

# 2002 Instructions for Schedule E, 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 may 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

### A Change To Note

You must file a disclosure statement for each reportable tax shelter transaction in which you participated, directly or indirectly, if your Federal income tax liability was affected by the transaction. See **Tax Shelter Disclosure Statement** on page E-2 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, if you acquired your interest in the activity before 1987 and the property was placed in service before 1987. 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 holding real property. See **Qualified nonrecourse financing** on this page.
- 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 from a person who has an interest in

the activity (other than as a creditor) or who is related, under Internal Revenue Code section 465(b)(3), to a person (other than you) having such an interest.

**Qualified nonrecourse financing** is treated as an amount at risk if it is secured by real property used in an activity of holding real property that is subject to the at-risk rules. Qualified nonrecourse financing is financing for which no one is personally liable for repayment and is:

- Borrowed by you in connection with holding real 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**.

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 obtained is commercially reasonable and on the same terms as loans involving unrelated persons),
- The seller of the property (or a person related to the seller), or
- A person who receives a fee due to your investment in real property (or a person related to that person).

### 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 39 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 on page E-2).

### Passive Activity

A passive activity is any business activity in which you **did not** materially participate

and any rental activity, except as explained on this page and page E-2. 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 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 in 2002, any rental real estate activity in which you materially participated is not a passive activity. You were a **real estate professional** only if you met **both** of the following conditions.

1. More than half of the personal services you performed in trades or businesses were performed in real property trades or businesses in which you materially participated.
2. You performed more than 750 hours of services in real property trades or businesses in which you materially participated.

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 Internal Revenue Code 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 may

revoke the election only if your facts and circumstances materially change.

If you are married filing jointly, either you or your spouse must separately meet both of the above conditions, without taking into account services performed by the other spouse.

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.

If you were a real estate professional for 2002, complete line 42 on page 2 of Schedule E.

**Other Activities.** The rental of your home that you also used for personal purposes 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 three** of the following conditions, your rental real estate losses are not limited by the passive activity loss rules. If you **do not** meet **all three** 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:

- You actively participated (defined below) in all of the rental real estate activities;

- If married filing separately, you lived apart from your spouse all year;

- Your overall net loss from these activities is \$25,000 or less (\$12,500 or less if married filing separately);

- You have no current or prior year unallowed credits from passive activities; and

- Your modified adjusted gross income (defined later) 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,
- Deciding on rental terms,
- Approving capital or repair expenditures, and
- Other similar decisions.

You are not considered to actively participate if, at any time during the tax year, your interest (including your spouse's interest) in the activity was less than 10% by value of all interests in the activity.

**Modified Adjusted Gross Income.** This is your adjusted gross income from Form 1040, line 35, without taking into account:

- Any passive activity loss,
- Rental real estate losses allowed under the exception for real estate professionals (explained on page E-1),
- Taxable social security or equivalent railroad retirement benefits,
- Deductible contributions to a traditional IRA or certain other qualified retirement plans under Internal Revenue Code section 219,
- The student loan interest deduction,
- The tuition and fees deduction,
- The deduction for one-half of self-employment tax, and
- The exclusion of amounts received under an employer's adoption assistance program.

However, if you file **Form 8815**, include in your modified adjusted gross income the savings bond interest excluded on line 14 of that form.

### Tax Shelter Disclosure Statement

For each reportable tax shelter transaction in which you participated, directly or indirectly, you must attach a **disclosure statement** to your return for each year that your Federal income tax liability is affected by your participation in the transaction. In addition, for the first tax year a disclosure statement is attached to your tax return, you must send a copy of the statement to the Internal Revenue Service, LM:PFTG:OTSA, Large & Mid-Size Business Division, 1111 Constitution Ave., N.W., Washington, DC 20224. If a transaction becomes a reportable transaction after you file your return, you must attach the statement to the following year's return (whether or not your tax liability is affected for that year). You are considered to have indirectly participated if you participated as

a partner in a partnership, shareholder in an S corporation, or if you know or have reason to know that the tax benefits claimed were derived from a reportable transaction.

Disclosure is required for a reportable transaction that is a listed transaction. A transaction is a listed transaction if it is the same as or substantially similar to a transaction that the IRS has determined to be a tax avoidance transaction and identified as a listed transaction in a notice, regulation, or other published guidance. See Notice 2001-51, 2001-34 I.R.B. 190, for transactions identified by the IRS as listed transactions. You can find Notice 2001-51 on page 190 of Internal Revenue Bulletin 2001-34 at [www.irs.gov/pub/irs-irbs/irb01-34.pdf](http://www.irs.gov/pub/irs-irbs/irb01-34.pdf). The listed transactions in this notice will be updated in future published guidance.

See Temporary Regulations section 1.6011-4T for more details, including:

- Definitions of reportable transaction, listed transaction, and substantially similar.
- Form and content of the disclosure statement.
- Filing requirements for the disclosure statement.

### Tax Shelter Registration Number

Complete and attach **Form 8271** if you are reporting any deduction, loss, credit, other tax benefit, or income from an interest purchased or otherwise acquired in a tax shelter.

Form 8271 is used to report the name, tax shelter registration number, and identifying number of the tax shelter. There is a \$250 penalty if you do not report the registration number of the tax shelter on your tax return.

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## Specific Instructions

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### Filers of Form 1041

If you are a fiduciary filing Schedule E with Form 1041, enter the estate's or trust's employer identification number (EIN) in the space for "Your social security number."

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## Part I

### Income or Loss From Rental Real Estate and Royalties

Use Part I to report:

- Income and expenses from rentals of real estate (including personal property leased with real estate) and
- Royalty income and expenses.

See the instructions for lines 3 and 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.

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.

If you have more than three rental real estate or royalty properties, complete and attach as many Schedules E as you need to list them. But fill in the "Totals" column on only one Schedule E. The figures in the "Totals" column on that Schedule E should be the combined totals of all your Schedules E. If you are also using page 2 of Schedule E, use the same Schedule E on which you entered the combined totals for Part I.

**Personal Property. Do not** use Schedule E to report income and expenses from the rental of personal property, such as equipment or vehicles. Instead, use Schedule C or C-EZ if you are in the business of renting personal property. You are in the business of renting personal property if the primary purpose for renting the property is income or profit and you are involved in the rental activity with continuity and regularity.

If your rental of personal property is not a business, see the instructions for Form 1040, lines 21 and 34, to find out how to report the income and expenses.

**Extraterritorial Income Exclusion.** Except as otherwise provided in the Internal Revenue Code, gross income includes all income from whatever source derived. Gross income, however, does not include extraterritorial income that is qualifying foreign trade income. Use **Form 8873** to figure the extraterritorial income exclusion. Report it on Schedule E as explained in the Instructions for Form 8873.

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## Line 1

For rental real estate property only, show:

- The kind of property you rented (for example, townhouse).
- The street address, city or town, and state. You do not have to give the ZIP code.
- Your percentage of ownership in the property, if less than 100%.

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## Line 2

If you rented out a dwelling unit that you also used for **personal purposes** during the year, you may not be able to deduct all the expenses for the rental part. "Dwelling unit" (unit) means a house, apartment, condominium, or similar property.

A day of **personal use** is any day, or part of a day, that the unit was used by:

- You for personal purposes;

- Any other person for personal purposes, if that person owns part of the unit (unless rented to that person under a "shared equity" financing agreement);

- 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 2002 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, do not report the rental income and do not deduct any rental expenses. If you itemize deductions on Schedule A, you may deduct allowable interest, taxes, and casualty losses.

If you checked "Yes" and rented the unit out for at least 15 days, 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 2003 the amounts you cannot deduct.

See **Pub. 527** for details.

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## 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. 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 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 renter, 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 E to report 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 page 13 of the Form 1040 instructions) or see Pub. 527.

**Rental Income From Farm Production or Crop Shares.** Report farm rental income and expenses on Form 4835 if:

- You received rental income based on crops or livestock produced by the tenant and
- You did not manage or operate the farm to any great extent.

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## 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 2002, the payer should send you a **Form 1099-MISC** or similar statement by January 31, 2003, 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.

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## 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 2002 to provide access to your business for individuals with disabilities. See **Form 8826** for details.

You can also deduct up to \$15,000 of qualified costs paid or incurred in 2002 to remove architectural or transportation barriers to individuals with disabilities and the elderly.

You cannot take both the credit and the deduction for the same expenditures. See **Pub. 535** for details.

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### Line 6

You may 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 use more than one vehicle simultaneously in your rental activities (as in fleet operations). You cannot use actual expenses for a leased vehicle if you previously used the standard mileage rate for that vehicle.

You can use the standard mileage rate for 2002 **only** if:

- You owned the vehicle and use the standard mileage rate for the first year you placed the vehicle in service or

- You leased the vehicle and are using the standard mileage rate for the entire lease period (except the period, if any, before 1998).

If you deduct actual auto expenses:

- Include on line 6 the rental activity portion of the cost of gasoline, oil, repairs, insurance, tires, etc. and

- Show auto rental or lease payments on line 18 and depreciation on line 20.

If you take the standard mileage rate, multiply the number of miles you drove your auto in connection with your rental activities by 36.5 cents. Include this amount and your parking fees and tolls on line 6.

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.

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### 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.

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### 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 2002 to banks or other financial institutions. Be sure to fill in the "Totals" column.

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 2002, the recipient should send you a **Form 1098** or similar statement by January 31, 2003, 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. Write "See attached" in the left margin next to line 12.

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**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 interest on line 13. Attach a statement to your return showing the name and address of the person who received Form 1098. In the left margin next to line 13, write "See attached."

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### Line 14

You may 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 below.

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### Line 17

You may deduct the cost of ordinary and necessary telephone calls related to your rental activities or royalty income (for example, calls to the renter). However, the 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.

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### 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 fill in the "Totals" column.

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

- Depreciation on property first placed in service during 2002;

- 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 2002.

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

If you own mineral property or an oil, gas, or geothermal well, you may be able to take a deduction for depletion. See Pub. 535 for details.

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## 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, write "Form 6198." Attach Form 6198 to your return. For details on the at-risk rules, see page E-1.

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## 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-1), 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.

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.

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## 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 28a and 28b, or lines 33a and 33b, 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 in 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 I of **Form 1041**.

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## 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 page 9 of the Form 1040 instructions for how to get a copy. **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 partnership) 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, 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 (i), 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 (g), 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 three** 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 (g).

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

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

### 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.

If you have other partnership items, such as depletion, from a nonpassive activity, show each item on a separate line in Part II. You may 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. Enter deductible **unreimbursed partnership expenses** from nonpassive activities on a separate line in Part II, column (i). However, enter on **Schedule A** any unreimbursed partnership expenses deductible as itemized deductions.

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 2001 Form 1040 based on information received from the partnership, enter as income in column (h) or column (k), whichever applies, the amount of the credit claimed for 2001.

If you have losses or deductions from a prior year that you could not deduct because of the at-risk or basis rules, and the amounts are now deductible, **do not** combine the prior year amounts with any current year amounts to arrive at a net figure to report on Schedule E. Instead, report the prior year amounts and the current year amounts on separate lines of Schedule E.

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), line 15a (or from Schedule K-1 (Form 1065-B), box 9 (code **K-1**)), on Schedule SE, after you reduce this amount by any allowable expenses attributable to that income.

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

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

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

• You had an acquisition, disposition, or change in proportional interest of a foreign partnership that:

1. Increased your direct interest to at least 10% or reduced your direct interest of at least 10% to less than 10% or

2. Changed your direct interest by at least a 10% interest.

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

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

2. The fair market value of the property you contributed to the partnership in exchange for a partnership interest, when added to other contributions of property you made to the partnership during the preceding 12-month period, 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 failing 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 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 may 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 explained beginning on page E-1.

If you have losses or deductions from a prior year that you could not deduct because of the basis or at-risk limitations, and the amounts are now deductible, **do not** combine the prior year amounts with any current year amounts to arrive at a net figure to report on Schedule E. Instead, report the prior year amounts and the current year amounts on separate lines of Schedule E.

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

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.

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## 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 (Schedule K-1, line 14a), write "ES payment claimed" and the amount on the dotted line next to line 36. **Do not** include this amount in the total on line 36. Instead, enter the amount on Form 1040, line 63.

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 2002, the trust had a U.S. beneficiary. See Internal Revenue Code section 679. An individual who received a distribution from, or who was the grantor of or transferor to, a foreign trust must also complete Part III of **Schedule B** (Form 1040) and may have to file **Form 3520**. In addition, the owner of a foreign trust must ensure that the trust files an annual information return on **Form 3520-A**.

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## 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 totals of columns (d) and (e) on line 38 of Schedule E. 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 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 41). It is also the **smallest** amount you are allowed to report as your alternative minimum taxable income (AMTI) (Form 6251, line 28).

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 41. 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 28. Write "Sch. Q" on the dotted line to the left of this amount on Form 1040 or 6251.

**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.



**Do not** include the amount shown in column (c) in the total on line 38 of Schedule E.

**Column (e).** Report the total of the amounts shown on Schedule(s) Q, line 3b. If you itemize your deductions on Schedule A, include this amount on line 22.

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## Part V

### Summary

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#### Line 41

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

1. Your gross farming or fishing income for 2001 or 2002 is at least two-thirds of your gross income and

2. You file your 2002 tax return and pay the tax due by March 3, 2003.