Form 8582 Worksheet Guide

Find your suspended passive losses, list them by activity, and see what a sale would free.

Your stuck rental and K-1 losses are coupons with your name on them, and Form 8582 is where they live. They can be cashed in against passive gain, like the gain from selling a rental. This guide shows where to find them, a worksheet to list them activity by activity, and the tests that decide whether a sale redeems them. Bring the filled-in page to your CPA.

Step 1. Count your coupons

- Pull **last year's Form 8582, Part VII, column (c)**. That is each activity's prior-year unallowed loss.
- No Form 8582 on file? Ask your preparer for the carryover worksheet. A new preparer or software switch is the most common way column (c) goes blank.
- Losses stuck at the **basis or at-risk** limits are not on Form 8582. Ask for those worksheets too.
- California owners keep a second reservoir on FTB 3801, because California does not follow the real estate professional rule or bonus depreciation.

Step 2. The worksheet

Activity (property or K-1)	Prior-year unallowed loss (Part VII col. c)	This year's income or loss	Grouped with others? (Y/N)	Buyer related? (Y/N)	Planned: cash, installment, 1031, hold
Total					

Step 3. Why the losses are stuck

- Passive losses offset only passive income (§469). Rentals are passive unless you qualify as a real estate professional and materially participate.
- The $25,000 special allowance for active-participation rentals phases out by 50 cents per dollar of modified AGI above $100,000 and is gone at $150,000 (§469(i)(3)). Gain in a sale year raises modified AGI too.
- Unallowed losses carry forward with no expiration (§469(b)) and stay with the activity that produced them.

Step 4. Will a sale free them? Five tests

- [ ] **Entire interest.** You sell your entire interest in the activity. If the building is grouped with others, or you made the real estate professional aggregation election, selling one building is generally not a disposition of the activity (Reg. §§1.469-4, 1.469-9(g)). Exception: a sale of substantially all of the activity can be treated as a separate activity if the CPA can trace its losses and income with reasonable certainty (Reg. §1.469-4(g)).
- [ ] **Unrelated buyer.** A sale to a related party (§267(b) or §707(b)(1)) does not free the losses against other income until the related buyer sells to an unrelated person (§469(g)(1)(B)); meanwhile they still offset passive income.
- [ ] **Fully taxable.** A 1031 exchange does not free the losses, because not all gain is recognized; they stay with the activity. Any boot gain is still passive income that absorbs them.
- [ ] **Character.** For an owner who is not a qualifying real estate professional, all gain on selling a rental, including recapture, is passive income (Temp. Reg. §1.469-2T(c)(2)(i)(A)), so it also absorbs losses from your *other* passive activities.
- [ ] **Self-rental.** Net rent from a building leased to your own operating business, and the gain on selling it, is nonpassive (Reg. §1.469-2(f)(6)) and will not absorb these losses.

Step 5. Installment sale: the building's own gain uses its losses first

On an installment sale of the entire activity, each year's gain from the sold building is passive income, and Form 8582 nets it against that building's suspended losses first. Only an overall loss left after that netting is freed against your other income, in the ratio of gain recognized this year to gain not yet recognized at the start of the year (§469(g)(3); Form 8582 instructions, "Overall loss" and Dispositions).

Formula: overall loss = the building's suspended and current losses minus this year's gain from it. If there is one, freed this year = overall loss x (gain recognized this year / gain not yet recognized at the start of the year).
Simple example: total gross profit $400,000; $100,000 recognized this year; the building's suspended losses $120,000. The $100,000 gain absorbs $100,000 of them. The $20,000 overall loss left frees $20,000 x $100,000 / $400,000 = **$5,000** against your other income; $15,000 carries over, and next year's $100,000 gain absorbs it. With a real gain, the building's own losses are usually used up in the first year or two. Recapture income (§1245, and §1250 ordinary income) is recognized in the year of sale (§453(i)), so it adds to year one's gain.

Separately, each year's installment gain is still passive income that meets losses your other rentals and K-1s keep producing. Interest on the note is portfolio income, not passive (Temp. Reg. §1.469-2T(c)(3)), so losses cannot offset it.

Step 6. Limits after the release

- Released losses can still hit the excess business loss limit ($256,000, or $512,000 joint, for 2026) if the rental is a trade or business (Form 461), with any excess carried as an NOL.
- At death, suspended losses are deductible on the final return only to the extent they exceed the basis step-up; the rest are lost (§469(g)(2)).

The coupons can also pay the estate tax. The tax they save on each installment payment can fund a life insurance policy owned by an irrevocable trust, so the death benefit lands outside your estate. In the extreme example in The Waterfall Strategy ($8,000,000 gain, $10,500,000 of suspended losses, 5-year note) the federal income tax on the payments is $0 and the policy pays a $6,000,000 estate tax; most people get part, and interest in each payment is still taxed.

Questions to ask your CPA

- What is in Part VII, column (c), by activity, federal and California?
- Are my rentals grouped, and did I ever make the aggregation election?
- If I sell this building on an installment note, how much of its loss is freed each year?
- How much of my other passive losses would each year's gain absorb?
- Does the excess business loss limit apply to me in the sale year?

Go deeper: thewaterfallstrategy.com/blog/form-8582-explained/ and the free book, The Waterfall Strategy, at thewaterfallstrategy.com

Free scope call. A short call to see whether a full analysis of what your coupons, the losses stuck on your return, are worth is worth it for your sale. Call or text 213-414-2808. No obligation to buy anything. The Comprehensive Tax & Exit Analysis is $5,000 per household per transaction. *Hans Goldstein, a licensed insurance agent (CA Insurance License #4273294), will contact you and may discuss insurance products, including annuities.*

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