2009 Instructions for Schedule E (Form 1040)

Supplemental Income and Loss

Use Schedule E (Form 1040) to report income or loss from rental real estate, royalties, partnerships, S corporations, estates, trusts, and residual interests in REMICs.

You can attach your own schedule(s) to report income or loss from any of these sources. Use the same format as on Schedule E.

Enter separately on Schedule E the total income and the total loss for each part. Enclose loss figures in (parentheses).

General Instructions

Other Schedules and Forms You May Have To File

- Schedule A to deduct interest, taxes, and casualty losses not related to your business.
- Form 3520 to report certain transactions with foreign trusts and receipt of certain large gifts or bequests from certain foreign persons.
- Form 4562 to claim depreciation (including the special allowance) on assets placed in service in 2009, to make an election under section 179 to expense certain property, or to report information on listed property.
- Form 4684 to report sales, exchanges, and involuntary conversions (not from a casualty or theft) of trade or business property.
- Form 6198 to figure your allowable loss from an at-risk activity.
- Form 8826 to notify the IRS of any inconsistent tax treatment for an item on your return.
- Form 8822 to report like-kind exchanges.
- Form 8824 to report sales, exchanges, and involuntary conversions (not from a casualty or theft) of trade or business property.
- Form 8910 to claim a credit for placing a new alternative motor vehicle in service for business use.

Single-member limited liability company (LLC). Generally, a single-member domestic LLC is not treated as a separate entity for federal income tax purposes. If you are the sole member of a domestic LLC, file Schedule E (or Schedule C, C-EZ, or F, if applicable). However, you can elect to treat a domestic LLC as a corporation. See Form 8332 for details on the election and the tax treatment of a foreign LLC.

Information returns. You may have to file information returns for wages paid to employees, certain payments of fees and other nonemployee compensation, interest, rents, royalties, real estate transactions, annuities, and pensions. You generally use Form 1099-MISC. Miscellaneous Income, to report rents and payments of fees and other nonemployee compensation. For details, see the 2009 General Instructions for Forms 1099, 1098, 3921, 3922, 5498, and W-2G.

If you received cash of more than $10,000 in one or more related transactions in your trade or business, you may have to file Form 8300. For details, see Pub. 1544.

Reportable Transaction Disclosure Statement

Use Form 8886 to disclose information for each reportable transaction in which you participated. Form 8886 must be filed for each tax year that your federal income tax liability is affected by your participation in the transaction. You may have to pay a penalty if you are required to file Form 8886 but do not do so. You may also have to pay interest and penalties on any reportable transaction understatement. The following are reportable transactions.

- Certain transactions for which you or a related party have contractual protection against disallowance of the tax benefits.
- Certain transactions resulting in a loss of at least $2 million in any single tax year or $4 million in any combination of tax years. (At least $50,000 for a single tax year if the loss arose from a foreign currency transaction defined in section 988(c)(1), whether or not the loss flows through from an S corporation or partner-ship.)
- Certain transactions of interest entered into after November 1, 2006, that are the same or substantially similar to transactions that the IRS has identified by notice, regulation, or other form of published guidance as transactions of interest.

See the Instructions for Form 8886 for more details.

At-Risk Rules

Generally, you must complete Form 6198 to figure your allowable loss if you have:

- A loss from an activity carried on as a trade or business or for the production of income, and
- Amounts in the activity for which you are not at risk.

The at-risk rules generally limit the amount of loss (including loss on the disposition of assets) you can claim to the amount you could actually lose in the activity. However, the at-risk rules do not apply to losses from an activity of holding real property placed in service before 1987. They also do not apply to losses from your interest acquired before 1987 in a pass-through entity that is engaged in such activity. The activity of holding mineral property does not qualify for this exception. In most cases, you are not at risk for amounts such as the following.

- Nonrecourse loans used to finance the activity, to acquire property used in the activity, or to acquire your interest in the activity that are not secured by your own property (other than property used in the activity). However, there is an exception for certain nonrecourse financing borrowed...
by you in connection with the activity of holding real property (other than mineral property). See Qualified nonrecourse financing below:
- Cash, property, or borrowed amounts used in the activity (or contributed to the activity, or used to acquire your interest in the activity) that are protected against loss by a guarantee, stop-loss agreement, or other similar arrangement (excluding casualty insurance and insurance against tort liability).
- Amounts borrowed for use in the activity of a person who has an interest in the activity (other than as a creditor) or who is related, under section 465(b)(3)(C), to a person (other than you) having such an interest.
Qualified nonrecourse financing. Qualified nonrecourse financing is treated as an amount at risk if it is secured by real property used in an activity subject to the at-risk rules. If the amount is personal liability for repayment and is:
- Borrowed by you in connection with the activity of holding real property (other than mineral property),
- Not convertible from a debt obligation to an ownership interest, and
- Loaned or guaranteed by any federal, state, or local government, or borrowed by you from a qualified person.
Qualified person. A qualified person is a person who actively and regularly engages in the business of lending money, such as a bank or savings and loan association. A qualified person cannot be:
- Related to you (unless the nonrecourse financing is commercially reasonable and on substantially the same terms as loans involving unrelated persons),
- The seller of the property (or a person related to that seller), or
- A person who receives a fee due to your investment in real property (or a person related to that person).

For more details about the at-risk rules, see the Instructions for Form 6198 and Pub. 925.

Passive Activity Loss Rules
The passive activity loss rules may limit the amount of losses you can deduct. These rules apply to losses in Parts I, II, and III, and line 40 of Schedule E.
Losses from passive activities may be subject first to the at-risk rules. Losses deductible under the at-risk rules are then subject to the passive activity loss rules.

You generally can deduct losses from passive activities only to the extent of income from passive activities. An exception applies to certain rental real estate activities (explained later on this page).

Passive Activity
A passive activity is any business activity in which you did not materially participate and any rental activity, except as explained later on this page. If you are a limited partner, you generally are not treated as having materially participated in the partnership’s activities for the year.

The rental of real or personal property is generally a rental activity under the passive activity loss rules, but exceptions apply. If your rental of property is not treated as a rental activity, you must determine whether it is a trade or business activity, and if so, whether you materially participated in the activity for the tax year.

See the Instructions for Form 8582 to determine whether you materially participated in the activity and for the definition of “rental activity.” See Pub. 925 for special rules that apply to rentals of:
- Substantially nondepreciable property,
- Property incidental to development activities, and
- Property related to activities in which you materially participate.

Activities That Are Not Passive Activities
Activities of real estate professionals. If you were a real estate professional for 2009, any rental real estate activity in which you materially participated is not a passive activity. You were a real estate professional if you engaged in the business of real property development, redevelopment, construction, reconstruction, acquisition, conversion, rental, operation, management, leasing, or brokerage trade or business.

You performed more than 750 hours of services during the year in real property trades or businesses in which you materially participated.

If you are married filing separately, you lived apart from your spouse all year; or
- 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. Services you performed as an employee are not 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.

For purposes of this rule, each interest in rental real estate is a separate activity, unless you elect to treat all your interests in rental real estate as one activity. To make this election, attach a statement to your original tax return that declares you are a qualifying taxpayer for the year and you are making the election under section 469(c)(7)(A). The election applies for the year made and all later years in which you are a real estate professional. You can revoke the election only if your facts and circumstances materially change.

If you were a real estate professional for 2009, complete Schedule E, line 43.

Other activities. The rental of your home or a mineral property that did not limit your liability is not a passive activity. See the Instructions for line 2 on page E-3.

A working interest in an oil or gas well that you held directly or through an entity that did not limit your liability is not a passive activity even if you did not materially participate.

Royalty income not derived in the ordinary course of a trade or business reported on Schedule E generally is not considered income from a passive activity.

For more details on passive activities, see the Instructions for Form 8582 and Pub. 925.

Exception for Certain Rental Real Estate Activities
If you meet all of the following conditions, your rental real estate losses are not limited by the passive activity loss rules. If you do not meet all of these conditions, see the Instructions for Form 8582 to find out if you must complete and attach Form 8582 to figure any losses allowed.

1. Rental real estate activities are your only passive activities.
2. You do not have any prior year unallowed losses from any passive activities.
3. All of the following apply if you have an overall net loss from these activities:
   a. You actively participated (defined below) in all of the rental real estate activities;
   b. If married filing separately, you lived apart from your spouse all year;
   c. Your overall net loss from these activities is $25,000 or less ($12,500 or less if married filing separately);
   d. You have no current or prior year unallowed credits from passive activities; and
   e. Your modified adjusted gross income (defined on page E-3) is $100,000 or less ($50,000 or less if married filing separately).

Active participation. You can meet the active participation requirement without regular, continuous, and substantial involvement in real estate activities. But you must have participated in making management decisions or arranging for others to provide services (such as repairs) in a significant and bona fide sense. Such management decisions include:
- Approving new tenants,
Part I

Before you begin, see the instructions for lines 3 and 4 on page E-4 to determine if you should report your rental real estate and royalty income on Schedule C, Schedule C-EZ, or Form 4835 instead of Schedule E.

Income or Loss From Rental Real Estate and Royalties

Use Part I to report:
- Income and expenses from rental real estate (including personal property leased with real estate), and
- Royalty income and expenses.
- For an estate or trust only, farm rental income and expenses based on crops or livestock produced by the tenant. Do not use Form 4835 or Schedule F (Form 1040) for this purpose.
- If you own a part interest in a rental real estate property, report only your part of the income and expenses on Schedule E.
- Complete lines 1 and 2 for each rental real estate property. Leave these lines blank for each royalty property.

Specific Instructions

Instructions for lines 3 and 4 on page E-4 to determine if you should report your rental real estate and royalty income on Schedule C, Schedule C-EZ, or Form 4835 instead of Schedule E.

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Use Part I to report:
- Income and expenses from rental real estate (including personal property leased with real estate), and
- Royalty income and expenses.
- For an estate or trust only, farm rental income and expenses based on crops or livestock produced by the tenant. Do not use Form 4835 or Schedule F (Form 1040) for this purpose.
- If you own a part interest in a rental real estate property, report only your part of the income and expenses on Schedule E.
- Complete lines 1 and 2 for each rental real estate property. Leave these lines blank for each royalty property.
Anyone in your family (or in the family of someone else who owns part of the unit), unless the unit is rented at a fair rental price to that person as his or her main home,

Anyone who pays less than a fair rental price for the unit, or

Anyone under an agreement that lets you use some other unit.

Do not count as personal use:

Any day you spent working substantially full time repairing and maintaining the unit, even if family members used it for recreational purposes on that day, or

Any days you used the unit as your main home before or after renting it or offering it for rent, if you rented or tried to rent it for at least 12 consecutive months (or for a period of less than 12 consecutive months at the end of which you sold or exchanged it).

Check “Yes” if you or your family used the unit for personal purposes in 2009 more than the greater of:

14 days, or
10% of the total days it was rented to others at a fair rental price.

Otherwise, check “No.”

If you checked “No” you can deduct all your expenses for the rental part, subject to the At-Risk Rules and the Passive Activity Loss Rules explained beginning on page E-1.

If you checked “Yes” and rented the unit out for fewer than 15 days in 2009, do not report the rental income and do not deduct any rental expenses. If you itemize deductions on Schedule A, you can deduct allowable interest, taxes, and casualty losses. If you do not itemize, you can increase your standard deduction by certain state or local real estate taxes, a net disaster loss attributable to a federally declared disaster, and new motor vehicle taxes.

If you checked “Yes” and rented the unit out for at least 15 days in 2009, you may not be able to deduct all your rental expenses. You can deduct all of the following expenses for the rental part on Schedule E:

- Mortgage interest.
- Real estate taxes.
- Casualty losses.
- Other rental expenses not related to your use of the unit as a home, such as advertising expenses and rental agents’ fees.

If any income is left after deducting these expenses, you can deduct other expenses, including depreciation, up to the amount of remaining income. You can carry over to 2010 the amounts you cannot deduct.

Regardless of whether you answered “No” or “Yes” to Question 2, expenses related to days of personal use do not qualify as rental expenses. You must allocate your expenses based on the number of days of personal use to total use of the property. For example, you used your property for personal use for 7 days and rented it for 63 days. Generally, 10% (7/70) of your expenses related to days of personal use and cannot be deducted on Schedule E.

See Pub. 527 for details.

Line 3

If you received rental income from real estate (including personal property leased with real estate) and you were not in the real estate business, report the income on line 3. Use a separate column (A, B, or C) for each rental property. Include income received for renting a room or other space. If you received services or property instead of money as rent, report the fair market value of what you received as rental income.

Be sure to enter the total of all your rents in the “Totals” column even if you have only one property.

If you provided significant services to the tenant, such as maid service, report the rental activity on Schedule C or C-EZ, not on Schedule E. Significant services do not include the furnishing of heat and light, cleaning of public areas, trash collection, or similar services.

If you were in the real estate sales business, include on line 3 only the rent received from real estate (including personal property leased with real estate) you held for investment or speculation. Do not use Schedule C to report rental income and expenses from rentals of real estate held for sale to customers in the ordinary course of your real estate sales business. Instead, use Schedule C or C-EZ for these rentals.

For more details on rental income use TeleTax topic 414 (see the Instructions for Form 1040, page 93), or see Pub. 527.

Rental income from farm production or crop shares. Report farm rental income and expenses on Form 4835 if:

- You are an individual,
- You received rental income based on crops or livestock produced by the tenant, and
- You did not materially participate in the management or operation of the farm.

Line 4

Report on line 4 royalties from oil, gas, or mineral properties (not including operating interests); copyrights; and patents. Use a separate column (A, B, or C) for each royalty property. Be sure to enter the total of all your royalties in the “Totals” column even if you have only one source of royalties.

If you received $10 or more in royalties during 2009, the payer should send you a Form 1099-MISC or similar statement by February 1, 2010, showing the amount you received.

If you are in business as a self-employed writer, inventor, artist, etc., report your royalty income and expenses on Schedule C or C-EZ.

You may be able to treat amounts received as “royalties” for the transfer of a patent or amounts received on the disposal of coal and iron ore as the sale of a capital asset. For details, see Pub. 544.

Enter on line 4 the gross amount of royalty income, even if state or local taxes were withheld from oil or gas payments you received. Include taxes withheld by the producer on line 16.

General Instructions for Lines 5 Through 21

Enter your rental and royalty expenses for each property in the appropriate column. You can deduct all ordinary and necessary expenses, such as taxes, interest, repairs, insurance, management fees, agents’ commissions, and depreciation.

Do not deduct the value of your own labor or amounts paid for capital investments or capital improvements.

Enter your total expenses for mortgage interest (line 12), total expenses before depreciation expense or depletion (line 19), and depreciation expenses or depletion (line 20) in the “Totals” column even if you have only one property.

Renting out part of your home. If you rent out only part of your home or other property, deduct the part of your expenses that applies to the rented part.

Credit or deduction for access expenditures. You may be able to claim a tax credit for eligible expenditures paid or incurred in 2009 to provide access to your business for individuals with disabilities. See Form 8826 for details.

You can also elect to deduct up to $15,000 of qualified costs paid or incurred in 2009 to remove architectural or transportation barriers to individuals with disabili- ties and the elderly.

You cannot take both the credit and the deduction for the same expenditures.

Line 6

You can deduct ordinary and necessary auto and travel expenses related to your rental activities, including 50% of meal expenses incurred while traveling away from home. You generally can either deduct your actual expenses or take the standard mileage rate. You must use actual expenses if you used more than four vehicles simultaneously in your rental activities (as in fleet operations). You cannot use actual expenses for a leased vehicle if you previ-
ously used the standard mileage rate for that vehicle.

You can use the standard mileage rate for 2009 only if you:

- Owned the vehicle and used the standard mileage rate for the first year you placed the vehicle in service, or
- Leased the vehicle and are using the standard mileage rate for the entire lease period (except the period, if any, before 1998).

If you take the standard mileage rate, multiply the number of miles driven in connection with your rental activities by 55 cents. Include this amount and your parking fees and tolls on line 6.

You cannot deduct rental or lease payments, depreciation, or your actual auto expenses if you use the standard mileage rate.

If you deduct actual auto expenses:

- Include on line 6 the rental activity portion of the cost of gasoline, oil, repairs, insurance, tires, license plates, etc., and
- Show auto rental or lease payments on line 18 and depreciation on line 20.

If you claim any auto expenses (actual or the standard mileage rate), you must complete Part V of Form 4562 and attach Form 4562 to your tax return.

See Pub. 527 and Pub. 463 for details.

**Line 10**

Include on line 10 fees for tax advice and the preparation of tax forms related to your rental real estate or royalty properties.

Do not deduct legal fees paid or incurred to defend or protect title to property, to recover property, or to develop or improve property. Instead, you must capitalize these fees and add them to the property’s basis.

**Lines 12 and 13**

In general, to determine the interest expense allocable to your rental activities, you must have records to show how the proceeds of each debt were used. Specific tracing rules apply for allocating debt proceeds and repayment. See Pub. 535 for details.

If you have a mortgage on your rental property, enter on line 12 the amount of interest you paid for 2009 to banks or other financial institutions. Be sure to enter the total of all your mortgage interest in the “Totals” column even if you have only one property.

Do not deduct prepaid interest when you paid it. You can deduct it only in the year to which it is properly allocable. Points, including loan origination fees, charged only for the use of money must be deducted over the life of the loan.

If you paid $600 or more in interest on a mortgage during 2009, the recipient should send you a Form 1098 or similar statement by February 1, 2010, showing the total interest received from you.

If you paid more mortgage interest than is shown on your Form 1098 or similar statement, see Pub. 535 to find out if you can deduct part or all of the additional interest.

If you can, enter the entire deductible amount on line 12. Attach a statement to your return explaining the difference. On the dotted line next to line 12, enter “See attached.”

**Note.** If the recipient was not a financial institution or you did not receive a Form 1098 from the recipient, report your deductible mortgage interest on line 13.

If you and at least one other person (other than your spouse if you file a joint return) were liable for and paid interest on the mortgage, and the other person received Form 1098, report your share of the deductible mortgage interest on line 13.

If you and at least one other person (other than your spouse if you file a joint return) were liable for and paid interest on the mortgage, the recipient should send you a Form 1098 or similar statement by February 1, 2010, showing the total interest received from you.

If you deduct actual auto expenses:

- Include on line 6 the rental activity portion of the cost of gasoline, oil, repairs, insurance, tires, license plates, etc., and
- Show auto rental or lease payments on line 18 and depreciation on line 20.

If you claim any auto expenses (actual or the standard mileage rate), you must complete Part V of Form 4562 and attach Form 4562 to your tax return.

See Pub. 527 and Pub. 463 for details.

**Line 14**

You can deduct the cost of repairs made to keep your property in good working condition. Repairs generally do not add significant value to the property or extend its life. Examples of repairs are fixing a broken lock or painting a room. Improvements that increase the value of the property or extend its life, such as replacing a roof or renovating a kitchen, must be capitalized and depreciated (that is, they cannot be deducted in full in the year they are paid or incurred). See the instructions for line 20 on this page.

**Line 17**

You can deduct the cost of ordinary and necessary telephone calls related to your rental activities or royalty income (for example, calls to the renter). However, if you base rate (including taxes and other charges) for local telephone service for the first telephone line into your residence is a personal expense and is not deductible.

**Line 18**

Enter on line 18 any ordinary and necessary expenses that are not listed on lines 5 through 17 and line 20.


**Line 20**

Depreciation is the annual deduction you must take to recover the cost or other basis of business or investment property having a useful life substantially beyond the tax year. Land is not depreciable.

Depreciation starts when you first use the property in your business or for the production of income. It ends when you deduct all your depreciable cost or other basis or no longer use the property in your business or for the production of income.

See the Instructions for Form 4562 to figure the amount of depreciation to enter on line 20. Be sure to enter the total of all your depreciation in the “Totals” column even if you have only one property.

You must complete and attach Form 4562 only if you are claiming:

- Depreciation on property first placed in service during 2009;
- Depreciation on listed property (defined in the Instructions for Form 4562), including a vehicle, regardless of the date it was placed in service, or
- A section 179 expense deduction or amortization of costs that began in 2009.

See Pub. 527 for more information on depreciation of residential rental property. See Pub. 946 for a more comprehensive guide to depreciation.

If you have an economic interest in mineral property, you may be able to take a deduction for depletion. Mineral property includes oil and gas wells, mines, and other natural deposits (including geothermal deposits). See Pub. 535 for details.

**Separating cost of land and buildings.** If you buy buildings and your cost includes the cost of the land on which they stand, you must divide the cost between the land and the buildings to figure the basis for depreciation of the buildings. The part of the cost that you allocate to each asset is the ratio of the fair market value of that asset to the fair market value of the whole property at the time you buy it.

If you are not certain of the fair market values of the land and the buildings, you can divide the cost between them based on their assessed values for real estate tax purposes.

**Line 22**

If you have amounts for which you are not at risk, use Form 6198 to determine the amount of your deductible loss. Enter that amount in the appropriate column of Schedule E, line 22. In the space to the left of line 22, enter “Form 6198.” Attach Form 6198 to your return. For details on the at-risk rules, see page E-1.

**Line 23**

Do not complete line 23 if the amount on line 22 is from royalty properties.
If you have a rental real estate loss from a passive activity (defined on page E-2), the amount of loss you can deduct may be limited by the passive activity loss rules. You may need to complete Form 8582 to figure the amount of loss, if any, to enter on line 23. See the Instructions for Form 8582 to determine if your loss is limited.

If your rental real estate loss is not from a passive activity or you meet the exception for certain rental real estate activities (explained on page E-2), you do not have to complete Form 8582. Enter the loss from line 22 on line 23.

If you have an unallowed rental real estate loss from a prior year that after completing Form 8582 you can deduct this year, include that loss on line 23.

**Parts II and III**

If you need more space in Part II or III to list your income or losses, attach a continuation sheet using the same format as shown in Part II or III. However, be sure to complete the “Totals” columns for lines 29a and 29b, or lines 34a and 34b, as appropriate. If you also completed Part I on more than one Schedule E, use the same Schedule E on which you entered the combined totals on Part I.

**Tax preference items.** If you are a partner, a shareholder in an S corporation, or a beneficiary of an estate or trust, you must take into account your share of preferences and adjustments from these entities for the alternative minimum tax on Form 6251 or Schedule B (Form 1040).

**Part II Income or Loss From Partnerships and S Corporations**

If you are a member of a partnership or joint venture or a shareholder in an S corporation, use Part II to report your share of the partnership or S corporation income (even if not received) or loss. You should receive a Schedule K-1 from the partnership or S corporation. You should also receive a copy of the Partner’s or Shareholder’s Instructions for Schedule K-1. Your copy of Schedule K-1 and its instructions will tell you where on your return to report your share of the items. If you did not receive these instructions with your Schedule K-1, see the instructions for Form 1040 or Form 1040NR for how to get tax forms, instructions, and publications. Do not attach Schedules K-1 to your return. Keep them for your records.

If you are treating items on your tax return differently from the way the partnership (other than an electing large partner- ship) or S corporation reported them on its return, you may have to file Form 8082. If you are a partner in an electing large partnership, you must report the items shown on Schedule K-1 (Form 1065-B) on your tax return the same way that the partnership reported the items on Schedule K-1.

**Special rules that limit losses.** Please note the following.

- If you have a current year loss, or a prior year unallowed loss, from a partnership or an S corporation, see At-Risk Rules and Passive Activity Loss Rules beginning on page E-1.

  Partners and S corporation shareholders should get a separate statement of income, expenses, deductions, and credits for each activity engaged in by the partnership and S corporation. If you are subject to the at-risk rules for any activity, check the box on the appropriate line in Part II, column (e) of Schedule E, and use Form 6198 to figure the amount of any deductible loss. If the activity is nonpassive, enter any deductible loss from Form 6198 on the appropriate line in Part II, column (h) of Schedule E.

- If you have a passive activity loss, you generally need to complete Form 8582 to figure the amount of the allowable loss to enter in Part II, column (f), for that activity. But if you are a general partner or an S corporation shareholder reporting your share of a partnership or an S corporation loss from a rental real estate activity and you meet all of the conditions listed on page E-2 under Exception for Certain Rental Real Estate Activities, you do not have to complete Form 8582. Instead, enter your allowable loss in Part II, column (f).

  If you have passive activity income, complete Part II, column (g), for that activity.

  If you have nonpassive income or losses, complete Part II, columns (h) through (j), as appropriate.

**Domestic Partnerships**

See the Schedule K-1 instructions before entering on your return other partnership items from a passive activity or income or loss from any publicly traded partnership. You can deduct unreimbursed ordinary and necessary expenses you paid on behalf of the partnership if you were required to pay these expenses under the partnership agreement. See the instructions for line 27 on page E-7 for how to report these expenses.

Report allowable interest expense paid or incurred from debt-financed acquisitions in Part II or on Schedule A depending on the type of expenditure to which the interest is allocated. See Pub. 535 for details.

If you claimed a credit for federal tax on gasoline or other fuels on your 2008 Form 1040, or Form 1040NR, based on information received from the partnership, enter as income in column (g) or column (j), which-

- ever applies, the amount of the credit claimed for 2008.

Part or all of your share of partnership income or loss from the operation of the business may be considered net earnings from self-employment that must be reported on Schedule SE. Enter the amount from Schedule K-1 (Form 1065), box 14, (or from Schedule K-1 (Form 1065-B), box 9 (code J1)), on Schedule SE, after you reduce this amount by any allowable expenses attributable to that income.

**Foreign Partnerships**

Follow the instructions below in addition to the instructions above for Domestic Partnerships.

If you are a U.S. person, you may have received Forms 1099-B, 1099-DIV, and 1099-INT reporting your share of certain partnership income, because payors of income to the foreign partnership generally are required to allocate and report payments that of income directly to each of the partners of the foreign partnership. If you received both Schedule K-1 and Form 1099 for the same type and source of partnership income, report only the income shown on Schedule K-1 in accordance with its instructions.

If you are not a U.S. person, you may have received Forms 1042-S reporting your share of certain partnership income, because payors of income to the foreign partnership generally are required to allocate and report payments that of income directly to each of the partners of the foreign partnership. If you received both Schedule K-1 and Form 1092-S for the same type and source of partnership income, report the income on your return as follows.

- For all income effectively connected with the conduct of a trade or business in the United States, report only the income shown on Schedule K-1 in accordance with its instructions.

- For all income not effectively connected with the conduct of a trade or business in the United States, report on page 4 of Form 1040NR only the income shown on Form 1042-S (if you are required to file Form 1040NR).

**Requirement to file Form 8865.** If you are a U.S. person, you may have to file Form 8865 if any of the following applies.

1. You controlled a foreign partnership (that is, you owned more than a 50% direct or indirect interest in the partnership).

2. You owned at least a 10% direct or indirect interest in a foreign partnership while U.S. persons controlled that partnership.

3. You had an acquisition, disposition, or change in proportional interest of a foreign partnership.

   a. Increased your direct interest to at least 10% or reduced your direct interest of at least 10% to less than 10%, or
b. Changed your direct interest by at least a 10% interest.

4. You contributed property to a foreign partnership in exchange for a partnership interest if:

a. Immediately after the contribution, you owned, directly or indirectly, at least a 10% interest in the partnership, or

b. The value of the property you contributed, when added to the value of any other property you or any related person contributed to the partnership during the 12-month period ending on the date of transfer, exceeds $100,000.

Also, you may have to file Form 8865 to report certain dispositions by a foreign partnership of property you previously contributed to that partnership if you were a partner at the time of the disposition.

For more details, including penalties for failure to file Form 8865, see Form 8865 and its separate instructions.

**S Corporations**

If you are a shareholder in an S corporation, your share of the corporation’s aggregate losses and deductions (combined income, losses, and deductions) is generally limited to the adjusted basis of your corporate stock and any debt the corporation owes you. Any loss or deduction not allowed this year because of the basis limitation can be carried forward and deducted in a later year subject to the basis limitation for that year.

If you are claiming a deduction for your share of an aggregate loss, attach to your return a computation of the adjusted basis of your corporate stock and of any debt the corporation owes you. See the Schedule K-1 instructions for details.

After applying the basis limitation, the deductible amount of your aggregate losses and deductions may be further reduced by the at-risk rules and the passive activity loss rules. See pages E-1 and E-2.

Distributions of prior year accumulated earnings and profits of S corporations are dividends and are reported on Form 1040, line 9a.

Interest expense relating to the acquisition of shares in an S corporation may be fully deductible on Schedule E. For details, see Pub. 535.

Your share of the net income of an S corporation is not subject to self-employment tax.

**Line 27**

If you answered “Yes” on line 27, follow the instructions below. If you fail to follow these instructions, the IRS may send you a notice of additional tax due because the amounts reported by the partnership or S corporation on Schedule K-1 do not match the amounts you reported on your tax return.

**Losses Not Allowed in Prior Years Due to the At-Risk or Basis Limitations**

- Enter your total prior year unallowed losses that are now deductible on a separate line in column (h) of line 28. Do not combine these losses with, or net them against, any current year amounts from the partnership or S corporation.
- Enter “PYA” in column (a) of the same line.

**Prior Year Unallowed Losses From a Passive Activity Not Reported on Form 8582**

- Enter on a separate line in column (f) of line 28 your total prior year unallowed losses not reported on Form 8582. Such losses include prior year unallowed losses that are now deductible because you did not have an overall loss from all passive activities or you disposed of your entire interest in a passive activity in a fully taxable transaction. Do not combine these losses with, or net them against, any current year amounts from the partnership or S corporation.
- Enter “PYA” in column (a) of the same line.

**Unreimbursed Partnership Expenses**

- You can deduct unreimbursed ordinary and necessary partnership expenses you paid on behalf of the partnership on Schedule E if you were required to pay these expenses under the partnership agreement (except amounts deductible only as itemized deductions, which you must enter on Schedule A).
- Enter unreimbursed partnership expenses from nonpassive activities on a separate line in column (h) of line 28. Do not combine these expenses with, or net them against, any other amounts from the partnership.
- If the expenses are from a passive activity and you are not required to file Form 8582, enter the expenses related to a passive activity on a separate line in column (f) of line 28. Do not combine these expenses with, or net them against, any other amounts from the partnership.
- Enter “UPE” in column (a) of the same line.

**Line 28**

For nonpassive income or loss (and passive income or losses for which you are not filing Form 8582), enter in the applicable column of line 28 your current year ordinary income or loss from the partnership or S corporation. Report each related item required to be reported on Schedule E (including items of income or loss stated separately on Schedule K-1) in the applicable column of a separate line following the line on which you reported the current year ordinary income or loss. Also enter a description of the related item (for example, depletion) in column (a) of the same line.

If you are required to file Form 8582, see the Instructions for Form 8582 before completing Schedule E.

**Part III**

**Income or Loss From Estates and Trusts**

If you are a beneficiary of an estate or trust, use Part III to report your part of the income (even if not received) or loss. You should receive a Schedule K-1 (Form 1041) from the fiduciary. Your copy of Schedule K-1 and its instructions will tell you where on your return to report the items from Schedule K-1. Do not attach Schedule K-1 to your return. Keep it for your records.

If you are treating items on your tax return differently from the way the estate or trust reported them on its return, you may have to file Form 8082.

If you have estimated taxes credited to you from a trust (Form 1041, Schedule K-1, box 13, code A), enter “ES payment claimed” and the amount on the dotted line next to line 37. Do not include this amount in the total on line 37. Instead, enter the amount on Form 1040, line 62, or Form 1040NR, line 59.

A U.S. person who transferred property to a foreign trust may have to report the income received by the trust as a result of the transferred property if, during 2009, the trust had a U.S. beneficiary. See section 679. An individual who received a distribution from, or who was the grantor of, or transferor to, a foreign trust may have to file Form 8082. In addition, the owner of a foreign trust must ensure that the trust files an annual information return on Form 3520-A.

**Part IV**

**Income or Loss From Real Estate Mortgage Investment Conduits (REMICs)**

If you are the holder of a residual interest in a REMIC, use Part IV to report your total share of the REMIC’s taxable income or loss for each quarter included in your tax year. You should receive Schedule Q (Form 1066) and instructions from the REMIC for each quarter. Do not attach Schedules Q to your return. Keep them for your records.

If you are treating REMIC items on your tax return differently from the way the REMIC reported them on its return, you may have to file Form 8082.
If you are the holder of a residual interest in more than one REMIC, attach a continuation sheet using the same format as in Part IV. Enter the combined totals of columns (d) and (e) on Schedule E, line 39. If you also completed Part I on more than one Schedule E, use the same Schedule E on which you entered the combined totals in Part I.

REMIC income or loss is not income or loss from a passive activity.

Note. If you are the holder of a regular individual interest in a REMIC, do not use Schedule E to report the income you received. Instead, report it on Form 1040, line 8a.

Column (c). Report the total of the amounts shown on Schedule(s) Q, line 2c. This is the smallest amount you are allowed to report as your taxable income (Form 1040, line 43). It is also the smallest amount you are allowed to report as your alternative minimum taxable income (AMTI) on Form 6251, line 29.

If the amount in column (c) is larger than your taxable income would otherwise be, enter the amount from column (c) on Form 1040, line 43. Similarly, if the amount in column (c) is larger than your AMTI would otherwise be, enter the amount from column (c) on Form 6251, line 29. Enter “Sch. Q” on the dotted line to the left of this amount on Form 1040, line 43, and Form 6251, line 29, if applicable.

Note. These rules also apply to estates and trusts that hold a residual interest in a REMIC. Be sure to make the appropriate entries on the comparable lines on Form 1041.

Column (e). Report the total of the amounts shown on Schedule(s) Q, line 3b. If you itemize your deductions, include this amount on Form 1040, Schedule A, line 23.

Part V Summary

Line 42

You will not be charged a penalty for underpayment of estimated tax if:

1. Your gross farming or fishing income for 2008 or 2009 is at least two-thirds of your gross income, and
2. You file your 2009 tax return and pay the tax due by March 1, 2010.

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 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 approved under OMB control number 1545-1972 and is shown below.

Recordkeeping 3 hr.
Learning about the law or the form 1 hr., 13 min.
Preparing the form 1 hr., 27 min.
Copying, assembling, and sending the form to the IRS 34 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.