must use form FTB 3885A, Depreciation and Amortization Adjustments, to figure the California loss before figuring your California PAL. Form FTB 3801 closely follows federal Form 8582, Passive Activity Loss Limitations. In general, if you complete federal Form 8582 to determine the amount of your federal PAL, you may need to complete form FTB 3801.

Generally, California law is the same as federal law concerning PAL limitations. See the instructions for federal Form 8582 for more information on how to figure your PAL.

The specific information below contains the instructions on how to compute your PAL for California purposes.

Personal service corporations and closely-held corporations subject to the passive activity loss rules must use form FTB 3802, Corporate Passive Activity Loss and Credit Limitations.

S Corporations

The PAL rules apply as if the S corporation was an individual. For example, losses from passive activities may not be used to offset other income, except for \$25,000 in losses from rental real estate activities. Refer to IRC Section 469. However, the material participation rules apply as if the S corporation was a closely held corporation. The material participation rules for closely held corporations are explained in the instructions for federal Form 8810, Corporate Passive Activity Loss and Credit Limitations. Refer to IRC Section 469(h)(4) and the regulations thereunder for more information.

To compute your California PAL for S corporations, use the worksheets to determine the amounts to enter on form FTB 3801. Then enter the amount from Form 100S, line 20 (computed without regard to any passive income), on form FTB 3801, line 6. The PAL adjustment amount may be entered on either line 7 or line 13 on Form 100S.

B Who Must File

Form FTB 3801 is filed by individuals, estates, trusts and S corporations that have losses (including prior year unallowed losses) from passive activities. You do not have to file form FTB 3801 if you have depreciation from rental real estate activities that result in net income (or net loss) that is fully deductible under the special allowance for rental real estate, AND you have no other passive activities. In this case, use form FTB 3885A, to figure your depreciation adjustment to enter on the appropriate line of Schedule CA (540), California Adjustments — Residents or Schedule CA (540NR), California Adjustments — Nonresidents or Part-Year Residents. See form FTB 3885A for more information.

C Coordination with Other Limitations

Generally, losses from passive activities are subject to other limitations (for example, basis and at-risk limitations) before they are 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 the instructions for federal Form 6198, At-Risk Limitation for details on at-risk rules. However, capital losses that are allowable under the passive loss rules may be limited under the federal IRC Section 1211. Similarly, percentage depletion deductions that are allowable

under the passive loss rules may be limited under IRC Section 613A(d).

Complete federal Form 6198 using California amounts before completing form FTB 3801.

General Instructions

If You File Form 540 or Form 540NR: To compute the amount of your California net income or loss you may have to make adjustments to federal net income or loss for items such as depreciation and/or amortization, capital gains (losses) and ordinary gains (losses) that are related to a passive activity.

Report your adjustments related to nonpassive activities from an adjusting schedule or form directly on the appropriate line of Schedule CA (540 or 540NR).

If you have adjustments related to both passive and nonpassive activities that are reported on the same schedule, report any adjustment on Schedule CA (540 or 540NR) only after you have computed your PAL on form FTB 3801.

First figure your losses from passive activities on the appropriate form or schedule such as Schedule D, California Capital Gain or Loss Adjustment, Schedule D-1, Sale of Business Property, etc. Carry the loss forward to form FTB 3801 to figure the amount of your PAL limitation. Bring back the PAL to the form or schedule on which it is normally reported to figure your California adjustment amount; and enter this adjustment amount on the corresponding line on Schedule CA (540 or 540NR).

If there is no California schedule or form to compute your passive activity loss adjustment amount, as in the case of rental real estate losses, figure the adjustment amount on the California Adjustment Worksheet on form FTB 3801, Side 2. Transfer the total of your passive activity adjustments in column (e) of this worksheet to Schedule CA (540 or 540NR).

Form 540NR Filers: You must complete form FTB 3801 twice. First, complete form FTB 3801 using your total passive activity income and losses for the entire year. Figure the difference between your first form FTB 3801 and your federal Form 8582 as explained in Step 3 and Step 4 on form FTB 3801, Side 2.

Then, complete a second form FTB 3801 using all your passive activity income and losses from (1) all sources for the period you were a California resident and (2) California sources for the period you were a nonresident. Enter your allowable passive activity income and losses on Schedule CA (540NR), column E.

If you file Form 540NR and complete form FTB 3801, take the amount from Form 540NR, line 17 (adjusted gross income from all sources) and modify this amount according to the federal instructions for Form 8582, line 6. Enter the result on form FTB 3801, line 6 (federal modified adjusted gross income).

If you have adjustments related to a passive activity, follow the steps on form FTB 3801, Side 2.

California Specific Line Instructions

See the instructions for federal Form 8582, Part I, Part II and Part III, for specific line instructions for completing form FTB 3801, Part I, Part II and Part III.

Line 1c

Enter the amount of your prior year unallowed California PALs from rental real estate activities with active participation from Worksheet 1, column (c) on line 1c.

Line 2c

Enter the amount of your prior year unallowed California PALs from all other passive activities from Worksheet 2, column (c) on line 2c.

Line 3

If line 3 shows income, all of your losses are allowed including any prior year unallowed losses entered on line 1c or line 2c. Transfer the losses to the form or schedule on which you normally report them. See the instructions below for information on how to report the losses on the different forms and schedules.

Part II

Enter all numbers in Part II as positive amounts. See the instructions for federal Form 8582 for examples.

Line 5

Married persons filing separate returns who lived apart at all times during the year should enter \$75,000 on line 5 instead of \$150,000. Married persons filing separate returns who lived together at any time during the year are not eligible for the special allowance. They must enter -0- on line 9 and go to line 10.

Line 6

Enter your modified federal adjusted gross income from federal Form 8582, line 6.

If you did not complete federal Form 8582, see the instructions for federal Form 8582 for how to figure your modified adjusted gross income.

Form 540NR Filers: If you file Form 540NR, modify the amount from Form 540NR, line 17 (adjusted gross income from all sources) according to the federal instructions for Form 8582, line 6. Enter the result on form FTB 3801, line 6.

S Corporations: Enter the amount from Form 100S, California S Corporation Franchise or

Income Tax Return, line 20 (computed without regard to any passive income), on this line.

Line 8

Do not enter more than \$12,500 on line 8 if you are married filing separate returns and you and your spouse lived apart at all times during the year. Married persons filing separate returns who lived together at any time during the year are not eligible for the special allowance. They must enter -0- on line 9 and go to line 10.

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 the substantial equivalent).

Under the PAL rules, California PTPs are treated the same as federal PTPs. Be sure to follow the instructions for PTPs in the instructions for federal Form 8582. Also, refer to the section "How to Report Allowed Losses on the Forms and Schedules" below.

How to Report Allowed Losses on the Forms and Schedules. Refer to the instructions for federal Form 8582, "How to Report Allowed Losses on the Forms and Schedules." Follow the instructions and use Worksheet 6 where there are comparable California forms or schedules (e.g., Schedule D and Schedule D-1). Where there are no comparable California forms or schedules, refer to the California Adjustment Worksheet in these instructions.