

1995



Department of the Treasury
Internal Revenue Service

Shareholder's Instructions for Schedule K-1 (Form 1120S)

Shareholder's Share of Income, Credits, Deductions, etc.

(For Shareholder's Use Only)

Section references are to the Internal Revenue Code unless otherwise noted.

General Instructions

Purpose of Schedule K-1

The corporation uses Schedule K-1 (Form 1120S) to report your pro rata share of the corporation's income (reduced by any tax the corporation paid on the income), credits, deductions, etc. **Please keep it for your records. Do not file it with your tax return.** The corporation has filed a copy with the IRS.

Although the corporation may have to pay a capital gains tax (or built-in gains tax) and an excess net passive income tax, you, the shareholder, are liable for income tax on your share of the corporation's income, whether or not distributed, and you must include your share on your tax return if a return is required. **Your distributive share of S corporation income is not self-employment income and it is not subject to self-employment tax.**

You should use these instructions to help you report the items shown on Schedule K-1 on your tax return.

Where (*attach schedule*) appears next to a line on Schedule K-1, it means the information for these lines (if applicable) will be shown in the "Supplemental Information" space below line 23 of Schedule K-1. If additional space was needed, the corporation will have attached a statement to Schedule K-1 to show the information for the line item.

The notation "(see Instructions for Schedule K-1)" in items A and C at the top of Schedule K-1 is directed to the corporation. You, as a shareholder, should disregard these notations.

Schedule K-1 does not show the amount of actual **dividend** distributions the corporation made to you. The corporation must report to you such amounts totaling \$10 or more for the calendar year on **Form 1099-DIV, Dividends and Distributions**. You report actual dividend distributions on Form 1040, line 9.

Basis of Your Stock

You are responsible for maintaining records to show the computation of the

basis of your stock in the corporation. Schedule K-1 provides information to help you make the computation at the end of each corporate tax year. The basis of your stock (generally, its cost) is adjusted as follows and, except as noted, in the order listed. These rules generally apply for tax years of the S corporation beginning after 1993. For prior tax years, basis must be determined in a reasonable manner. Return positions consistent with these rules are reasonable. In addition, basis may be adjusted under other provisions of the Internal Revenue Code.

1. Basis is increased by (a) all income (including tax-exempt income) reported on Schedule K-1 and (b) the excess of the deduction for depletion (other than oil and gas depletion) over the basis of the property subject to depletion.

Note: You must report the taxable income on your return (if you are required to file a return) for it to increase your basis.

2. Basis is decreased by (a) nondeductible expenses and (b) the depletion deduction for any oil and gas property held by the corporation, but only to the extent your pro rata share of the property's adjusted basis exceeds that deduction.

3. Basis is decreased by all deductible losses and deductions reported on Schedule K-1.

4. Basis is decreased by property distributions (including cash) made by the corporation (excluding dividend distributions reported on Form 1099-DIV and distributions in excess of basis) reported on Schedule K-1, line 20.

You may elect to decrease your basis under 3 above prior to decreasing your basis under 2 above. If you make this election, any amount described under 2 that exceeds the basis of your stock and debt owed to you by the corporation is treated as an amount described under 2 for the following tax year. To make the election, attach a statement to your timely-filed original or amended return that states you agree to the carryover rule of Regulations section 1.1367-1(f) and the name of the S corporation to which the rule applies. Once made, the

election applies to the year for which it is made and all future tax years for that S corporation, unless the IRS agrees to revoke your election.

The basis of each share of stock is increased or decreased (but not below zero) based on its pro rata share of the above adjustments. If the total decreases in basis attributable to a share exceed that share's basis, the excess reduces (but not below zero) the remaining bases of all other shares of stock in proportion to the remaining basis of each of those shares.

Inconsistent Treatment of Items

Generally, you must report subchapter S items shown on your Schedule K-1 (and any attached schedules) the same way that the corporation treated the items on its return. This rule does not apply if your corporation is within the small S corporation exception and does not elect to have the tax treatment of subchapter S items determined at the corporate level.

If the treatment on your original or amended return is inconsistent with the corporation's treatment, or if the corporation has not filed a return, you must file **Form 8082, Notice of Inconsistent Treatment or Amended Return (Administrative Adjustment Request (AAR))**, with your original or amended return to identify and explain any inconsistency (or to note that a corporate return has not been filed).

If you are required to file Form 8082 but fail to do so, you may be subject to the accuracy-related penalty. This penalty is in addition to any tax that results from making your amount or treatment of the item consistent with that shown on the corporation's return. Any deficiency that results from making the amounts consistent may be assessed immediately.

Errors

If you believe the corporation has made an error on your Schedule K-1, notify the corporation and ask for a corrected Schedule K-1. Do not change any items

on your copy. Be sure that the corporation sends a copy of the corrected Schedule K-1 to the IRS. If your corporation does not meet the small S corporation exception, and you are unable to reach agreement with the corporation regarding the inconsistency, you must file Form 8082.

International Boycotts

Every corporation that had operations in, or related to, a boycotting country, company, or national of a country, must file **Form 5713**, International Boycott Report.

If the corporation cooperated with an international boycott, it must give you a copy of its Form 5713. You must file your own Form 5713 to report the activities of the corporation and any other boycott operations that you may have. You may lose certain tax benefits if the corporation participated in, or cooperated with, an international boycott. See Form 5713 and the instructions for more information.

Elections

Generally, the corporation decides how to figure taxable income from its operations. For example, it chooses the accounting method and depreciation methods it will use.

However, certain elections are made by you separately on your income tax return and not by the corporation. These elections are made under:

- Section 59(e) (deduction of certain qualified expenditures ratably over the period of time specified in that section—see the instructions for lines 16a and 16b);
- Section 617 (deduction and recapture of certain mining exploration expenditures); and
- Section 901 (foreign tax credit).

Additional Information

For more information on the treatment of S corporation income, credits, deductions, etc., get **Pub. 589**, Tax Information on S Corporations; **Pub. 535**, Business Expenses; **Pub. 550**, Investment Income and Expenses; and **Pub. 925**, Passive Activity and At-Risk Rules.

These and other publications referenced throughout these instructions may be obtained at most IRS offices. To order publications and forms, call 1-800-TAX-FORM (1-800-829-3676).

Limitations on Losses, Deductions, and Credits

Aggregate Losses and Deductions Limited to Basis of Stock and Debt

Generally, the deduction for your share of aggregate losses and deductions reported on Schedule K-1 is limited to the basis of your stock and debt owed to you by the corporation. The basis of your stock is figured at year end. See **Basis of Your Stock** on page 1. The basis of loans to the corporation is the balance the corporation now owes you, less any reduction for losses in a prior year. See the instructions for line 21. Any loss not allowed for the tax year because of this limitation is available for indefinite carryover, limited to the basis of your stock and debt, in each subsequent tax year. See section 1366(d) for details.

At-Risk Limitations

Generally, if you have:

1. A loss or other deduction from any activity carried on by the corporation as a trade or business or for the production of income, and
2. Amounts in the activity for which you are not at risk, you will have to complete **Form 6198**, At-Risk Limitations, to figure your allowable loss.

The at-risk rules generally limit the amount of loss (including loss on the disposition of assets) and other deductions (such as the section 179 expense deduction) that you can claim to the amount you could actually lose in the activity. However, if you acquired your stock before 1987, the at-risk rules do not apply to losses from an activity of holding real property placed in service before 1987 by the corporation. The activity of holding mineral property does not qualify for this exception.

Generally, you are not at risk for amounts such as the following:

- The basis of your stock in the corporation or basis of your loans to the corporation if the cash or other property used to purchase the stock or make the loans was from a source **(a)** covered by nonrecourse indebtedness (except for certain qualified nonrecourse financing, as defined in section 465(b)(6)); **(b)** protected against loss by a guarantee, stop-loss agreement, or other similar arrangement; or **(c)** that is covered by indebtedness from a person who has an interest in the activity or from a related person to a person (except you) having such an interest, other than a creditor.
- Any cash or property contributed to a corporate activity, or your interest in the corporate activity, that is **(a)** covered by nonrecourse indebtedness (except for certain qualified nonrecourse financing,

as defined in section 465(b)(6)); **(b)** protected against loss by a guarantee, stop-loss agreement, or other similar arrangement; or **(c)** that is covered by indebtedness from a person who has an interest in such activity or from a related person to a person (except you) having such an interest, other than a creditor.

Any loss from a section 465 activity not allowed for this tax year will be treated as a deduction allocable to the activity in the next tax year.

To help you complete Form 6198, the corporation should specify on an attachment to Schedule K-1 your share of the total pre-1976 losses from a section 465(c)(1) activity (i.e., films or video tapes, and leasing section 1245, farm, or oil and gas property) for which there existed a corresponding amount of nonrecourse liability at the end of the year in which the losses occurred. Also, you should get a separate statement of income, expenses, etc., for each activity from the corporation.

Passive Activity Limitations

Section 469 provides rules that limit the deduction of certain losses and credits. The rules apply to shareholders who—

- Are individuals, estates, or trusts, and
- Have a passive activity loss or credit for the year.

Generally, passive activities **include**:

1. Trade or business activities in which you did not materially participate, and
2. Activities that meet the definition of rental activities under Temporary Regulations section 1.469-1T(e)(3) and Regulations section 1.469-1(e)(3).

Passive activities **do not** include:

1. Trade or business activities in which you materially participated.
2. Rental real estate activities in which you materially participated if you were a “real estate professional” for the tax year. You were a real estate professional only if you met both of the following conditions:

- a. 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, and
- b. 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 interests in rental real estate as one activity.

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.

3. The rental of a dwelling unit any shareholder used for personal purposes during the year for more than the greater of 14 days or 10% of the number of days that the residence was rented at fair rental value.

4. Activities of trading personal property for the account of owners of interests in the activities.

The corporation will identify separately each activity that may be passive to you. If the corporation had more than one activity, it will report information in the line 23 Supplemental Information space, or attach a statement if more space is needed, that (a) identifies each activity (trade or business activity, rental real estate activity, rental activity other than rental real estate, etc.); (b) specifies the income (loss), deductions, and credits from each activity; and (c) provides other details you may need to determine if an activity loss or credit is subject to the passive activity limitations.

If you determine that you have a passive activity loss or credit, get **Form 8582**, Passive Activity Loss Limitations, to figure your allowable passive losses, and **Form 8582-CR**, Passive Activity Credit Limitations, to figure your allowable passive credit. See the instructions for these forms for more information.

Material participation.—You must determine if you materially participated (a) in each trade or business activity held through the corporation and (b), if you were a real estate professional (defined on page 2), in each rental real estate activity held through the corporation. All determinations of material participation are made with respect to your participation during the corporation's tax year.

Material participation standards for shareholders who are individuals are listed below. Special rules apply to certain retired or disabled farmers and to the surviving spouses of farmers. See the Instructions for Form 8582 for details.

Individuals.—If you are an individual, you are considered to materially participate in a trade or business activity only if one or more of the following apply:

1. You participated in the activity for more than 500 hours during the tax year.

2. Your participation in the activity for the tax year constituted substantially all of the participation in the activity of all

individuals (including individuals who are not owners of interests in the activity).

3. You participated in the activity for more than 100 hours during the tax year, and your participation in the activity for the tax year was not less than the participation in the activity of any other individual (including individuals who were not owners of interests in the activity) for the tax year.

4. The activity was a significant participation activity for the tax year, and your aggregate participation in all significant participation activities (including those outside the corporation) during the tax year exceeded 500 hours. A significant participation activity is any trade or business activity in which you participated for more than 100 hours during the year and in which you did not materially participate under any of the material participation tests (other than this test 4).

5. You materially participated in the activity for any 5 tax years (whether or not consecutive) during the 10 tax years that immediately precede the tax year.

6. The activity was a personal service activity and you materially participated in the activity for any 3 tax years (whether or not consecutive) preceding the tax year. An activity is a personal service activity if it involves the performance of personal services in the fields of health, law, engineering, architecture, accounting, actuarial science, performing arts, consulting, or any other trade or business, in which capital is not a material income-producing factor.

7. Based on all of the facts and circumstances, you participated in the activity on a regular, continuous, and substantial basis during the tax year.

Work counted toward material participation.—Generally, any work that you or your spouse does in connection with an activity held through an S corporation (in which you own stock at the time the work is done) is counted toward material participation. However, work in connection with an activity is not counted toward material participation if either of the following applies:

1. The work is not the sort of work that owners of the activity would usually do and one of the principal purposes of the work that you or your spouse does is to avoid the passive loss or credit limitations.

2. You do the work in your capacity as an investor and you are not directly involved in the day-to-day operations of the activity. Examples of work done as an investor that would not count toward material participation include:

a. Studying and reviewing financial statements or reports on operations of the activity;

b. Preparing or compiling summaries or analyses of the finances or operations of the activity; and

c. Monitoring the finances or operations of the activity in a nonmanagerial capacity.

Effect of determination.—If you determine that you materially participated in (a) a trade or business activity of the corporation, or (b) if you were a real estate professional (defined on page 2), in a rental real estate activity of the corporation, report the income (loss), deductions, and credits from that activity as indicated in either column (c) of Schedule K-1 or the instructions for your tax return.

If you determine that you **did not** materially participate in a trade or business activity of the corporation, or you have income (loss), deductions, or credits from a rental activity of the corporation (other than a rental real estate activity in which you materially participated, if you were a real estate professional), the amounts from that activity are passive. Report passive income (losses), deductions, and credits as follows:

1. If you have an overall gain (the excess of income over deductions and losses, including any prior year unallowed loss) from a passive activity, report the income, deductions, and losses from the activity as indicated on Schedule K-1 or in these instructions.

2. If you have an overall loss (the excess of deductions and losses, including any prior year unallowed loss, over income) or credits from a passive activity, you must report the income, deductions, losses, and credits from **all** passive activities following the Instructions for Form 8582 or Form 8582-CR, to see if your deductions, losses, and credits are limited under the passive activity rules.

Active participation in a rental real estate activity.—If you actively participated in a rental real estate activity, you may be able to deduct up to \$25,000 of the loss from the activity from nonpassive income. This special allowance is an exception to the general rule disallowing losses in excess of income from passive activities. The special allowance is not available if you were married, file a separate return for the year, and did not live apart from your spouse at all times during the year.

Only individuals and qualifying estates can actively participate in a rental real estate activity. Estates (other than qualifying estates) and trusts cannot actively participate.

You are not considered to actively participate in a rental real estate activity 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.

Active participation is a less stringent requirement than material participation. You may be treated as actively

participating if you participated, for example, in making management decisions or arranging for others to provide services (such as repairs) in a significant and bona fide sense.

Management decisions that can count as active participation include approving new tenants, deciding on rental terms, approving capital or repair expenditures, and other similar decisions.

An estate is a qualifying estate if the decedent would have satisfied the active participation requirement for the activity for the tax year the decedent died. A qualifying estate is treated as actively participating for tax years ending less than 2 years after the date of the decedent's death.

The maximum special allowance that single individuals and married individuals filing a joint return can qualify for is \$25,000. The maximum is \$12,500 for married individuals who file separate returns and who lived apart at all times during the year. The maximum special allowance for which an estate can qualify is \$25,000 reduced by the special allowance for which the surviving spouse qualifies.

If your modified adjusted gross income (defined below) is \$100,000 or less (\$50,000 or less if married filing separately), your loss is deductible up to the amount of the maximum special allowance referred to in the preceding paragraph. If your modified adjusted gross income is more than \$100,000 (more than \$50,000 if married filing separately), the special allowance is limited to 50% of the difference between \$150,000 (\$75,000 if married filing separately) and your modified adjusted gross income. When modified adjusted gross income is \$150,000 or more (\$75,000 or more if married filing separately), there is no special allowance.

Modified adjusted gross income is your adjusted gross income figured without taking into account any passive activity loss, any rental real estate loss allowed under section 469(c)(7) to real estate professionals (as defined on page 2), any taxable social security or equivalent railroad retirement benefits, any deductible contributions to an IRA or certain other qualified retirement plans under section 219, the deduction allowed under section 164(f) for one-half of self-employment taxes, or the exclusion from income of interest from Series EE U.S. Savings Bonds used to pay higher education expenses.

Special rules for certain other activities.—If you have net income (loss), deductions, or credits from any activity to which special rules apply, the corporation will identify the activity and all amounts relating to it on Schedule K-1 or on an attachment.

If you have net income subject to recharacterization under Temporary Regulations section 1.469-2T(f) and Regulations section 1.469-2(f), report such amounts according to the Instructions for Form 8582.

If you have net income (loss), deductions, or credits from either of the following activities, treat such amounts as nonpassive and report them as instructed in column (c) of Schedule K-1 or in these instructions:

1. The rental of a dwelling unit any shareholder used for personal purposes during the year for more than the greater of 14 days or 10% of the number of days that the residence was rented at fair rental value.

2. Trading personal property for the account of owners of interests in the activity.

Specific Instructions

Item C

If the corporation is a registration-required tax shelter or has invested in a registration-required tax shelter, it should have completed Item C. If you claim or report any income, loss, deduction, or credit from a tax shelter, you are required to attach **Form 8271**, Investor Reporting of Tax Shelter Registration Number, to your tax return. If the corporation has invested in a tax shelter, it is required to give you a copy of its Form 8271 with your Schedule K-1. Use the information on this Form 8271 to complete your Form 8271.

If the corporation itself is a registration-required tax shelter, use the information on Schedule K-1 (name of corporation, corporation identifying number, and tax shelter registration number) to complete your Form 8271.

Lines 1 Through 23

The amounts on lines 1 through 23 show your pro rata share of ordinary income, loss, deductions, credits, and other information from all corporate activities. These amounts do not take into account limitations on losses, credits, or other items that may have to be adjusted because of:

1. The adjusted basis of your stock and debt in the corporation,
2. The at-risk limitations,
3. The passive activity limitations, or
4. Any other limitations that must be taken into account at the shareholder level in figuring taxable income (e.g., the section 179 expense limitation).

The limitations of **1**, **2**, and **3** are discussed above, and the limitations for **4** are discussed throughout these instructions and in other referenced forms and instructions.

If you are an individual, and your pro rata share items are not affected by any of the limitations, report the amounts shown in column (b) of Schedule K-1 as indicated in column (c). If any of the limitations apply, adjust the column (b) amounts for the limitations before you enter the amounts on your return. When applicable, the passive activity limitations on losses are applied after the limitations on losses for a shareholder's basis in stock and debt and the shareholder's at-risk amount.

Note: *The line number references in column (c) are to forms in use for tax years beginning in 1995. If you are a calendar year shareholder in a fiscal year 1995–96 corporation, enter these amounts on the corresponding lines of the tax form in use for 1996.*

Caution: *If you have losses, deductions, credits, etc., from a prior year that were not deductible or usable because of certain limitations, such as the basis rules or the at-risk limitations, take them into account in determining your income, loss, etc., for this year. However, except for passive activity losses and credits, do not combine the prior-year amounts with any amounts shown on this Schedule K-1 to get a net figure to report on your return. Instead, report the amounts on your return on a year-by-year basis.*

Income (Loss)

Line 1—Ordinary Income (Loss) From Trade or Business Activities

The amount reported on line 1 is your share of the ordinary income (loss) from trade or business activities of the corporation. Generally, where you report this amount on Form 1040 depends on whether the amount is from an activity that is a passive activity to you. If you are an individual shareholder, find your situation below and report your line 1 income (loss) as instructed after applying the basis and at-risk limitations on losses:

1. Report line 1 income (loss) from trade or business activities in which you materially participated on Schedule E (Form 1040), Part II, column (i) or (k).
2. Report line 1 income (loss) from trade or business activities in which you did not materially participate, as follows:
 - a. If income is reported on line 1, report the income on Schedule E, Part II, column (h).
 - b. If a loss is reported on line 1, follow the Instructions for Form 8582 to determine how much of the loss can be reported on Schedule E, Part II, column (g).

Line 2—Net Income (Loss) From Rental Real Estate Activities

Generally, the income (loss) reported on line 2 is a passive activity amount for all shareholders. However, the income (loss)

on line 2 is not from a passive activity if you were a real estate professional (defined on page 2) and you materially participated in the activity.

If you are filing a 1995 Form 1040, use the following instructions to determine where to enter a line 2 amount:

1. If you have a loss from a passive activity on line 2 and you meet **all** of the following conditions, enter the loss on Schedule E (Form 1040), Part II, column (g):

a. You actively participated in the corporate rental real estate activities. (See **Active participation in a rental real estate activity** on page 3.)

b. Rental real estate activities with active participation were your only passive activities.

c. You have no prior year unallowed losses from these activities.

d. Your total loss from the rental real estate activities was not more than \$25,000 (not more than \$12,500 if married filing separately and you lived apart from your spouse all year).

e. If you are a married person filing separately, you lived apart from your spouse all year.

f. You have no current or prior year unallowed credits from a passive activity.

g. Your modified adjusted gross income was not more than \$100,000 (not more than \$50,000 if married filing separately and you lived apart from your spouse all year).

2. If you have a loss from a passive activity on line 2 and you **do not** meet all of the conditions in 1 above, follow the Instructions for Form 8582 to determine how much of the loss can be reported on Schedule E (Form 1040), Part II, column (g).

3. If you were a real estate professional and you materially participated in the activity, report line 2 income (loss) on Schedule E, Part II, column (i) or (k).

4. If you have income from a passive activity on line 2, enter the income on Schedule E, Part II, column (h).

Line 3—Net Income (Loss) From Other Rental Activities

The amount on line 3 is a passive activity amount for all shareholders. Report the income or loss as follows:

1. If line 3 is a loss, report the loss following the Instructions for Form 8582.

2. If income is reported on line 3, report the income on Schedule E (Form 1040), Part II, column (h).

Line 4—Portfolio Income (Loss)

Portfolio income or loss is not subject to the passive activity limitations. Portfolio income includes income not derived in the ordinary course of a trade or business from interest, dividends,

annuities, or royalties, and gain or loss on the sale of property that produces these types of income or is held for investment.

Column (c) of Schedule K-1 tells shareholders where to report this income on Form 1040 and related schedules. Line 4f of Schedule K-1 is used to report income other than that reported on lines 4a through 4e. The type and the amount of income reported on line 4f will be listed in the line 23 Supplemental Information space of Schedule K-1.

If the corporation held a residual interest in a real estate mortgage investment conduit (REMIC), it will report on line 4f your share of REMIC taxable income or (net loss) that you report on Schedule E (Form 1040), Part IV, column (d). It will also report your share of any "excess inclusion" that you report on Schedule E, Part IV, column (c), and your share of section 212 expenses that you report on Schedule E, Part IV, column (e). If you itemize your deductions on Schedule A (Form 1040), you may also deduct these section 212 expenses as a miscellaneous itemized deduction subject to the 2% limit on Schedule A, line 22.

Line 5—Net Gain (Loss) Under Section 1231 (Other Than Due to Casualty or Theft)

Section 1231 gain or loss is reported on line 5. The corporation will identify in the line 23 Supplemental Information space the activity to which the section 1231 gain (loss) relates.

If the amount on line 5 is from a rental activity, the section 1231 gain (loss) is generally a passive activity amount. Likewise, if the amount relates to a trade or business activity and you did not materially participate in the activity, the section 1231 gain (loss) is a passive activity amount.

However, an amount on line 6 from a rental real estate activity is not from a passive activity if you were a real estate professional (defined on page 2) and you materially participated in the activity.

● If the amount is **not** from a passive activity, report it on line 2, column (g) or (h), whichever is applicable, of **Form 4797**, Sales of Business Property. You do not have to complete the information called for in columns (b) through (f), Form 4797. Write "From Schedule K-1 (Form 1120S)" across these columns.

● If gain from a passive activity is reported on line 5, report the gain on line 2, column (h) of Form 4797.

● If a loss from a passive activity is reported on line 5, see **Passive loss limitations** in the Instructions for Form 4797. You will need to report the loss following the Instructions for Form 8582 to determine how much of the loss is allowed on Form 4797.

Line 6—Other Income (Loss)

Amounts on this line are other items of income, gain, or loss not included on lines 1 through 5. The corporation should give you a description and the amount of your share for each of these items.

Report loss items that are passive activity amounts to you following the Instructions for Form 8582.

Report income or gain items that are passive activity amounts to you as instructed below.

The instructions below tell you where to report line 6 items if such items are **not** passive activity amounts.

Line 6 items include the following:

● Income from recoveries of tax benefit items. A tax benefit item is an amount you deducted in a prior tax year that reduced your income tax. Report this amount on Form 1040, line 21, to the extent it reduced your tax.

● Gambling gains and losses.

1. If the corporation was not engaged in the trade or business of gambling:

a. Report gambling winnings on Form 1040, line 21.

b. Deduct gambling losses to the extent of winnings on Schedule A, line 27.

2. If the corporation was engaged in the trade or business of gambling:

a. Report gambling winnings in Part II of Schedule E.

b. Deduct gambling losses to the extent of winnings in Part II of Schedule E.

● Net gain (loss) from involuntary conversions due to casualty or theft. The corporation will give you a schedule that shows the amounts to be reported on **Form 4684**, Casualties and Thefts, line 34, columns (b)(i), (b)(ii), and (c).

● Net short-term capital gain or loss and net long-term capital gain or loss from Schedule D (Form 1120S) that is **not** portfolio income (e.g., gain or loss from the disposition of nondepreciable personal property used in a trade or business activity of the corporation). Report a net short-term capital gain or loss on Schedule D (Form 1040), line 5, column (f) or (g), and a net long-term capital gain or loss on Schedule D (Form 1040), line 13, column (f) or (g).

● Any net gain or loss from section 1256 contracts. Report this amount on line 1 of **Form 6781**, Gains and Losses From Section 1256 Contracts and Straddles.

Deductions

Line 7—Charitable Contributions

The corporation will give you a schedule that shows the amount of contributions subject to the 50%, 30%, and 20% limitations. For more details, see the Form 1040 instructions.

If property other than cash is contributed, and the claimed deduction for one item or group of similar items of property exceeds \$5,000, the corporation is required to give you a copy of **Form 8283**, Noncash Charitable Contributions, and you must attach it to your tax return. Do not deduct the amount shown on Form 8283. It is the corporation's contribution. You should deduct the amount shown on line 7, Schedule K-1.

If the corporation provides you with information that the contribution was property other than cash and does not give you a Form 8283, see the Instructions for Form 8283 for filing requirements. A Form 8283 does not have to be filed unless the total claimed deduction of all contributed items of property exceeds \$500.

Charitable contribution deductions are not taken into account in figuring your passive activity loss for the year. Do not enter them on Form 8582.

Line 8—Section 179 Expense Deduction

Use this amount, along with the total cost of section 179 property placed in service during the year from other sources, to complete Part I of **Form 4562**, Depreciation and Amortization. Part I of Form 4562 is used to figure your allowable section 179 expense deduction from all sources. Report the amount on line 12 of Form 4562 allocable to a passive activity from the corporation following the Instructions for Form 8582. If the amount is not a passive activity deduction, report it on Schedule E (Form 1040), Part II, column (j).

Line 9—Deductions Related to Portfolio Income (Loss)

Amounts on line 9 are deductions that are clearly and directly allocable to portfolio income reported on lines 4a through 4f (other than investment interest expense and section 212 expenses from a REMIC). Generally, you should enter line 9 amounts on Schedule A (Form 1040), line 22. See the instructions for Schedule A, lines 22 and 27, for more information.

These deductions are not taken into account in figuring your passive activity loss for the year. Do not enter them on Form 8582.

Line 10—Other Deductions

Amounts on this line are other deductions not included on lines 7, 8, 9, 15e, and 16a, such as:

- Itemized deductions that Form 1040 filers enter on Schedule A (Form 1040).

Note: If there was a gain (loss) from a casualty or theft to property **not** used in a trade or business or for income-producing purposes, you will be notified

by the corporation. You will have to complete your own Form 4684.

- Any penalty on early withdrawal of savings.

- Soil and water conservation expenditures. See section 175 for limitations on the amount you are allowed to deduct.

- Expenditures for the removal of architectural and transportation barriers to the elderly and disabled that the corporation elected to treat as a current expense. The deductions are limited by section 190(c) to \$15,000 per year from all sources.

- Interest expense allocated to debt-financed distributions. The manner in which you report such interest expense depends on your use of the distributed debt proceeds. See Notice 89-35, 1989-1 C.B. 675, for details.

If the corporation has more than one corporate activity (line 1, 2, or 3 of Schedule K-1), it will identify the activity to which the expenses relate.

The corporation should also give you a description and your share of each of the expense items. Associate any passive activity deduction included on line 10 with the line 1, 2, or 3 activity to which it relates and report the deduction following the Instructions for Form 8582 (or only on Schedule E (Form 1040), if applicable).

Investment Interest

If the corporation paid or accrued interest on debts properly allocable to investment property, the amount of interest you are allowed to deduct may be limited.

For more information on the special provisions that apply to investment interest expense, get **Form 4952**, Investment Interest Expense Deduction, and **Pub. 550**, Investment Income and Expenses.

Line 11a—Interest Expense on Investment Debts

Enter this amount on Form 4952, line 1, along with investment interest expense from Schedule K-1, line 10, if any, and from other sources to determine how much of your total investment interest is deductible.

Lines 11b(1) and (2)—Investment Income and Investment Expenses

Use the amounts on these lines to determine the amounts to enter in Part II of Form 4952.

Caution: The amounts shown on lines 11b(1) and 11b(2) include only investment income and expenses reported on lines 4a, 4b, 4c, 4f, and 9 of this Schedule K-1. If applicable, the corporation will have listed in the line 23 Supplemental Information space any other items of investment income and

expenses reported elsewhere on this Schedule K-1. Be sure to take these amounts into account, along with the amounts on lines 11b(1) and 11b(2) and your investment income and expenses from other sources, when figuring the amounts to enter in Part II of Form 4952.

Credits

Caution: If you have credits that are passive activity credits to you, you must complete Form 8582-CR in addition to the credit forms named below. See the Instructions for Form 8582-CR for more information.

Also, if you are entitled to claim more than one general business credit (i.e., investment credit, jobs credit, credit for alcohol used as fuel, research credit, low-income housing credit, enhanced oil recovery credit, disabled access credit, renewable electricity production credit, Indian employment credit, credit for employer social security and Medicare taxes paid on certain employee tips, and credit for contributions to selected community development corporations), you must complete **Form 3800**, General Business Credit, in addition to the credit forms named below. If you have more than one credit, see the instructions for Form 3800 for more information.

Line 12a—Credit for Alcohol Used as Fuel

Your share of the corporation's credit for alcohol used as fuel from all trade or business activities is reported on line 12a. Enter this credit on **Form 6478**, Credit for Alcohol Used as Fuel, to determine your allowed credit for the year.

Line 12b—Low-Income Housing Credit

Your share of the corporation's low-income housing credit is shown on lines 12b(1) through (4). Your allowable credit is entered on **Form 8586**, Low-Income Housing Credit, to determine your allowed credit for the year.

If the corporation invested in a partnership to which the provisions of section 42(j)(5) apply, it will report separately on lines 12b(1) and 12b(3) your share of the credit it received from the partnership.

Your share of all other low-income housing credits of the corporation is reported on lines 12b(2) and 12b(4). You must keep a separate record of the amount of low-income housing credit from these lines so that you will be able to correctly compute any recapture of the credit that may result from the disposition of all or part of your stock in the corporation. For more information, see the instructions for **Form 8611**,

Recapture of Low-Income Housing Credit.

Line 12c—Qualified Rehabilitation Expenditures Related to Rental Real Estate Activities

The corporation should identify your share of rehabilitation expenditures from each rental real estate activity. Enter the expenditures on the appropriate line of **Form 3468**, Investment Credit, to figure your allowable credit.

Line 12d—Credits (Other Than Credits Shown on Lines 12b and 12c) Related to Rental Real Estate Activities

The corporation will identify the type of credit and any other information you need to compute credits from rental real estate activities (other than the low-income housing credit and qualified rehabilitation expenditures).

Line 12e—Credits Related to Other Rental Activities

If applicable, your share of any credit from other rental activities will be reported on line 12e. Income or loss from these activities is reported on line 3 of Schedule K-1. If more than one credit is involved, the credits will be listed separately, each credit identified as a line 12e credit, and the activity to which the credit relates will be identified. This information will be shown on the line 23 Supplemental Information space. The credit may be limited by the passive activity limitations.

Line 13—Other Credits

If applicable, your pro rata share of any other credit (other than on lines 12a through 12e) will be shown on line 13. If more than one credit is reported, the credits will be shown and identified in the line 23 Supplemental Information space. Expenditures qualifying for the (a) rehabilitation credit from other than rental real estate activities, (b) energy credit, or (c) reforestation credit will be reported to you on line 23.

Line 13 credits include the following:

- Nonconventional source fuel credit. Enter this credit on a schedule you prepare yourself to determine the allowed credit to take on your tax return. See section 29 for rules on how to figure the credit.
- Unused investment credit from cooperatives. Enter this credit on Form 3468 to figure your allowable investment credit.
- Credit for backup withholding on dividends, interest income, and other types of income. Include the amount the corporation reports to you in the total that you enter on line 55, page 2, Form 1040. Be sure to check the box on line 55 and write "From Schedule K-1."

- Credit for increasing research activities (Form 6765).
- Jobs credit (Form 5884).
- Disabled access credit (Form 8826).
- Enhanced oil recovery credit (Form 8830).
- Qualified electric vehicle credit (Form 8834).
- Renewable electricity production credit (Form 8835).
- Empowerment zone employment credit (Form 8844).
- Indian employment credit (Form 8845).
- Credit for employer social security and Medicare taxes paid on certain employee tips (Form 8846).
- Credit for contributions to selected community development corporations (Form 8847).

Adjustments and Tax Preference Items

Use the information reported on lines 14a through 14e (as well as adjustments and tax preference items from other sources) to prepare your **Form 6251**, Alternative Minimum Tax—Individuals, or Schedule I of **Form 1041**, U.S. Income Tax Return for Estates and Trusts.

Lines 14d(1) and 14d(2)—Gross Income From, and Deductions Allocable to, Oil, Gas, and Geothermal Properties

The amounts reported on these lines include only the gross income from, and deductions allocable to, oil, gas, and geothermal properties included on line 1 of Schedule K-1. The corporation should have reported separately any income from or deductions allocable to such properties that are included on lines 2 through 10. This separate information is reported in the line 23 Supplemental Information space. Use the amounts reported on lines 14d(1) and 14d(2) and any amounts reported separately to help you determine the net amount to enter on line 14f of Form 6251.

Line 14e—Other Adjustments and Tax Preference Items

Enter the line 14e adjustments and tax preference items shown in the line 23 Supplemental Information space, with other items from other sources, on the applicable lines of Form 6251.

Foreign Taxes

Use the information on lines 15a through 15g, and attached schedules, to figure your foreign tax credit. For more information, get **Form 1116**, Foreign Tax Credit (Individual, Estate, Trust, or Nonresident Alien Individual), and its instructions.

Other

Lines 16a and 16b—Section 59(e)(2) Expenditures

The corporation will show on line 16a the type of qualified expenditures to which an election under section 59(e) may apply. It will identify the amount of the expenditures on line 16b. If there is more than one type of expenditure, the amount of each type will be listed on an attachment.

Generally, section 59(e) allows each shareholder to elect to deduct certain expenses ratably over the number of years in the applicable period rather than deduct the full amount in the current year. Under the election, you may deduct circulation expenditures ratably over a 3-year period. Research and experimental expenditures and mining exploration and development costs qualify for a writeoff period of 10 years. Intangible drilling and development costs may be deducted over a 60-month period, beginning with the month in which such costs were paid or incurred.

If you make this election, these items are not treated as adjustments or tax preference items for purposes of the alternative minimum tax. Make the election on Form 4562.

Because each shareholder decides whether to make the election under section 59(e), the corporation cannot provide you with the amount of the adjustment or tax preference item related to the expenses listed on line 16a. You must decide both how to claim the expenses on your return and how to compute the resulting adjustment or tax preference item.

Line 17—Tax-Exempt Interest Income

You must report on your return, as an item of information, your share of the tax-exempt interest received or accrued by the corporation during the year. Individual shareholders should include this amount on Form 1040, line 8b. Generally, you must increase the basis of your stock in the corporation by this amount.

Line 18—Other Tax-Exempt Income

Generally, you must increase the basis of your stock in the corporation by the amount shown on line 18, but do not include it in income on your tax return.

Line 19—Nondeductible Expenses

The nondeductible expenses paid or incurred by the corporation are not deductible on your tax return. Generally, you must decrease the basis of your stock in the corporation by this amount.

Line 20

Reduce the basis of your stock in the corporation by the distributions on line 20. If these distributions exceed the basis of your stock, the excess is treated as gain from the sale or exchange of property and is reported on Schedule D (Form 1040).

Line 21

If the line 21 payments are made on indebtedness with a reduced basis, the repayments result in income to you to the extent the repayments are more than the adjusted basis of the loan. See Regulations section 1.1367-2 for information on reduction in basis of a loan and restoration in basis of a loan with a reduced basis. See Rev. Rul. 64-162, 1964-1 (Part 1) C.B. 304 and Rev. Rul. 68-537, 1968-2 C.B. 372, for other information.

Lines 22a and 22b—Recapture of Low-Income Housing Credit

The corporation will report separately on line 22a your share of any recapture of a low-income housing credit from its investment in partnerships to which the provisions of section 42(j)(5) apply. All other recapture of low-income housing credits will be reported on line 22b. You must keep a separate record of recapture from line 22a and 22b so that you will be able to correctly figure any credit recapture that may result from the disposition of all or part of your corporate stock. Use the line 22a and 22b amounts to compute the low-income housing credit recapture on Form 8611. See the instructions for Form 8611 and section 42(j) for additional information.

Supplemental Information

Line 23

If applicable, the corporation should have listed in line 23, Supplemental Information, or on an attached statement to Schedule K-1, your distributive share of the following:

1. Taxes paid on undistributed capital gains by a regulated investment company. (Form 1040 filers, enter your share of these taxes on line 60 of Form 1040, check the box for Form 2439, and add the words "Form 1120S." Also reduce the basis of your stock in the corporation by this tax.)

2. Gross income from the property, share of production for the tax year, etc., needed to figure your depletion deduction for oil and gas wells. The corporation should also allocate to you a proportionate share of the adjusted

basis of each corporate oil or gas property. See Pub. 535 for how to figure your depletion deduction. Also, reduce the basis of your stock in the corporation by the amount of this deduction to the extent the deduction does not exceed your share of the adjusted basis of the property.

3. Recapture of the section 179 expense deduction. If the recapture was caused by a disposition of the property, include the amount on Form 4797, line 18. The recapture amount is limited to the amount you deducted in earlier years.

4. Recapture of certain mining exploration expenditures (section 617).

5. Any information or statements you need to comply with section 6111 (registration of tax shelters) or 6662(d)(2)(B)(ii) (regarding adequate disclosure of items that may cause an understatement of income tax).

6. Gross farming and fishing income. If you are an individual shareholder, enter this income, as an item of information, on Schedule E (Form 1040), Part V, line 41. Do not report this income elsewhere on Form 1040.

For a shareholder that is an estate or trust, report this income to the beneficiaries, as an item of information, on Schedule K-1 (Form 1041). Do not report it elsewhere on Form 1041.

7. Any information you need to figure the interest due under section 453(l)(3). If the corporation elected to report the dispositions of certain timeshares and residential lots on the installment method, your tax liability must be increased by the interest on tax attributable to your pro rata share of the installment payments received by the corporation during its tax year. If applicable, use the information provided by the corporation to figure your interest. Include the interest on Form 1040, line 54. Also write "453(l)(3)" and the amount of the interest on the dotted line to the left of line 54.

8. Any information you need to compute the interest due under section 453A(c) with respect to certain installment sales of property. If you are an individual, report the interest on Form 1040, line 54. Write "453A(c)" and the amount of the interest on the dotted line to the left of line 54. See the instructions for **Form 6252**, Installment Sale Income, for more information. Also see section 453A(c) for details on making the computation.

9. Capitalization of interest under section 263A(f). To the extent certain

production or construction expenditures of the corporation are made from proceeds associated with debt you incur as an owner-shareholder, you must capitalize the interest on this debt. If applicable, use the information on expenditures the corporation gives to you to determine the amount of interest you must capitalize. See Regulations sections 1.263A-8 through 1.263A-15 for more information.

10. Any information you need to compute the interest due or to be refunded under the look-back method of section 460(b)(2) on certain long-term contracts. Use **Form 8697**, Interest Computation Under the Look-Back Method for Completed Long-Term Contracts, to report any such interest.

11. Your share of expenditures qualifying for the (a) rehabilitation credit from other than rental real estate activities, (b) energy credit, or (c) reforestation credit. Enter the expenditures on the appropriate line of Form 3468 to figure your allowable credit.

12. Investment credit properties subject to recapture. Any information you need to figure your recapture tax on **Form 4255**, Recapture of Investment Credit. See the Form 3468 on which you took the original credit for other information you need to complete Form 4255.

You may also need Form 4255 if you disposed of more than one-third of your stock in the corporation.

13. Preproductive period farm expenses. You may elect to deduct these expenses currently or capitalize them under section 263A. See **Pub. 225**, Farmer's Tax Guide, and Temporary Regulations section 1.263A-4T(c) for more information.

14. Any information you need to figure recapture of the qualified electric vehicle credit. See Pub. 535 for details, including how to figure the recapture.

15. Any information you need to figure your recapture of the Indian employment credit. Generally, if the corporation terminated a qualified employee less than 1 year after the date of initial employment, any Indian employment credit allowed for a prior tax year by reason of wages paid or incurred to that employee must be recaptured. For details, see section 45A(d).

16. Any other information you may need to file with your individual tax return that is not shown elsewhere on Schedule K-1.

