

1996 Passive Activity Credit Limitations

3801-CR

Attach to Form 540, 540NR, 541 or 100S.

Name(s) as shown on return	Social security no., Calif. corporation no., or FEIN
----------------------------	--

Part I 1996 Passive Activity Credits

Caution: See Worksheets 1, 2, 3 and 4 in the instructions for federal Form 8582-CR, Passive Activity Credit Limitations. If you have credits from a publicly traded partnership, see the instructions for form FTB 3801-CR.

Credits From Rental Real Estate Activities with Active Participation

1 a Credits from federal Worksheet 1, column (a)	1a		
b Prior year unallowed credits from federal Worksheet 1, column (b)	1b		
c Add line 1a and line 1b		1c	

Low-Income Housing Credits for Property Placed in Service Before 1990 (or from Pass-Through Interests Acquired Before 1990)

See the instructions for line 2a through line 2c.

2 a Credits from federal Worksheet 2, column (a)	2a		
b Prior year unallowed credits from federal Worksheet 2, column (b)	2b		
c Add line 2a and line 2b		2c	

Low-Income Housing Credits for Property Placed in Service After 1989

See the instructions for line 3a through line 3c.

3 a Credits from federal Worksheet 3, column (a)	3a		
b Prior year unallowed credits from federal Worksheet 3, column (b)	3b		
c Add line 3a and line 3b		3c	

All Other Passive Activity Credits

See the instructions for line 4a through line 4c.

4 a Credits from federal Worksheet 4, column (a)	4a		
b Prior year unallowed credits from federal Worksheet 4, column (b)	4b		
c Add line 4a and line 4b		4c	
5 Add line 1c, line 2c, line 3c and line 4c		5	
6 Enter the tax attributable to net passive income. See instructions		6	
7 Subtract line 6 from line 5. If line 6 is more than or equal to line 5, enter -0- and see the instructions		7	

Part II Special Allowance for Rental Real Estate Activities with Active Participation

Note: Complete Part II if you have an amount on line 1c; otherwise, go to Part III.

8 Enter the smaller of line 1c or line 7		8	
9 Enter \$150,000 (\$75,000 if married filing separate and you lived apart for the entire year)	9		
10 Enter federal modified adjusted gross income, but not less than zero. See instructions. If line 10 is equal to or greater than line 9, skip line 11 through line 15 and enter -0- on line 16	10		
11 Subtract line 10 from line 9	11		
12 Multiply line 11 by 50% (.50). Do not enter more than \$25,000 (\$12,500 if married filing separate and you lived apart for the entire year)	12		
13 Enter the amount, if any, from line 9 of form FTB 3801	13		
14 Subtract line 13 from line 12	14		
15 Enter the tax attributable to the amount on line 14. See instructions		15	
16 Enter the smaller of line 8 or line 15		16	

Part III Special Allowance for Low-Income Housing Credits for Property Placed in Service Before 1990 (or from Pass-Through Interests Acquired Before 1990) **Note:** Complete Part III if you have an amount on line 2c; otherwise, go to Part IV.

17	Enter the amount from line 7	17		
18	Enter the amount from line 16.	18		
19	Subtract line 18 from line 17. If zero, enter -0- here and on line 30 and line 36 and then go to Part V.	19		
20	Enter the smaller of line 2c or line 19	20		
21	Enter \$350,000, (\$175,000 if married filing separate and you lived apart for the entire year). See instructions to see if you can skip line 21 through line 26	21		
22	Enter federal modified adjusted gross income, but not less than zero. See instructions for line 22. If line 22 is equal to or greater than line 21, skip line 23 through line 29, enter -0- on line 30.	22		
23	Subtract line 22 from line 21	23		
24	Multiply line 23 by 50% (.50). Do not enter more than \$75,000 (\$37,500 if married filing separate and you lived apart for the entire year)	24		
25	Enter the amount, if any, from line 9 of form FTB 3801	25		
26	Subtract line 25 from line 24	26		
27	Enter the tax attributable to the amount on line 26. See instructions	27		
28	Enter the amount, if any, from line 18	28		
29	Subtract line 28 from line 27	29		
30	Enter the smaller of line 20 or line 29	30		

Part IV Special Allowance for Low-Income Housing Credits for Property Placed in Service After 1989 **Note:** Complete Part IV if you have an amount on line 3c; otherwise, go to Part V.

31	Enter the amount from line 19 if you completed Part III. Otherwise, subtract line 16 from line 7	31		
32	Enter the amount from line 30.	32		
33	Subtract line 32 from line 31. If zero or less, enter -0- here and on line 36	33		
34	Enter the smaller of line 3c or line 33	34		
35	Tax attributable to the remaining special allowance. See instructions	35		
36	Enter the smaller of line 34 or line 35	36		

Part V Passive Activity Credit Allowed

37	Passive Activity Credit Allowed. Add line 6, line 16, line 30 and line 36. See page 3 of the instructions if you have any credits from a publicly traded partnership.	37		
----	--	----	--	--

Note: Use Worksheet 5 through Worksheet 9, whichever apply, in the instructions for federal Form 8582-CR, to allocate allowed and unallowed credits if you have credits from more than one passive activity. Be sure to use California amounts. Also use the worksheets if you must allocate credits because they are reported on different forms.

Part VI Election to Increase Basis of Credit Property

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

1996 Instructions for Form FTB 3801-CR

California Passive Activity Credit 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 Instructions

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 may affect the computation of your passive activity credit limitations:

Passive loss rules (IRC Section 469): Beginning in 1994, eligible taxpayers who materially participate in rental real estate activities will no longer be subject to the limitations on the deduction of passive activity losses. 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): The California recovery period is 31.5 years; the federal recovery period increased to 39 years.

Amortization of certain intangibles (IRC Section 197): Property classified as Section 197 property under federal law is also Section 197 property for California purposes; there is no separate California election required or allowed. However, for California purposes, in the case of 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-CR to determine whether you have a passive activity credit for the current taxable or income year and, if so, how much of the credit is allowed for the current year. The amount of the credit that is unallowed is carried forward.

B Special Note

Generally, California law is the same as federal law concerning passive activity credit limitations. See the instructions for federal Form 8582-CR, Passive Activity Credit Limitations, for definitions.

Personal service corporations and closely held corporations subject to the passive activity rules must use form FTB 3802, Corporate Passive Activity Loss and Credit Limitations, instead of forms FTB 3801, Passive Activity Loss Limitations, and form FTB 3801-CR.

S Corporations

The passive activity loss (PAL) rules apply as if the S corporation was an individual. This means that losses from passive activities may not be used to offset nonpassive income, except for \$25,000 in losses from rental real estate activities. See IRC Section 469(i). 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. See IRC Section 469(h)(4) and the related regulations for more information.

To compute your California passive activity credit limitations for S corporations, use the worksheets in the instructions for federal Form 8582-CR using California amounts. Enter the amount from line 20 of Form 100S, California S Corporation Franchise or Income Tax Return, on line 10 and line 22 of form FTB 3801-CR in place of the federal modified adjusted gross income.

C Who Must File

Form FTB 3801-CR is filed by individuals, estates, trusts and S corporations with any of the following credits from passive activities:

- Orphan drug credit carryover;
- Low-income housing credit; and
- Research credit.

D Passive Activities

See the instructions for federal Form 8582-CR, for the definition of a passive activity and passive activity credits.

Dispositions

Unallowed passive activity credits, unlike unallowed passive activity losses, are not allowable when you dispose of your interest in an activity in a taxable transaction. However, you may elect to increase the basis of the credit property by the amount of the original basis reduction of the property to the extent that the credit has not been allowed by reason of the passive activity rules. No basis adjustment may be elected on a partial disposition of an interest in a passive activity.

Caution: In computing the special allowance for rental real estate activities with active participation, the dollar limitation for the low-income housing credit is greater than the amount allowed under federal law. The California limitation is \$75,000 (\$37,500 if married filing separate and you lived apart the entire year). For California purposes, no passive activity low-income housing credit may be claimed when adjusted gross income reaches \$350,000 (\$175,000 if married filing separate and you lived apart for the entire year).

Note: The federal transitional rules related to low-income housing also apply to California.

E Passive Activity Credit Carryovers

In general, unallowed passive activity credits, like losses, are suspended and carried forward indefinitely. However, unlike losses, suspended credits are not specifically allowed when you dispose of the activity.

The character of a credit relating to a passive activity changes when the credit becomes allowable under the passive loss rule (for example when there is sufficient passive income to allow its use or it is within the scope of the rental real estate rule). Once the credit becomes allowable under the passive loss rule, it is combined with credits relating to the taxpayer's nonpassive activities for purposes of determining whether all such credits are allowable after considering other limitations applicable to the use of credits (for example, the limitation that credits may not be

used to reduce your regular tax below your tentative minimum tax).

In addition, the treatment of passive activity credits is determined in all respects by the general rules applicable to those credits, including carry-over periods.

F Overview of Form

The form consists of six parts.

Part I — 1996 Passive Activity Credits

Use Part I to combine your credits from passive activities to determine if you have passive activity credits for 1996.

If your credits from all passive activities exceed the tax attributable to net passive income, you will have a passive activity credit for 1996. Generally, you have net passive income if form FTB 3801, line 3 shows income. See the instructions for form FTB 3801-CR, line 6 for exceptions.

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

Use Part II to figure the credit allowed if you have any credits, other than the low-income housing credit, from rental real estate activities in which you actively participated. See the instructions for federal Form 8582-CR, "Rental Activities."

Part III — Special Allowance for Low-Income Housing Credits for Property Placed in Service Before 1990 (or from Pass-Through Interests Acquired Before 1990)

Use Part III to figure the credit allowed if you have any low-income housing credits for property placed in service before 1990. Also use this part if your low-income housing credit is from a partnership, S corporation, or other pass-through entity in which you acquired your interest before 1990, regardless of the date the property was placed in service.

Part IV — Special Allowance for Low-Income Housing Credit for Property Placed in Service After 1989

Use Part IV to figure the credit allowed if you have any low-income housing credits for property placed in service after 1989. If you held an indirect interest in the property through a partnership, S corporation or other pass-through entity, use this part only if your interest in the pass-through entity was also acquired after 1989.

Part V — Passive Activity Credit Allowed

Use Part V to figure the amount of the passive activity credit (as determined in Part I) that is allowed for 1996 for all passive activities.

Part VI — Election to Increase Basis of Credit Property

Use Part VI to elect to increase the basis of credit property used in a passive activity disposed of during 1996.

Specific Line Instructions

For purposes of these instructions, "worksheet" refers to Worksheet 1 through Worksheet 9 in the instructions for federal Form 8582-CR. California amounts must be used when completing these worksheets. Use only the three credits subject to the California passive credit limitations rules (see General Instructions). Keep these worksheets for your records.

Part I

Computation of 1996 Passive Activity Credits

Line 1a through line 1c – Individuals and qualifying estates who actively participated in rental real estate activities (other than rental real estate activities with low-income housing credits) should include the credits from these activities on line 1a through line 1c. Use Worksheet 1 to figure the amounts to enter on line 1a and line 1b.

A qualifying estate is one that is treated as actively participating for the two tax years following the death of the taxpayer. The decedent must have actively participated in the rental real estate activity in the tax year he or she died.

Caution: If you were married filing a separate return and lived with your spouse at any time during the year, even if you actively participated, include the credits in Worksheet 4 and on line 4a and line 4b, but not on line 1a and line 1b.

Caution: You may take credits that arose in a prior tax year (other than low-income housing credits) under the special allowance only if you actively participated in the rental real estate activity for both that prior year and this year. If you did not actively participate for both years, include the credits in Worksheet 4 and on line 4a and line 4b, but not in Worksheet 1 or on line 1a and line 1b.

Line 2a through line 2c – Individuals, including limited partners, and qualifying estates who had low-income housing credits for property placed in service before 1990 should include the credits from those activities on line 2a and line 2b.

However, if you have low-income housing credits for property placed in service after 1989, include those credits on line 3a and line 3b instead of line 2a and line 2b. If you held an indirect interest in the property through a partnership, S corporation or other pass-through entity, use line 3a and line 3b only if you acquired your interest in the pass-through entity after 1989.

Caution: If you were married filing a separate return and lived with your spouse at any time during the year, include the credits in Worksheet 4 and on line 4a and line 4b, but not on line 2a, line 2b, line 3a and line 3b.

Line 3a through line 3c – Individuals, including limited partners, and qualifying estates who had low-income housing credits for property placed in service after 1989, should include those credits on line 3a and line 3b instead of line 2a and line 2b. If you held an indirect interest in the property through a partnership, S corporation or other pass-through entity, use line 3a and line 3b only if you also acquired your interest in the pass-through entity after 1989.

Line 4a through line 4c – Individuals should include credits from passive activities which were not entered on line 1a and line 1b, line 2a and line 2b, or line 3a and line 3b on line 4a and line 4b. Estates (other than qualifying estates), trusts

and S corporations should include credits from all passive activities on line 4a through line 4c.

Line 1, line 2, line 3 and line 4 – If you are using a different form to report credits from the same activity, keep them separate by listing the activity each time for each credit.

Line 6 – If form FTB 3801, line 3 shows net income or if you did not complete form FTB 3801 because you had net passive income, you will have to compute the tax attributable to the net passive income. If you have an overall loss on an entire disposition of your interest in a passive activity, be sure to reduce net passive income, if any, on form FTB 3801, line 3 to the extent of the loss (but not below zero) and use only the remaining net passive income in the computation below. If you had a net passive activity loss, enter -0- on line 6, and go on to line 7.

Compute the tax attributable to net passive income as follows:

Note: When using taxable income in the following computation, it is not necessary to recompute items which are based on a percentage of adjusted gross income.

- A. Taxable income including net passive income A _____
- B. Tax on line A B _____
- C. Taxable income without net passive income C _____
- D. Tax on line C D _____
- E. Subtract line D from line B and enter the result on form FTB 3801-CR, line 6 E _____

Line 7 – If line 7 is zero because the tax attributable to net passive income (plus the tax attributable to net active income in the case of an S corporation) on line 6 is greater than your credits from passive activities on line 5, all of your passive activity credits are allowed. In this case, enter the amount from line 5 on line 37. Report the credits on the related credit forms. Do not complete worksheet 5 through worksheet 9.

Part II

Special Allowance for Credits from Rental Real Estate Activities with Active Participation

Line 10 – Enter your federal modified adjusted gross income from federal Form 8582-CR, line 10.

Form 540NR Filers: If you file Form 540NR, take the amount from Form 540NR, line 17 (adjusted gross income from all sources) and modify this amount according to the instructions for federal Form 8582-CR, line 10. Enter the result on form FTB 3801-CR, line 10.

Line 15 – Figure the tax attributable to the amount on line 14 as follows:

Note: When using taxable income in the following computation, it is not necessary to recompute items which are based on a percentage of adjusted gross income.

- A. Taxable income A _____
- B. Tax on line A B _____
- C. Enter amount from line A above C _____
- D. Enter amount from form FTB 3801-CR, line 14 D _____
- E. Subtract line D from line C E _____

- F. Tax on line E F _____
- G. Subtract line F from line B and enter the result on form FTB 3801-CR, line 15 G _____

Part III

Special Allowance for Low-Income Housing Credits for Property Placed in Service Before 1990 (or from Pass-Through Interests Acquired Before 1990)

Caution: In computing the special allowance for rental real estate activities with active participation, the dollar limitation for the low-income housing credit is greater than the amount allowed under federal law. The California limitation is \$75,000 (\$37,500 if married filing separate, and you lived apart the entire year).

Line 21 – If you completed Part II of this form and your federal modified adjusted gross income on line 10 was \$100,000 or less (\$50,000 or less, if married filing separate and you lived apart for the entire year), skip line 21 through line 26. Enter the amount from line 15 on line 27.

For California purposes, you may not claim passive activity low-income housing credit when adjusted gross income reaches \$350,000 (\$175,000 if married filing separate and you lived apart for the entire year).

Line 22 – Enter your federal modified adjusted gross income from federal Form 8582-CR, line 22.

Form 540NR Filers: If you file Form 540NR, take the amount from Form 540NR, line 17 (adjusted gross income from all sources) and modify this amount according to the instructions for federal Form 8582-CR, line 10. Enter the result on form FTB 3801-CR, line 22.

Line 27 – Figure the tax attributable to the amount on line 26 as follows:

Note: When using taxable income in the following computation, it is not necessary to recompute items which are based on a percentage of adjusted gross income.

- A. Taxable income A _____
- B. Tax on line A B _____
- C. Enter the amount from line A above C _____
- D. Enter amount from form FTB 3801-CR, line 26 D _____
- E. Subtract line D from line C E _____
- F. Tax on line E F _____
- G. Subtract line F from line B and enter the result on form FTB 3801-CR, line 27 G _____

Part IV

Special Allowance for Low-Income Housing Credit for Property Placed in Service After 1989

Line 35 — Figure the tax attributable to the remaining special allowance as follows:

Note: When using taxable income in the following computation, it is not necessary to recompute items which are based on a percentage of adjusted gross income.

- A. Taxable income. A _____
B. Tax on line A B _____
C. Enter \$75,000
(\$37,500 if married
filing separate and
you lived apart
the entire year C _____
D. Enter amount from
form FTB 3801,
line 9 D _____
E. Subtract line D
from line C E _____
F. Subtract line E from
line A F _____
G. Tax on line F G _____
H. Subtract line G from line B H _____
I. Enter the sum from form
FTB 3801-CR, line 16 and
line 30 I _____
J. Subtract line I from line H. Tax
attributable to the remaining spe-
cial allowance. Enter the result
on form FTB 3801-CR, line 35 J _____

Part V

Passive Activity Credit Allowed

Line 37 — If you have only one type of credit, the amount on line 37 is the credit allowed for the year. This amount should be entered on the appropriate credit form. Your unallowed credit would be line 5 minus line 37.

If you have more than one type of credit, or credits from more than one activity, use Worksheet 5 through Worksheet 9 to allocate the allowed and unallowed credits. You must keep a record of this unallowed amount and the activity to which it belongs to take the credit if it becomes allowable in a future year.

Credits from Publicly Traded Partnerships (PTP)

A credit from a passive activity held through a PTP is allowed to the extent of the tax attributable to net passive income from that partnership. In addition, low-income housing credits from rental real estate activities held through PTPs are allowed to the extent of the remaining \$75,000 special allowance. Before the credits may be applied to the \$75,000 (or less, if applicable) special allowance, the special allowance must be reduced by the amount used under the passive loss rules and the amount used for credits which were not from a PTP.

Do not enter credits from PTPs on the worksheets or on form FTB 3801-CR. Instead, use the following steps to compute the allowed and unallowed credits from passive activities held through PTPs.

Computation of Passive Activity Credits Allowed for PTPs

Complete Step 1 and Step 2 only if you have net passive income from a PTP with passive activity credits.

Note: In the following instructions, the term "credits" includes current year credits and prior year unallowed credits.

Step 1 — Figure the tax attributable to net passive income from each PTP with passive activity credits by following the steps shown in the worksheet in the line 6 instructions. Complete a separate tax computation for each PTP with net passive income.

Step 2 — Passive activity credits from each PTP are allowed to the extent of the tax attributable to net passive income from that same PTP. Credits in excess of the tax attributable to net passive income may be allowed under one or more steps below.

Complete Step 3 through Step 5 only if you have low-income housing credits for property placed in service before 1990 from a PTP, or low-income housing credits from a PTP in which you acquired your interest before 1990 (regardless of the date placed in service).

Step 3 — Reduce low-income housing credits for property placed in service before 1990 from each PTP, and any low-income housing credits from each PTP in which you acquired your interest before 1990 (regardless of the date placed in service) to the extent of the tax attributable to net passive income from that PTP, which was figured in Step 1.

Step 4 — Before beginning this step, you must complete form FTB 3801-CR if you have any passive credits that are not from PTPs. Subtract the sum of form FTB 3801-CR line 16, line 30 and line 36 (if any) from form FTB 3801-CR, line 27 to figure the tax attributable to the \$75,000 special allowance available for the credits in Step 3.

If your only passive credits are from PTPs, complete form FTB 3801-CR line 21 through line 27 as a worksheet. The amount on line 27 is the tax attributable to the \$75,000 special allowance available for the credits in Step 3.

Step 5 — Low-income housing credits for property placed in service before 1990 by each PTP, and any low-income housing credits from a PTP in which you acquired your interest before 1990 (regardless of the date placed in service) allowed under the \$75,000 special allowance are the smaller of the total credits from Step 3 or the amount figured in Step 4. If Step 4 is smaller than Step 3, allocate the amount in Step 4 pro rata to the credits from each PTP in Step 3.

Complete Step 6 through Step 8 only if you have low-income housing credit for property placed in service after 1989 from a PTP in which you also acquired your interest after 1989.

Step 6 — Reduce low-income housing credits for property placed in service after 1989 from a PTP in which you also acquired your interest after 1989 to the extent of the tax attributable to net passive income from that PTP, which was figured in Step 1.

Step 7 — Before beginning this step, you must complete form FTB 3801-CR if you have any passive credits that are not from PTPs. Subtract the sum of the credits allowed in Step 5 above and line 36 of form FTB 3801-CR from the amount on line 35 of form FTB 3801-CR to figure

the tax attributable to the \$75,000 special allowance available for the credits in Step 6.

If your only passive credits are from PTPs, complete the steps shown in the worksheet in the line 35 instructions. Subtract the credits allowed in Step 5 above from the tax figured on line J of that worksheet. The result is the tax attributable to the \$75,000 special allowance available for the credits in Step 6.

Step 8 — Low-income housing credits allowed under the \$75,000 special allowance for property placed in service after 1989 from a PTP in which you also acquired your interest after 1989, are the smaller of the total credits from Step 6 or the amount figured in Step 7. If Step 7 is smaller than Step 6, allocate the amount in Step 7 pro rata to the credits from each PTP Step 6.

Step 9 — Add Steps 2, 5 and 8. These are the credits allowed from passive activities of PTPs.

Step 10 — Figure the allowed and unallowed credits from each PTP. Report the allowed credits on the appropriate credit form. Keep a record of the unallowed credits for use in a future year.

Part VI

Election to Increase Basis of Credit Property

If you disposed of your entire interest in a passive activity or former passive activity in a fully taxable transaction and you elect to increase the basis of the credit property used in that activity by the unallowed credit that reduced the property's basis, complete Part VI.