



Passive Activity Loss Limitations For Nonresidents and Part-Year Residents

Attach to your Form IT-203 or IT-205

Name as shown on return Identifying number as shown on return

See the instructions on page 4, before completing this form.

Part I — 2004 Passive activity loss

Rental real estate activities with active participation

1a Activities with net income from Worksheet 1, column (a)
1b Activities with net loss from Worksheet 1, column (b)
1c Prior years unallowed losses from Worksheet 1, column (c)
1d Add lines 1a, 1b, and 1c

Commercial revitalization deductions from rental real estate activities

2a Commercial revitalization deductions from Worksheet 2, column (a)
2b Prior year unallowed commercial revitalization deductions from Worksheet 2, column (b)
2c Add lines 2a and 2b

All other passive activities

3a Activities with net income from Worksheet 3, column (a)
3b Activities with net loss from Worksheet 3, column (b)
3c Prior years unallowed losses from Worksheet 3, column (c)
3d Add lines 3a, 3b, and 3c

4 Add lines 1d, 2c, and 3d. Note: If the result is net income or zero, all losses are allowed, including any prior year unallowed losses entered on line 1c, 2b, or 3c. Do not complete Form IT-182. Report the losses on the forms and schedules normally used.

- If line 4 is a loss and:
• Line 1d is a loss, go to Part II.
• Line 2c is a loss (and line 1d is zero or more), skip Part II and go to Part III.
• Line 3d is a loss (and lines 1d and 2c are zero or more), skip Parts II and III and go to Part IV, line 15.

Caution: If married filing separately, filing status 3, and you lived with your spouse at any time during the year, do not complete Part II or Part III. Instead, go to Part IV, line 15.

Part II — Special allowance for rental real estate with active participation

Note: Enter all numbers in Part II as positive amounts (greater than zero). See instructions.

5 Enter the smaller of the loss on line 1d or the loss on line 4
6 Enter \$150,000 (if married filing separately, see instructions)
7 Enter federal modified adjusted gross income, but not less than zero
8 Subtract line 7 from line 6
9 Multiply line 8 by 50% (.5). Do not enter more than \$25,000.
10 Enter the smaller of line 5 or line 9

If line 2c is a loss, go to Part III. Otherwise, go to line 15

Part III — Special allowance for commercial revitalization deductions from rental real estate activities

Note: Enter all numbers in Part III as positive amounts (greater than zero). See instructions.

11 Enter \$25,000 reduced by the amount, if any, on line 10.
12 Enter the loss from line 4
13 Subtract line 10 from line 12
14 Enter the smallest of line 2c (treated as a positive amount), line 11, or line 13

Part IV— Total losses allowed

15 Add the income, if any, from lines 1a and 3a and enter the total
16 Total losses allowed from all passive activities for 2004. (Add lines 10, 14, and 15. See the instructions to find out how to report the losses on your return.)

Caution: File this form and its worksheets with your tax return. Keep a copy for your records.

Worksheet 1 — For Form IT-182, lines 1a, 1b, and 1c (see instructions)

Name of activity/property description and address	Date of acquisition	Date of sale	Current year		Prior years	Overall gain or loss	
			(a) Net income (line 1a)	(b) Net loss (line 1b)	(c) Unallowed loss (line 1c)	(d) Gain	(e) Loss
Totals. Enter on Form IT-182, lines 1a, 1b, and 1c							

Worksheet 2 — For Form IT-182, lines 2a and 2b (see instructions)

Name of activity/property description and address	(a) Current year deductions (line 2a)	(b) Prior years' unallowed deductions (line 2b)	(c) Overall loss
Totals. Enter on Form IT-182, lines 2a and 2b			

Worksheet 3 — For Form IT-182, lines 3a, 3b, and 3c (see instructions)

Name of activity/property description and address	Date of acquisition	Date of sale	Current year		Prior years	Overall gain or loss	
			(a) Net income (line 3a)	(b) Net loss (line 3b)	(c) Unallowed loss (line 3c)	(d) Gain	(e) Loss
Totals. Enter on Form IT-182, lines 3a, 3b, and 3c							

Worksheet 4 — Use this worksheet if an amount is shown on Form IT-182, line 10 or 14 (see instructions)

Name of activity/property description and address	Form or schedule and line number to be reported on	(a) Loss	(b) Ratio	(c) Special Allowance	(d) Subtract column (c) from column (a)
Totals			1.00		

Worksheet 5 — Allocation of unallowed losses (see instructions)

Name of activity/property description and address	Form or schedule and line number to be reported on	(a) Loss	(b) Ratio	(c) Unallowed loss
Totals	▶		1.00	

Worksheet 6 — Allowed losses (see instructions)

Name of activity/property description and address	Form or schedule and line number to be reported on	(a) Loss	(b) Unallowed loss	(c) Allowed loss
Totals	▶			

Worksheet 7 — Activities with losses reported on two or more different forms or schedules (see instructions)

Name of activity/property description and address:	(a)	(b)	(c) Ratio	(d) Unallowed loss	(e) Allowed loss	
Form or schedule and line number to be reported on (see instructions): _____						
1a Net loss plus prior year unallowed loss from form or schedule						▶
1b Net income from form or schedule						▶
1c Subtract line 1b from line 1a. If zero or less, enter 0	▶					
Form or schedule and line number to be reported on (see instructions): _____						
1a Net loss plus prior year unallowed loss from form or schedule						▶
1b Net income from form or schedule						▶
1c Subtract line 1b from line 1a. If zero or less, enter 0	▶					
Form or schedule and line number to be reported on (see instructions): _____						
1a Net loss plus prior year unallowed loss from form or schedule						▶
1b Net income from form or schedule						▶
1c Subtract line 1b from line 1a. If zero or less, enter 0	▶					
Totals	▶		1.00			

Instructions

General instructions

New York State Tax Law conforms to the passive activity loss rules for federal purposes. However, any deduction for a passive activity loss (PAL) for a nonresident or part-year resident must be recomputed to determine the amount that is allowed if the federal adjusted gross income took into account only items of income, gain, loss, or deduction derived from or connected with New York sources.

Purpose of form

Nonresident or part-year resident individuals, estates or trusts must file Form IT-182, *Passive Activity Loss Limitations*, to report the amount of allowed passive activity losses from New York sources for the current tax year.

It is possible, because of the above rules, for a nonresident to have a PAL for New York State without having a PAL for federal purposes, or to have a New York State PAL that is larger or smaller than the corresponding federal PAL. A nonresident or part-year resident individual, estate or trust claiming a PAL for New York State purposes but not for federal income tax purposes must file Form IT-203, *Nonresident and Part-Year Resident Income Tax Return*, or Form IT-205, *Fiduciary Income Tax Return*, to report the carryover of any PAL derived from or connected with New York sources.

If you were a **part-year resident**, you must recalculate your PAL limitations as if separate federal returns were filed for your resident and nonresident periods using only those items of income, gain, loss, or deduction attributable to each period. For the resident period, compute the New York PAL using only those items of income, gain, loss, and deduction that would have been reported if a separate federal return was filed for the period of New York State residence. For the nonresident period, compute the New York PAL using only those items of income and loss derived from or connected with New York sources.

Generally, losses from passive activities are subject to other limitations, such as 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 Limitations*, and federal Publication 925, *Passive Activity and At-Risk Rules*, for details on the at-risk rules.

Specific instructions

Before completing Form IT-182, figure your federal PAL limitation using federal Form 8582, *Passive Activity Loss Limitations*, and the federal worksheets attached to Form 8582. Then complete Form IT-182 and the New York worksheets attached to Form IT-182 using only those activities included on federal Form 8582 derived from or connected with New York sources. Part-year residents see *General instructions* above.

Part I — 2004 Passive activity loss

Use Part I to combine the net income and net loss from all New York passive activities to determine if you have a PAL from New York sources for 2004.

Enter the amounts on lines 1a through 4 using Worksheets 1, 2, and 3 on page 2.

Worksheets 1, 2, and 3. Enter the name of the activity or the description and address of the property. Enter the acquisition date and the sale date in Worksheets 1 and 3, if applicable, of rental real estate activity in the columns indicated. See the instructions for federal Form 8582 for specific line instructions and examples for completing the worksheets. Complete the worksheets using only those items of income, gain, loss, or deduction derived from or connected with New York sources.

Part II — Special allowance for rental real estate with active participation

Use Part II to figure the maximum amount of rental loss allowed for New York purposes if you have a net loss from a rental real estate activity with active participation. Enter all numbers in Part II as positive amounts (greater than zero).

See the instructions for federal Form 8582 for specific line instructions and examples.

Line 6 — Married persons filing separate returns who lived apart from their spouses at all times during the year must enter \$75,000 on line 6 instead of \$150,000. Married persons filing separate returns who lived with their spouses at any time during the year are not eligible for the special allowance. They must enter **0** on line 10 and go to line 15.

Line 7 — See the instructions for federal Form 8582 to figure your federal modified adjusted gross income. Enter on line 7 your modified adjusted gross income using only those amounts derived from or connected with New York sources.

Line 9 — Do not enter more than \$12,500 on line 9 if you are married filing a separate return and you and your spouse lived apart at all times during the year. Married persons filing separate returns who lived with their spouses at any time during the year are not eligible for the special allowance. They must enter **0** on line 10 and go to line 15.

Part III — Special allowance for commercial revitalization deductions from rental real estate activities

Use Part III to compute the maximum amount of commercial revitalization deductions allowed if you have a commercial revitalization deduction (CRD) from a rental real estate activity within New York State. For more information about the CRD, see the instructions for federal Form 8582, federal Form 4562, *Depreciation and Amortization*, or section 1400I of the Internal Revenue Code.

Enter all numbers in Part III as positive amounts (greater than zero).

Line 11 — If you are married filing a separate return and you and your spouse lived apart at all times during the year, enter \$12,500 (reduced by the amount, if any, on line 10). Married persons filing separate returns who lived with their spouses at any time during the year are not eligible for the special allowance. They must enter **0** on line 14 and go to line 15.

Part IV — Total losses allowed

Use Part IV to figure the amount of the PAL from New York sources (as determined in Part I) allowed for 2004.

Line 16 — Use the worksheets provided with this form and the instructions for Part IV of federal Form 8582, Worksheet 1 through Worksheet 7, to calculate the unallowed loss from New York sources to be carried forward and the allowed loss from New York sources of each activity. Report the amounts allowed in the *New York State amount* column of Form IT-203 or on Form IT-205-A, *Fiduciary Allocation*.

Complete the worksheets provided with this form, using only those items of income or loss derived from or connected with New York sources. (Also see Part IV of the instructions for federal Form 8582.)

How to report allowed losses

See *How To Report Allowed Losses* in the instructions for federal Form 8582. Follow the instructions and use Worksheet 6 and Worksheet 7 to identify the amount of allowed losses from each activity from New York sources. Report the recomputed amounts of the New York allowed loss for each activity in the *New York State amount* column of Form IT-203 or on Form IT-205-A on the same line on which the loss was reported for federal purposes.

Attach Form IT-182 to your Form IT-203, *Nonresident and Part-Year Resident Income Tax Return*, or Form IT-205, *Fiduciary Income Tax Return*.

Retention of records

Keep a copy of the 2004 Form IT-182 and the worksheets used to calculate the amounts reported on Form IT-203 or on Form IT-205-A for three years after the sale or disposition of all activities included on the form.