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- HELP
- FAQ
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Passive Activity Loss Rules: Strategies for Pass-Throughs to Maximize Deductions

Leveraging Federal Guidance and Rulings to Establish Material Participation

A live 110-minute CLE/CPE [webinar/teleconference](#) with interactive Q&A

Thursday, June 24, 2010
1:00pm-2:50pm EDT, 10:00am-11:50am PDT
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This CPE and CLE webinar will provide advisors with a thorough review of the latest passive activity loss guidance and rules to prepare returns that maximize permissible use of passive losses.

Description

For decades, IRS rules have significantly limited deductions of losses from so-called "passive activities" for taxpayers with interests in passive entities. However, new options for these taxpayers and their advisors have come through due to two key federal court rulings last year.

These decisions eased the standards for taxpayers to prove material participation for interests in LLCs and LLPs by striking down an IRS argument that such interests are automatically passive. While not a cure-all, awareness of passive activity rules and new guidance is essential.

With widespread losses likely to continue for businesses of all sizes, careful planning and adherence to the IRC regulations is essential to ensure that taxpayers with passive interests can deduct as much of their losses as possible, both for amended returns and returns for future tax years.

Listen as our panel of veteran tax advisors offers compliance strategies for maximizing deductions within passive activity loss limitations.

Outline

- I. Passive activity loss rules under the Internal Revenue Code
 - A. Passive activity losses not deductible against "non-passive" income
 - B. The seven tests of material participation
 - C. Increased threshold for limited partnerships
- II. Taxpayer-friendly precedent set by 2009 federal court decisions
 - A. *Thompson v. United States* in U.S. Court of Federal Claims
 - B. *Garnett v. Commissioner* in U.S. Tax Court
 - C. IRS' argument that LLCs and LLPs are automatically considered limited partnerships
 - D. Lowered threshold for material participation
- III. Best practices and considerations in filing returns under relaxed standards
 - A. Meeting the seven material participation tests
 - B. How to prove material participation when filing amended returns
 - C. Strategies for deducting losses against non-passive income
- IV. Recent passive activity loss developments
 - A. State conformity issues
 - B. IRS guidance
 - C. Other developments

Benefits

The panel will review the state of passive activity loss rules and significant developments in the last few years, including:

- The potential pitfalls from the January 2010 IRS Revenue Procedure 2010-13, which insists on written statements about new activity groupings and regroupings.
- The relaxed standards created by the 2009 federal court decisions in *Thompson v. United States* and *Garnett v. Commissioner*.
- Applying the seven tests for proving material participation in a passive entity.
- Reconciling conformity issues for passive losses under conflicting state tax regs.
- Reviewing and understanding recent IRS guidance on the passive activity loss rules.

Following the speaker presentations, you'll have an opportunity to get answers to your specific questions during the interactive Q&A.

Upon completing this seminar, you will be prepared to file new and amended returns in accordance with the latest court rulings and IRS regulations and guidance. and present a case

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Very timely material. Very useful to my practice. Got to ask my questions and received excellent answers.

*Joellyn D. Kuhn
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Knowledgeable speakers with excellent presentation skills and materials.

*Sarah C. Harlan
Sarah C. Harlan, CPA*

Right on point ... a great summary of what professionals are required to know.

*George R. Paulick
Urish Popeck*

Informative and timely.

*Rick Rosell
Bennett Thrasher*

Concise and to the point. Moved through the materials in an efficient

to prove material participation under one of the seven tests in the federal passive activity loss rules.

Faculty

Carolyn R. Turnbull, Director of Tax
Moore Stephens Tiller, Atlanta

She has extensive experience dealing with complex partnership and corporate tax issues, including special allocations, maintenance of capital accounts, basis and at-risk computations, consolidated returns, multi-state apportionment and allocation computations, state income and composite tax returns, state and federal tax credits, international tax issues, and mergers and acquisitions.

Steven Schneider, Director, Tax Group
Goulston & Storrs, Washington, D.C.

He has significant experience in domestic and international transactions and taxation of pass-through entities such as partnerships, S corporations and REITs. He previously worked with the IRS and for a Big Four firm, and he is an adjunct law professor at Georgetown University on partnership and LLC agreements.

Noel Brock, Partner, Partnership Technical Tax Practice Leader
Grant Thornton, Washington, D.C.

He is assigned to the firm's National Tax Practice and practices in all areas of complex partnership taxation. Before joining the firm, he spent 12 years with international law or accounting firms. He is a member of the ABA's Tax Section.

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